PARLIAMENT OF VICTORIA

PARLIAMENTARY DEBATES (HANSARD)

LEGISLATIVE COUNCIL

FIFTY-SIXTH PARLIAMENT

FIRST SESSION

Thursday, 31 July 2008

(Extract from book 10)

Internet: www.parliament.vic.gov.au/downloadhansard

By authority of the Victorian Government Printer

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Professor DAVID de KRETSER, AC

The Lieutenant-Governor

The Honourable Justice MARILYN WARREN, AC

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Minister for Housing, Minister for Local Government and Minister for Aboriginal Affairs	The Hon. R. W. Wynne, MP
Cabinet Secretary	Mr A. G. Lupton, MP

Legislative Council committees

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

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

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

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

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

Joint committees

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Heads of parliamentary departments

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

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

Parliamentary Services — Secretary: Dr S. O'Kane

MEMBERS OF THE LEGISLATIVE COUNCIL

FIFTY-SIXTH PARLIAMENT — FIRST SESSION

President: The Hon. R. F. SMITH

Deputy President: Mr BRUCE ATKINSON

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Mrs ANDREA COOTE

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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, 31 JULY 2008

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Thursday, 31 July 2008

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

NATIONAL PARKS AND CROWN LAND (RESERVES) ACTS AMENDMENT BILL

Introduction and first reading

Received from Assembly.

Read first time on motion of Mr JENNINGS (Minister for Environment and Climate Change).

LAND (REVOCATION OF RESERVATIONS) (CONVENTION CENTRE LAND) BILL

Introduction and first reading

Received from Assembly.

Read first time on motion of Mr JENNINGS (Minister for Environment and Climate Change).

PETITIONS

Abortion: legislation

To the Legislative Council of Victoria:

The petition of certain citizens of the state of Victoria draws to the attention of the Legislative Council proposals within government to remove legal protection for children before birth in Victoria.

Unborn babies are the most vulnerable and defenceless members of our society and, as such, need the full protection of Victorian law. Abortion kills unborn children and often permanently damages their mothers.

The petitioners therefore request that the Legislative Council rejects any move to decriminalise abortion in Victoria.

By Mr FINN (Western Metropolitan) (2001 signatures)

Laid on table.

Wind energy: planning guidelines

To the Legislative Council of Victoria:

The humble petition of the residents in the state of Victoria draws to the attention of the house the detrimental impact on the residents of Inverleigh, Buckley, Winchelsea and Gnarwarre surrounding the Mount Pollock/Winchelsea wind farm development with regard to noise, shadow flicker and CASA-required lighting. Current policy and planning guidelines for development of wind energy facilities in Victoria are vague and provide ample opportunity for exploitation, leaving residents suppressed of their rights to be protected by the laws of the land.

The petitioners request that the Brumby government immediately review the current policy and planning guidelines for development of wind energy facilities based on new data, new science, environmental, social and economic viability.

By Mr KOCH (Western Victoria) (359 signatures)

Laid on table.

Monash Freeway: noise barriers

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

The petition of certain citizens of the state of Victoria draws to the attention of the Legislative Council the Victorian government's failure to upgrade sound barriers along the Monash Freeway between the end of the CityLink freeway and Warrigal Road as part of the current expansion of the Monash Freeway.

We oppose the upgrade where no systematic provision has been made to reduce the impact of increased traffic volumes and noise on residents whose properties are impacted by the widening of the Monash Freeway.

The petitioners therefore request that the Victorian government take action to reduce the increased noise impact on local residents of the Monash Freeway expansion by the installation of state-of-the-art noise-abatement barriers to a standard equivalent to that required of CityLink and EastLink.

By Mr D. DAVIS (Southern Metropolitan) (345 signatures)

Laid on table.

Euthanasia: legislative reform

To the Legislative Council of Victoria:

The petition of certain citizens of the state of Victoria draws to the attention of the Legislative Council serious concerns about the Medical Treatment (Physician Assisted Dying) Bill 2008 and any regime which allows voluntary, active euthanasia and urges:

1. Members of the Legislative Council to not proceed with passing laws which allow the taking of life of another;

2. Support for ensuring access to palliative care and pain management to all those Victorians who need it;

3. Consideration is given to international research which demonstrates that when pain is removed or alleviated, the desire to live is reinstated among those who suffer chronic pain;

4. Acknowledgement of cases where even individuals who sign an agreement to voluntary euthanasia do and have changed their minds when faced with death;

5. Draw attention to the tragic and illegal 'euthanasing' of hundreds of people including many elderly patients in public hospitals who have never agreed to voluntary euthanasia in jurisdictions which have a voluntary euthanasia regime, such as Holland.

The petitioners call on the members of the Legislative Council of the Victorian Parliament to vote against this bill which will legalise euthanasia in Victoria.

By Mrs PEULICH (South Eastern Metropolitan) (1103 signatures)

Laid on table.

Ordered to be considered next day on motion of Mrs PEULICH (South Eastern Metropolitan).

Clearways: Melbourne

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 proposed extension of clearways in Melbourne.

The petitioners therefore request that the proposed extension of clearways in Melbourne be withdrawn and abandoned.

By Mrs COOTE (Southern Metropolitan) (22 540 signatures)

Laid on table.

CHILDREN'S COURT OF VICTORIA

Report 2006–07

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

Laid on table.

PAPERS

Laid on table by Clerk:

Forensic Leave Panel — Report, 2007.

Freedom of Information Act 1982 — Statement of reasons for seeking leave to appeal pursuant to section 65AB(2) of the Act.

Office of Police Integrity — Report on improving Victorian policing services through effective complaint handling, July 2008.

Subordinate Legislation Act 1994 — Minister's exception certificate under section 8(4) in respect of Statutory Rule No. 90.

MEMBERS STATEMENTS

Rail: V/Line services

Ms LOVELL (Northern Victoria) — The service of the Victorian government's rail transport provider in northern Victoria, V/Line, is a subject of contention that is regularly raised with my office. Recently a constituent wrote to me to report an incident that occurred on the evening train leaving Southern Cross station for Shepparton on Saturday, 12 July. According to the constituent an intoxicated man sitting opposite her in carriage B exhibited an unprovoked, abusive, aggressive tirade of language. Eventually he fell asleep, and my constituent contacted the train's conductor. Passengers in the seats opposite were reportedly very upset about the incident. The constituent feels that security personnel on the train should be seen to frequent carriages more often to discourage this kind of antisocial behaviour.

I am aware of another incident in which an intoxicated man wearing a hospital admission tag harassed passengers sitting next to him and spilt a 2-litre bottle of cola that appeared to be mixed with alcohol. Never once was he warned by V/Line staff about his rowdy and drunken behaviour, which was causing other passengers to become visibly uncomfortable.

Country Victorians deserve to feel safe while travelling on V/Line services and should not have to endure this kind of behaviour. There is particular concern about the safety of young children, who often travel on V/Line without adults. I call on the Minister for Public Transport to ensure V/Line staff actively patrol carriages to deter any antisocial or aggressive behaviour towards other passengers.

Carers: federal inquiry

Mr DRUM (Northern Victoria) — Earlier this year I spoke in this chamber against the new federal Labor government commissioning yet another review into carers — the Better Support for Carers inquiry. Two years ago Labor initiated a Senate inquiry into this very issue. Federal Labor went into the election with a funding model based on population benchmarks. Now that it is in government it seems to have forgotten that policy and we have a new inquiry, chaired by a Ms Ellis. She said, in launching the inquiry:

> Carers are often the hidden and unsung heroes who tirelessly look after family members and friends who cannot look after

> themselves. The demands placed on these carers often mean that they are exhausted, socially isolated and under extreme financial pressure, particularly as they are unable to access mainstream employment opportunities. Not surprisingly, carers have been found to have significantly worse physical health and psychological wellbeing than the general population.
>
> The committee embraces the opportunity to hear firsthand through a formal inquiry from carers about their day-to-day experiences and to learn more about the social, economic and physical costs of being a carer.

That is what she said, but what they have done with this inquiry is vetted absolutely all of the submissions. They do not want to hear from anybody who is a carer. They are only listening to people from the departments or to people from funded organisations — people who cannot stand before the committee and talk frankly and fearlessly because they will have their funding taken away by this federal government.

Climate change: national emissions trading scheme

Mr BARBER (Northern Metropolitan) — I hate it when I am right! Seriously, sometimes I hate being proven right. The federal government's emissions trading framework is a polluters protection racket. Professor Garnaut's key recommendations were dumped a week after he made them and free permits will be given to the biggest polluters — in other words, they will pay less so the rest of us can pay more.

Giving compensation to protect polluters' investments is exactly the opposite of what the scheme is meant to achieve — that is, shifting investment to less polluting methods. If the government is going to give compensation, it should please give it to the workers, not the shareholders. People will be paid to grow trees to absorb carbon but they will not have to pay to cut them down, releasing carbon. The issue of the second-biggest net source of emissions — liquid fuels, petrol — has been effectively neutered after Brendan Nelson won the game of chicken with Prime Minister Rudd after only one week.

I have got another prediction: now that this thing has been called a carbon pollution reduction scheme, it will not actually reduce carbon pollution. The cap will be set at our Robert Hill-derived Kyoto target to ensure there will be no effective reductions resulting from the entire effort. The scheme will do nothing to move us towards a zero-emissions future.

Indian High Commissioner

Mr THORNLEY (Southern Metropolitan) — I had the honour last week of welcoming the new Indian High Commissioner, Her Excellency Sujatha Singh, to Victoria on her first official visit, although she has been in the country for some time. I met with her and the Victorian Consul General for India, Anita Nayar, who I think a number of members have already met.

I had a very productive discussion about a range of trade and investment opportunities across a number of sectors — IT, automotive and other areas. They are very keen to see an increasing level of bilateral movement between our state and their country, and I am very keen to support that as well. There are huge opportunities there.

Kew Primary School

Mr THORNLEY (Southern Metropolitan) — On another matter, I had the privilege of being at one of my local schools, Kew Primary School, a couple of weeks ago, having been asked to address the grade 3s and 4s by vice-principal Natalie Harvey-Nelson.

Mr Drum interjected.

Mr THORNLEY — I was nearly out of my depth, Mr Drum. They were having a civics class, and they had a lot of very difficult questions about second readings, bills and a whole lot of other things.

The thing that struck me was that although we were educating these kids on the specifics of how the Parliament works and all of those good things which I thought were great, we did not start with why we have elections, why we have a democracy and what happens in countries that do not have those things. We had a bit of a chat about that as well. I think that was a worthwhile conversation to have.

Climate change: national emissions trading scheme

Mr FINN (Western Metropolitan) — Why is the political left always draped in a cloak of doom? When I was a lad, Bob Dylan was warbling to his hippie mates about us being on the eve of destruction. Then the Left told us we would all be fried in our beds by nuclear power. In the 1980s these same no-hopers predicted that the great Ronald Reagan would blow up the world. Instead he won the Cold War for the West and made us all safer. Now those same old lefties are scaring little kids and the gullible with the threat of so-called global warming. Overwhelming scientific evidence shows global warming ended a decade ago, but the Left has never let the facts get in the way of a good story. This latest nonsense has the capacity to achieve exactly what

the Left has wanted for years: the crippling of business and industry in Australia.

An emissions trading scheme has the potential to plunge this nation into a depression the likes of which we have never known. What it could do to the western suburbs of Melbourne fills me with horror. There will be mass bankruptcy with bigger companies fleeing offshore to escape the ideological lunacy coming from Canberra, and the resultant unemployment and social misery are all on the cards if we continue down this track.

The incompetence of Kevin 07 and his lame duck Swan is more than capable of providing economic paralysis without embracing the further penance of the new green religion. Common sense must prevail or, after 40 years, Bob Dylan might finally be proven right.

Wangaratta: project funding

Ms DARVENIZA (Northern Victoria) — Last Thursday I was very pleased to be in Wangaratta to make a couple of announcements. The first one was about a $40 000 grant to help the Rural City of Wangaratta plan the next stage of the development of the Ovens riverside project. The plan creates new jobs, stimulates investments and establishes a focal point for tourists and the community on the river. The riverside precinct is an important part of the council's plan and will include a showcased development with unique amenities comprising commercial businesses, cafes, restaurants and a residential development, which will make the most of the river there. I congratulate the Rural City of Wangaratta.

I was also pleased to make an announcement about $20 000 in funding for the temporary home of the Wangaratta Festival of Jazz. The jazz festival has become a premium jazz event in Australia and is renowned internationally. The festival has grown to include more than 350 national and international artists. This year, the usual venue, the Wangaratta town hall, is unavailable, which meant that a temporary venue had to be found. This project will assist in the cost of erecting a temporary main venue to enable the festival to maintain its capacity and deliver a premium event in 2008. Again I congratulate the mayor, Roberto Paino, the Rural City of Wangaratta and Patty Bullus, the chairperson of the Wangaratta Festival of Jazz.

Last Wednesday I was also pleased to be in Warracknabeal to announce a 50 — —

The PRESIDENT — Time!

Malcolm Evans

Mr RICH-PHILLIPS (South Eastern Metropolitan) — I rise to pay tribute to the late Malcolm Douglas Evans, who passed away suddenly on 2 July at the age of 53. Malc was a committed husband, father, educator and musician and a pillar of the Bunyip community. Malc enjoyed a 30-year career in teaching, which included being the principal of Cavendish Primary School, where his efforts to instil pride among the school community were warmly welcomed. Upon moving to Bunyip, Malc returned to classroom teaching where he spent more than 14 years teaching at the Bunyip Primary School. A talented musician and classical guitarist, and a *New Faces* winner, Malc took great pleasure in using his musical talents in the school community, whether organising the musical component of school assemblies, directing the choir or even leading his classes on guitar and in song for birthdays.

Malc's talent as a teacher, particularly as a music teacher, was highly valued by the parents and students of Bunyip Primary School, and his legacy lives on in those students in whom he instilled a love of learning and a love of music. The spontaneous testimonials at Malc's funeral from both parents and students spoke volumes for the regard in which Malc was held by the Bunyip Primary School community.

Malc was committed to Bunyip, and a further legacy is found throughout the town in the homes which enjoy natural gas which is, in no small part, due to Malc's campaign to bring that utility to the town. A proud and committed member of the Liberal Party, Malc stood up for what he believed in and contributed to the party at a state and federal level throughout West Gippsland.

Malc's greatest achievement was his two sons, Tim and Matt, whom he raised with his wife, Christine. On behalf of the Liberal Party, I extend our condolences to Christine, Matt and Tim and to Malc's extended family and many friends. Malc's passing is a sad loss to the community.

Mildura community support grants

Ms BROAD (Northern Victoria) — On Monday I was pleased to announce that 10 communities in the Mildura area, including Mildura, will benefit from extensive community planning thanks to a $300 000 grant from the Brumby Labor government.

The community support grant was part of a $1 million project to undertake a two-year community planning exercise which will include the development of local

community plans. I would like to congratulate everyone involved in contributing to the community planning project, particularly the Mildura Rural City Council for its generous contribution of almost $722 000.

There has been enormous support for this project, which sets a great example of how communities, together with local and state governments, can pull together for the benefit of everyone. In smaller communities around Mildura facing some very big challenges, being asked to focus on the future needs of their communities, apart from rain, is very welcome. This planning project is one of 18 projects to share in almost $3.5 million in what is the latest round of Victorian community support grants by the Brumby Labor government.

Water: desalination plant

Mr O'DONOHUE (Eastern Victoria) — I have spoken in the chamber previously about the concern I and many people have regarding the proposed overhead powerlines to be constructed from Tynong North in the north through to the desalination plant near Wonthaggi in the south.

This was rammed home to me at a public meeting on 3 July at Lang Lang. At that meeting, and speaking to constituents after that meeting, I heard from several people who are very concerned about their future. I would like to quote from a letter I received from a Mrs Nan Gleeson after that meeting. She wrote to Mr Brumby:

> Mr Brumby, as a widow and mother of four sons, two grandsons and three granddaughters, a fifth-generation resident on the land established over 100 years ago with a heritage-listed house in a green wedge zone.

She went on to say:

> Do you understand that this is the Koo Wee Rup swamp that you are talking about that has fed this nation for generations? People in the swamp have spent millions of dollars setting up their properties for irrigators, pasture and contracting services —

and that these overhead powerlines may destroy people's lives with the stroke of a pen.

There is significant concern in the community about these proposed overhead powerlines and the impact they will have on the livelihood of many farmers and, more broadly, on agricultural production in West Gippsland and South Gippsland — some of the most productive farmland in all of Australia. This must be stopped.

Refugees: mandatory detention

Ms MIKAKOS (Northern Metropolitan) — I would like to congratulate the Rudd federal government on this week's announcement that the policy on mandatory detention of refugees will be changed to reduce the time people spend in detention. It was announced that only adult refugees who pose a health or security threat to the community would remain in detention. Those in detention will be reviewed every three months. The need for detention will now need justification by the Department of Immigration and Citizenship, and detention will become a last-resort approach. This is a far cry from the previous Howard government's adversarial approach of treating refugees like an enemy and locking up children and adults indefinitely as a first line of attack. We will finally see an easing of these cruel policies that kept innocent, desperate and vulnerable people, at one stage including children, locked up like criminals for up to years at a time.

Protestations and claims that this redressing of policy will encourage people smuggling is without basis. The government's continued engagement with Indonesia will help curb the incidence of illegal people-smuggling activity without the need to treat refugees as criminals or deprive anyone of their human rights. The Rudd federal government's more humane and compassionate policy of dealing with asylum seekers will see those fleeing persecution come closer to receiving the basic fundamental human rights they are entitled to under the United Nations 1951 refugee convention.

It is my hope that we can finally put to an end this despicable chapter in our nation's history and that refugees escaping to Australia from suffering and persecution will now be treated with the humanity and compassion they deserve.

Frank Le Page

Mrs PEULICH (South Eastern Metropolitan) — On 18 July 2008 at the Southern Community Church of Christ I attended the thanksgiving service for the life of Frank Le Page, who was born in 1919 and passed away on 14 July 2008.

A former councillor and mayor of the City of Moorabbin, Frank Le Page came from a dynasty of those involved in civic service. He was a man who was short by stature and suffered significant physical disability, but his achievements were huge. Minister David Brooker officiated at the service, and he outlined the three generations of the Le Page family who had served on the Moorabbin council.

Initially it was Mary and Francis Le Page, Frank's grandparents, who had an active involvement in market gardening and numerous community organisations, followed by his father, Everest, who continued that work and became a very prominent person in the local community and was associated with many important organisations. Cr Everest Le Page married Miss Lynda Anderson, a daughter of Mr and Mrs R. Anderson, the well-known breeders of jersey cattle, of Lyndhurst and Murrumbeena. Miss Anderson's grandmother, Mrs W. Greaves, was one of the first children born in Melbourne, having been born in Canvas Town, in Collins Street. Thus two of Victoria's pioneering families became united. Cr Le Page continued that service, and that dynasty will continue.

Tullamarine–Calder freeways: interchange

Mr EIDEH (Western Metropolitan) — I have previously addressed this house on the great importance of the Tullamarine–Calder interchange within my electorate and how it came in under budget and ahead of time.

Both are great attributes and examples of the ability of Labor to effectively manage this great state of Victoria. Such was the commitment of the Victorian Labor government that it ensured that the public received this much-needed upgrade as soon as practicable and for the best value.

As a member of Parliament for this area, I am also proud to have learnt from the Minister for Roads and Ports in the other place, Tim Pallas, that this great freeway upgrade has also earned a national award for excellence.

This was the very first freeway in Victoria to benefit from an alliance between VicRoads and major companies, an alliance recognised by this national award. But for the community this interchange also means better travel times, less road congestion and greater safety.

And as if this were not enough, the freeway was designed with noise retardation walls having built-in solar panels that have reduced lighting costs by 10 per cent, an example of our commitment to the environment.

So I wish to extend my congratulations on an award well received and a project that has been so successful.

Member for Kororoit: election

Mr PAKULA (Western Metropolitan) — Like my friend Nazih Elasmar, I rise to congratulate Marlene Kairouz on her election as the second member for Kororoit in the Assembly.

By-elections are never easy, and they become particularly challenging when they are characterised by a contested preselection and a high-profile Independent. Marlene had to confront both, and she did so with class and tenacity. I predict she will make a first-class member for Kororoit, and I look forward to working with her.

Former member for Kororoit: resignation

Mr PAKULA — Whilst on Kororoit I want also to pay tribute to André Haermeyer for his 16 years as member for Yan Yean and then Kororoit in the Assembly and his service as Minister for Police and Emergency Services and Minister for Manufacturing and Export. Right up until the day he resigned André fought tenaciously for the interests of residents in the outer western suburbs, most recently demonstrated by his advocacy for those elements of the Eddington report that would deliver greater choice for residents travelling to and from his electorate, whether by public transport or private vehicles.

Des Gleeson

Mr PAKULA — In the time I have left I also want to pay tribute today to Des Gleeson, who has retired as chairman of stewards for Racing Victoria, a role he has had since he replaced Pat Lalor in September 1996. Des served as a stipendiary steward for 35 years. His name has been synonymous with integrity in the racing industry, and he has earned his retirement.

Port Fairy: search and rescue vessel

Ms TIERNEY (Western Victoria) — On 20 July on a brisk and rainy Saturday morning in Port Fairy I had the pleasure of launching the second search and rescue vessel for the south-west in eight months. On this occasion it was the *Captain John Mills*. The *Captain John Mills*, named after the deceased founder of the Port Fairy marine rescue service, will assist in the continued dedication to search and rescue efforts as well as increasing overall marine safety and reducing response times to marine incidents in south-west Victoria.

Nearly $52 000 was provided to this project from the 2007–08 boating safety and facilities program. This program, which is in its eighth year, has invested over $31 million into projects to make boating safer and more accessible to Victorians. The total project cost was $135 000, which included funding from the Port

Fairy Folk Festival, the Port Fairy police and Port Fairy businesses. I would like to take this opportunity to thank all those involved in raising these funds.

Portland: search and rescue vessel

Ms TIERNEY — On a related matter, in the following Monday's Warrnambool *Standard* an article appeared about the Portland search and rescue vessel which I launched last December and which has been busy, with 12 rescues to date. I would like to congratulate Mr Cyril Cram and his team on their marvellous work in and around Portland, and wish the Portland and Port Fairy search and rescue team well in making south-western waters even safer.

Heidelberg: community hall

Mr ELASMAR (Northern Metropolitan) — On 1 June, I visited Hawdon Street community hall located a few doors away from my electorate office in Heidelberg. The community hall has been given a substantial grant by Banyule council to refurbish its kitchen area. The hall is the home of the Banyule community volunteers group, which does a marvellous job for the needy people of Banyule. I commend the volunteers for their community spirit and good works.

Darebin parklands

Mr ELASMAR — On another other matter, the final Darebin parklands master plan has been published and is now open for public feedback. Darebin councillors have briefed me on the most significant changes to the original plan — that is, the creation of a specific off-lead dog area rather than making the whole park an on-lead area. Dog owners will still need to be responsible for their pet's behaviour but this is an innovation that the dogs of Darebin will certainly enjoy.

STATEMENTS ON REPORTS AND PAPERS

Standing Committee on Finance and Public Administration: Port Phillip Bay channel deepening

Mrs COOTE (Southern Metropolitan) — I rise to speak today on the June 2008 report of the Legislative Council's Standing Committee on Finance and Public Administration's inquiry into the Port Phillip Bay channel deepening.

Much has been said in this chamber about channel deepening, and most recently we debated a motion on the disposal of toxic waste in Port Phillip Bay. At that time I said how inadequate I felt the whole process was. Digging a hole, which is in fact what it amounts to regardless of whatever name you might give it, off the coast of Beaumaris and Brighton, then filling it with toxic waste — and putting a shallow amount of sand over the top in the hope it is not washed away so that the toxic waste would be dissipated into the bay — is just wishful thinking. As I said at the time we were debating the motion, it is a situation which is far too short-sighted, and with today's technology it should have been looked at in a different way.

As a consequence of that I received an interesting email from a person, and I will read part of it because I think it makes eminent sense about what should be happening, and could easily be happening, to this toxic waste. Let me remind members that the toxic waste, which comes out of the Yarra River, is exceedingly toxic. It is embedded in the silt and has been there for a significant time. This is the same very toxic silt that is being buried off the coastline of Beaumaris. My constituent says:

> … it is possible to pick up the toxic material using suction cutter pumps (just the same as a wet suction vacuum cleaner), keep it in the pipeline and pump it across to Werribee where there is room to treat it and render the material non-toxic.
>
> That finishes the problem forever and at a reasonable cost, very reasonable compared to bunds —

which is the name of the hole —

> and lids.
>
> You should get it to Werribee, pumping all the way for less than $6 per tonne and treat for around the same amount.
>
> The toxic residues may need high temperature incineration on which one member of our committee is experienced.

That is a committee on the Docklands Science Park. It continues:

> The phenols are easy, the dioxins not so.

This is a simple and straightforward method that should have been investigated. The constituent says it is a much cheaper option than the option that is being considered, and long term it is much safer because the toxic waste material will be dealt with in an area that is currently set up to look after toxic waste. I remind members that having this toxic waste in a bund or a hole off Beaumaris is completely and utterly unacceptable. It would be interesting to know whether this option of pumping the toxic waste through to Werribee was a condition of the dredging. Was it an issue that was raised, seriously and objectively looked at, and costed properly?

Ms Pennicuik — Never!

Mrs COOTE — I take up the interjection by my colleague Sue Pennicuik, who said this has never been looked at. It is an option that has never been adequately looked at and it is incumbent upon the responsible minister to have an in-depth investigation conducted into how this process could work. But that is not the way of this government. In fact from this very report I am speaking to this morning we see that the terms of reference to the committee were to examine the business case for the Port Phillip Bay channel deepening project as presented by the Port of Melbourne Corporation, the Victorian government and Boskalis Australia and its parent company.

This report makes very interesting reading. It is only a very short report. It lists a number of submissions, in the vicinity of 36, that the committee received from very varied people who were involved, both individuals and corporations. The most worrying aspect of this issue is what Boskalis themselves said, as appears in appendix 2. Boskalis did not want to give information to the committee because if it was put into the public domain it would have a real likelihood of causing substantial damage to Boskalis's interests both in Australia and in the context of its worldwide operations.

Who are we protecting here? Are we protecting a company or corporation or are we looking to what will be affecting the people of Victoria? This is a very short-sighted approach. This government shows once again that it is not looking out for the interests of Victorians. It is taking on and supporting large corporations at the expense of the people of Victoria. This is a big issue, it is something that should be investigated again, properly, transparently and with the interests of the people of Victoria, not that of large corporations, at heart.

Multicultural Affairs: report 2006–07

Mr ELASMAR (Northern Metropolitan) — I rise to speak on the report to the Parliament on Victorian government achievements in multicultural affairs for 2006–07. I found this report extremely informative and I read it with great interest. One of the facts that struck me was the sheer diversity of migrants to the state of Victoria — from 200 different nationalities and speaking more than 200 languages. This diversity of cultures and religions is truly amazing!

We are a nation of immigrants — and it shows. It shows in our multi-choice of restaurants, delicatessens and cafés, it shows in our arts and entertainment industry and it shows in our splendid churches and mosques. As a nation, we welcome refugees and skilled migrants with open arms, but as a government we also know that a heartfelt welcome is not enough. That is why the Brumby Labor government has invested financially to ensure that our new arrivals, particularly our refugees fleeing war, crushing poverty and dislocation, have access to education and to a proper and effective health service. To ensure that our migrants and refugees are able to congregate together for companionship and assistance, the state government has increased its grants to not-for-profit community organisations. This allows for better integration into Australian society and promotes education and knowledge of the immigrants' new country and its culture.

We are all mindful of the importance of maintaining a cultural linkage with the countries of one's birth while at the same time ensuring that our new Australians understand our system of government, our freedom of expression and association and, importantly, our freedom of religion.

There are also the responsibilities of taking an active role within our community by obtaining citizenship. We all contribute to our communities in our own way, whether that is in a legal sense by respecting our system of law and our Australian way of life or in standing for public office, as every citizen has the right to do.

Multiculturalism is a wonderful thing; it enriches our lives in many ways. We as a government celebrate our cultural diversity in a public way. We actively promote harmony and tolerance by providing forums for open discussion on intolerance and racism. We officially recognise cultural diversity via the Department of Planning and Community Development and the Victorian Multicultural Commission.

We are, I believe, entitled to be proud of our record of achievement. We do not think it is okay for migrants and refugees to sink or swim when they arrive in their new home. We provide practical assistance and advice to help establish them in their first home. We also provide interpreters, training and education. We constantly strive to encourage our new Australian arrivals to take up opportunities especially designed to provide them with language skills and new capabilities that will enable them to participate fully in employment and training programs.

I believe that in order for people to reach their full potential, we need to empower them with the means to do it. If we can provide them with proper processes, they will enrich our society. I am sure most migrants choose to live in Victoria, and it is no wonder: Victoria has been voted the most livable state in Australia.

Sustainability and Environment: report 2006–07

Mr D. DAVIS (Southern Metropolitan) — Today I want to talk about the Department of Sustainability and Environment annual report 2006–07, in particular focusing on the section that deals with clean air and livable climate, and the section on waste. I want to make some points, firstly, about waste.

Members of this house may well remember before the last election when the then Bracks government had a policy of building a toxic waste dump at Hattah-Nowingi. This move was deeply unpopular across country Victoria and among many city people, including many with strong conservation credentials, who thought it was an act of vandalism and an act of madness to build in an area of significant terrain that probably should have a higher level of protection than it currently does.

One of the things that occurred as the Liberal Party looked at waste policy was that we developed a zero-waste policy and argued that it was not satisfactory to put in place further toxic dumps around Victoria. We should be committed to the reuse and recycling of waste, which we should treat as a valuable resource. At the time the government criticised this policy, only to adopt precisely the same policy after the election — a copycat example. We welcomed the recognition that the government got it wrong at an earlier point.

I have to say I was surprised, perhaps bemused, and very curious about the decision by the minister to announce in the *Government Gazette* last Wednesday a variation to industrial waste management policy, which in this instance deals with the movement of controlled waste between states and territories. This statement read:

> I, Gavin Jennings, Minister for Environment and Climate Change …
>
> …
>
> This variation is necessary to ensure that hazardous waste generated in Victoria is transported interstate only when Environment Protection Authority has issued an approval. Environment Protection Authority must not issue an approval unless it is satisfied that the waste will be:
>
> > reused, recycled or used for the recovery of energy in accordance with the wastes hierarchy; or
> >
> > destroyed or deposited at a facility with better environmental performance standards than is available in Victoria.

In effect what the minister did was to put a fence around Victoria and ban the movement of industrial waste outside of Victoria — ban movement to another state. This is a very strange policy, given we have a national economy and should be working on these issues at a national level. I am not in any way denigrating the importance of state leadership on this issue, but the days are gone when one state should or could with any logic say, 'We will retain all our industrial waste here; we will not allow an industrial producer to move waste to another facility in another state'. You would have to say that on any examination it is a very strange decision to put a fence around Victoria — to put up border protection to prevent waste leaving the state. This is a very unusual thing for the minister to have done.

I noticed in the *Age* article dealing with this issue that there was no realistic explanation as to why this is occurring. The government has not understood how to deal with waste, and after nine years of dithering, delay and botched policy it is grasping for any approach that might give it some sensible outcome here. However, this is the wrong approach. The minister should be working with his colleagues interstate and in the national government to have in place a proper national system for waste management. It is not satisfactory to put a force-field or fence around Victoria and say, 'You will need special permits to move waste out of Victoria'. I can understand why people would want to stop waste coming into the state, but I find it difficult to understand why people would want to prevent waste moving out of the state.

The minister really needs to explain what on earth he is on about here and to look at this in a more national way, working with his colleagues, the other environment ministers in the other states and the national minister, to develop a coherent and sensible national policy that will get the outcomes for Victoria.

Sustainability and Environment: report 2006–07

Ms BROAD (Northern Victoria) — I also wish to speak today to the 2007 annual report of the Department of Sustainability and Environment. As the secretary of the department, Peter Harris, notes in his foreword, 2006–07 was a year of significant challenges on a number of fronts for the Department of Sustainability and Environment, reflecting its very extensive and complex responsibilities.

As we know, Victoria faced one of the worst droughts and experienced the lowest stream inflows in history during this period. These conditions required implementation over the year of a number of drought contingency measures, including close partnerships

with urban as well as rural water authorities and catchment management authorities. It was anticipated that it was going to be a year that was going to be severely affected by the threat of fires, and sadly that prediction turned out to be correct, with the Great Divide fires burning just over 1 million hectares, mostly on public land in north-eastern Victoria — in my electorate of Northern Victoria Region as well as in Gippsland. So this was a major challenge that the department had to deal with.

I am pleased to say that despite these major challenges and demands on the department as a result of drought and the fire season, substantial progress was made by the department in implementing commitments by the Labor government. Many actions outlined in the report I do not have time to describe, but I would recommend the report to members. I would like to focus in particular on the extensive work undertaken by the department with water authorities to finalise the Victorian water plan. The Victorian water plan details the investment of some $4.9 billion of infrastructure over the five years from its commencement in order to increase reliability and security of water supplies for both urban and rural communities in the face of what certainly gives every appearance of being a permanent change in rainfall reliability into the future.

Included in Our Water Our Future, the government's water plan, is the massive upgrade of irrigation systems in Victoria's food bowl to capture lost water. At the time this 2006–07 report was produced, the food bowl modernisation project was making a commitment of some $1 billion over five years to modernise the Goulburn-Murray irrigation channels, gates and metering. Since then, with the agreement of the Rudd Labor government, the total investment in this project has grown to $2 billion, which means that both stages of the project will be able to be implemented. At the stage the project had reached at the time of publication of this report there was planned capture through this investment of some 225 gigalitres of water lost annually through leaks, evaporation and other inefficiencies; that has grown by a further 200 gigalitres — subject, of course, to drought conditions, which continue to be experienced.

Also covered by the Our Water Our Future plan is the extension to Victoria's water grid — the network of rivers, channels and pipes linking major water systems — with the Wimmera Mallee pipeline, the largest water saving project in Australia.

Auditor-General: *Managing Complaints against Ticket Inspectors*

Mr O'DONOHUE (Eastern Victoria) — I would like to comment on the Auditor-General's report of July 2008 entitled *Managing Complaints against Ticket Inspectors*. At the outset let me say that ticket inspectors have a very difficult job because in Victoria there is a culture of ticket and fare evasion, and the recent advertisements run by the government will do little to change that culture which has been in existence for a long time. It results from poorly maintained railway stations, overcrowded trams that prevent customers from purchasing tickets once they are on board, and from unmanned rail stations; commuters can leave a train and exit an unmanned station without any or very little concern that they will be required to purchase a ticket.

I am constantly reminded of this when I use the Frankston line, because every time you get off the Frankston train, which I have used intermittently for 25 years, you see generally younger people jumping over the fence at the end of the station and into the shopping centre. Even though that is a manned station, I have never seen anyone apprehended or stopped because of that behaviour. That leads to a culture of resentment from those who do the right thing and buy tickets.

Ticket inspectors have a very difficult job and more needs to be done to protect the integrity of the entire system, to reduce the amount of fare evasion that takes place and to make it more difficult for people to evade buying a ticket. All commuters should be paying their way to contribute to what is now a significantly overstretched public transport system.

Ticket complaints are managed now through the public transport ombudsman (PTO), which position was established in 2004 and took over responsibility for complaints from its predecessor. The jurisdiction of the public transport ombudsman initially was complex, but that has recently been clarified; that clarification will lead to an increase, it is anticipated, in complaints being made to the ombudsman. Consequently the ombudsman's resources need to be reinforced so that that office can attend to the complaints it receives in a timely fashion, because generally complaints are only made by people who have significant concerns. Consequently those concerns need to be addressed as quickly as possible.

Unfortunately the record of the ombudsman needs to be improved. The Auditor-General has found that until recently there was no means of bringing a complaint

against the public transport ombudsman or the Public Transport Industry Ombudsman Board about the handling of a complaint. While that issue has been resolved recently, it is disappointing that for several years that was the case.

The Auditor-General also found that the timeliness of the handling of complaints to the PTO was poor. The Auditor-General found that the PTO did not comply with the established process for making referrals to the Victorian Ombudsman and that the PTO tool for monitoring complaints satisfaction is inadequate. The Auditor-General also found that the PTO scheme has not been a major driver of continuous improvement in the system.

The Auditor-General has made some recommendations that I hope the PTO will pick up and act on to help to improve its performance — namely, to establish complaints management time lines; to clearly explain all the data and statistics published in its annual report; and to review how it assesses its performance.

In summary, the PTO will face real challenges going forward as the number of complaints received increases as a result of clarification of its jurisdiction, but underlying the issue here is that there is a culture of fare evasion and a poor ability of the system to apprehend those who evade. More needs to be done to change that culture.

Regional Development Victoria: report 2006–07

Ms TIERNEY (Western Victoria) — I rise to make a statement on the Regional Development Victoria (RDV) annual report 2006–07.

There are positive statistics in this reporting period. Some 2395 new jobs were created in provincial Victoria, facilitating $1.52 billion worth of new investment and $273.7 million in new exports.

The commencement of all these initiatives and programs was announced under the government's $502 million action plan for growth in provincial Victoria, which is titled *Moving Forward — Making Provincial Victoria the Best Place to Live, Work and Invest*. During that period a number of Victorian businesses displayed their confidence and strength in provincial Victoria. We saw a number of significant investments, including the investment by Unilever Australasia, which invested $58 million in the expansion of its manufacturing plant. We also saw GlaxoSmithKline's $20 million expansion of its local alkaloids manufacturing facility in Port Fairy and KR Castlemaine's $15 million upgrade of its Victorian plant.

We also saw significant investments, although smaller than those I have mentioned, in smaller communities. In the report Mr Dan O'Brien, who was then the chief executive of RDV, stated:

> Provincial Victoria is growing with record numbers of jobs, investments and people flowing into the regions.

We have seen that continue since this reporting period. The raw statistics support this statement of strong regional growth, and this has occurred since 1999, during the period of the Bracks and Brumby Labor governments. We have seen an additional 92 000 people call regional Victoria home; an additional 134 000 jobs have been created; building approvals have doubled to $4.47 billion; and a number of infrastructure projects have been supported by the Regional Infrastructure Development Fund.

As well as all parts of provincial Victoria, western Victoria has been flourishing and has been very much part of these fantastic statistics. Recently this house became aware of Satyam Computer Services investing $75 million in a project at Deakin University in Waurn Ponds, creating 2000 jobs in the region. We have also seen Mortlake Employment Services investing $2 million in an export-accredited meat-boning plant, which is creating 100 jobs in that area.

The report goes into great detail about a plethora of programs under RDV supporting anything from infrastructure to bushfire recovery to the Small Towns Development Fund and support for the wine industry. But I would like to focus on some of the projects initiated and in some cases completed during the reporting period, with particular emphasis on western Victoria.

When reading the report the great diversity of RDV's role in continuing to build rural and regional Victoria is evident. Some of the projects from the reporting period include a $25 000 grant to CRF (Colac Otway) Pty Ltd's Colac meat processing facility, which created 20 new jobs following its $3 million expansion under RDV's community regional industry skills program. There was also a $50 000 grant through the regional innovations clusters program to assist the establishment of new businesses in the Wimmera region's grain sector.

There is a whole range of areas, but I take this opportunity to sincerely thank the staff of RDV for their professionalism, wealth of knowledge, experience, eagerness to assist and serious commitment to regional

and rural Victoria. I have really appreciated their assistance right throughout western Victoria during my term in office, and I congratulate RDV on being of enormous benefit to rural and regional Victoria and on a very successful reporting period. I commend this report to the house.

Sustainability and Environment: report 2006–07

Mrs PEULICH (South Eastern Metropolitan) — I wish to make some comments on the Department of Sustainability and Environment's annual report, which seems to be a hot topic of debate this morning. I note that the minister has returned to the chamber.

Mr Jennings — With trepidation.

Mrs PEULICH — No, I think the minister probably has a very genuine interest in this area, and I think he probably works pretty hard to be across a lot of the details. However, unfortunately he is playing catch-up after many years of significant mismanagement and neglect of this key portfolio by the former minister, John Thwaites. Unfortunately this portfolio, like all the other portfolios, suffers from the Labor disease of outstanding spin, outstanding documentation and outstanding strategic plans but a lack of implementation, and what is implemented is often poor and does not achieve the outcomes set out.

In many ways this report highlights some of those areas. The department's functions are very relevant to the south-east, the area I represent, as they have covered water management — dare I say 'mismanagement' — over a significant period of time, and we are paying a very heavy price. Forest fire management has also been a dismal failure. On climate change and greenhouse policies I raised a matter during the adjournment last night in relation to, for example, the bid by south-eastern metropolitan councils to move towards more efficient street lighting to reduce emissions and about the lack of response from the government in that case, but I am confident the minister will not continue to ignore this.

The areas of nature and biodiversity conservation, public land stewardship across forests, coasts, alpine resorts, Crown land reserves and parks are clearly areas very relevant to the south-east, especially to market gardens at Heatherton. Frankston Reservoir is covered by part of the legislation that is coming to this chamber. Consultations have been protracted and particularly long, with still many of the issues to be nutted out in the implementation plan. There are many other public land issues such as the promotion of sustainable resource use and management practices among industries and the general community.

The area is home to a very significant manufacturing industry which we hope will continue, notwithstanding this government's lack of action in supporting small business, many of which are facing enormous hardships presently. Perfect examples are the mismanagement of the Mordialloc bridge reconstruction, the resultant traffic congestion having caused the recent closure of three businesses in the Mordialloc strip, in addition to the hardships experienced by a number of transportation companies. I am not sure what this government has done in that area. That is not within the purview of this minister, but nonetheless other policies affect that particular sector.

It is home to about 40 per cent of the industry in Australia. There are numerous tips and waste disposal issues, and the department is concerned with the bays and inland waterways. All of these areas have suffered from significant neglect and policy mismanagement affecting specific sectors and the general community. The department is also responsible for the promotion of sustainable urban and regional development. There have been monumental government failures not only within the purview of this minister but in multiple policy areas, although I recognise that this minister and this portfolio have a coordinating role.

There are a number of major strategic frameworks, including Growing Victoria Together, Our Environment Our Future, the environmental sustainability action statement and Our Water Our Future. As I mentioned before, some of these clearly have been monumental failures that require ongoing review.

Yes, we have had some external factors contributing to government failures, but the lack of proactivity is the reason Victoria has faced one of its most extreme fire danger seasons. Because of the drought the state has experienced the lowest stream flows in its history. These conditions have forced the department to implement a range of drought contingency measures, but they have failed.

To the north of my electorate, as farming pastures continue to lose fertility, farmers have lost most water allocation rights, livestock continues to perish and fresh fruit and vegetables continue to climb in price, all of which dramatically affects families across the south-east.

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

LOCAL GOVERNMENT AMENDMENT (ELECTIONS) BILL

Second reading

Debate resumed from 30 July; motion of Mr LENDERS (Treasurer).

Mr VINEY (Eastern Victoria) — I am pleased to rise to speak in support of the Local Government Amendment (Elections) Bill 2008.

In doing so I guess it is worth noting that this year will be another significant milestone in the process of reform of local government which been taking place over a number of years, certainly under this government, with the rewriting of the Local Government Act, the introduction of four-year terms, changes to some of the voting systems, and now of course the aligning of local governments throughout Victoria which will this year for the first time all hold their elections in November, and once every four years after that.

This purpose of this bill is to introduce some further reform to clarify some of the issues in relation to caretaker periods, the process of the election, and eligibility for voting. I guess there has been a long history of reform. I have to say that the first time I ever handed out a how-to-vote card I was four years of age, in 1958. They were the City of Oakleigh elections, at which my father was first elected to that council — he served there for 16 years — and in those days elections were held every August.

Mrs Peulich — And Tony Scarcella printed a lot of how-to-vote cards.

Mr VINEY — Tony did print a lot of how-to-vote cards. I spent a lot of hours in Tony's print works doing the various bits of work necessary for elections, and in fact Tony printed my very first piece of election material, when I stood for the position of president of the college that I attended at La Trobe University. Just last night I happened to find it in my office here at Parliament House; there was no photo of me on it — and I was glad of that because this was in 1973 or 1974!

There has been significant reform since how-to-vote cards were handed out every 12 months on those cold, August Saturdays; but for me, from the age of 4 to about 21, running elections every year was one heck of a way to learn about politics. What we see now in this legislation is the continuation of that reform, so that people will be able to do it hopefully in more pleasant weather, on a November day, and only once every four years. The fun of that aside, the importance of this reform is to provide some ongoing stability for local government, some certainty for local government and some certainty for voters on the means by which they can elect their councillors.

In this bill we see that the caretaker period for local councils is now more in line with that of state and federal governments, coming down from 57 days to 32 days. I think it is an important reform. People are elected to represent their communities, and they need to be able to do so for the maximum period. I guess the community is entitled to expect that it will get the maximum value out of the councillors it elects.

Mr Finn — Great value out at Brimbank at the moment!

Mr VINEY — Mr Finn interjects about a particular council. I have to say that prior to being elected here I actually worked in local government. I then worked as a consultant to about 160 councils throughout Australia over a 10-year period, doing research.

Mrs Peulich — On what?

Mr VINEY — On customer satisfaction surveys and on management consulting.

Mr Finn interjected.

Mr VINEY — I did some very effective management consulting work, Mr Finn. I can identify a range of facilities and services that came out for many councils as a result of the work I did and the development of a number of corporate plans and strategies.

I got to know local government very well over my career prior to coming here. I am not picking up Mr Finn's particular allegations, but there are some councils which have difficulties because of the political environments. There are a lot of councils, though, that perform extremely well, and we ought to recognise the work that both the councillors and the council officers do in delivering services to their community.

This legislation is about trying to ensure that those things can function more effectively, by making reforms such as aligning the close-of-nomination periods, which were previously slightly different for attendance and postal-voting elections; closing

nominations at 12 noon, which is more in line with state elections — and in that, requiring candidates to either nominate in person or have a statutory declaration attached to their nomination, which I think is a good reform. It is about making sure that nominations are genuine and that elections are held fairly.

There are also some changes in relation to persons who are dismissed from a council for particular reasons; their capacity to nominate for council will be restricted for four years. There have also been changes in relation to entitlements to vote, where that relates to the occupier of rateable property, and these have perhaps caused the most discussion and comment particularly from the Greens. Some anomalies are being sorted out in this legislation, particularly in relation to single-vehicle car parks and boat moorings, and more recently with some amendments relating to lockable storage units. I think they are important reforms.

I will pick up a couple of things that Mr Barber and Mr Hall have said in relation to this issue. This reform is about making sure that the integrity of the voters roll is maintained. For example, in the City of Melbourne area there are about 30 000 commercially owned car parking spaces. If those car parks were strata titled, there could conceivably be many thousands of people added to the voters roll because of the opening of a commercial car park. The voters roll, I think, currently has 75 000-odd voters, so it could be quite seriously distorted by things like car parks and boat moorings.

The rationale for this issue — and Mr Hall questioned whether there has been a proper rationale for it — has been explained to The Nationals and in the other place; these figures concerning the 30 000 separately owned car spaces mean that with, say, two voters per car space, there could potentially be 60 000 additional voters in a municipal election of the City of Melbourne. That probably would not happen in practice, but potentially it could occur. There could be hundreds, if not thousands, of people added to the voters roll through that means. That has been fully explained in debate both in this house and the other house; I am happy to repeat it in this house.

We heard something from Mr Barber about helipads. He might have even been on the radio talking about helipads this morning. This stands in stark contrast. It is nonsense to suggest it is improper to allow the owner of a helipad to have voting entitlements, because helipads are commercial entities. They are no different to other commercial entities in the municipality of Melbourne or any other municipality. It would be ludicrous to suggest that there will be 30 000 helipads in the Melbourne city area; that is clearly ridiculous.

Mr Guy interjected.

Mr VINEY — I would not like to think how many helicopters we would wind up with if there were 30 000 helipads, unless Mr Guy is taking some futuristic view of what transport may be about. Mr Guy is conjuring up cartoon characters on the other side of the chamber, including Flash Gordon and others, running around the place.

But clearly commercial entities such as helipads need to be treated in the same way as other corporately owned representations on the voters roll. There are also some changes — —

Mr Barber interjected.

Mr VINEY — Mr Barber can keep running through the list forever, but I am not sure what he is suggesting. Is he suggesting that people who own significant commercial properties in a municipality should not be entitled to vote? That would be a pretty significant change. I am not sure if that is what he supports, because I have heard him say otherwise in radio interviews. I have heard him say that people who have commercial involvement with property ought to be able to vote. I am not sure what Mr Barber is arguing.

We as a government are prepared to consider potential distortions like car parks, storage lockers and boat moorings and remove those voting rights in legislation. We are not making a blanket statement that no corporate or commercial interests have any voting entitlements at all — we are not prepared to do that. If Mr Barber is suggesting that is the policy shift he would like to adopt, it is inconsistent with other things I have heard him argue on the radio. We are prepared to consider issues as they emerge. No doubt there will be things like car parks and other issues that will emerge in the future that may need further assessment at that time. There are other changes in relation to the countback processes and some offences in relation to candidate scrutineers and voters who make false declarations.

This bill is a further stage in the process of the reform of local government, of modernising it and of making gradual change. It is unlike what happened under the previous government, which took a sledgehammer to local government. It takes the process of reform in a gradual way and ensures that we maintain a vibrant local government which delivers services to local communities and that we have a properly elected representative democracy in our local government system in Victoria. I commend the bill to the house.

The ACTING PRESIDENT (Ms Pennicuik) — Order! I call Mr Finn.

Mr Viney — This should be interesting!

Mr FINN (Western Metropolitan) — I am glad to hear Mr Viney say he thinks it will be interesting. I am sure he will find it of interest because I intend — —

Mrs Peulich — He may well move an extension of time.

Mr FINN — He may well move an extension of time, Mrs Peulich, because there are a number of issues about local government in this day and age that need to be addressed. This bill addresses some of them and that is probably a very good thing. But there are a number of other areas which need the urgent attention of the government as we stand here on 31 July 2008.

Members would be well aware that local government is a very important part of our government structure in this country. With a very good local council you have more than half the battle won. Over the years I have been fortunate to have seen a number of good councils performing — councils that have embraced their communities and have fought for and advocated for their communities. One that struck me when I was first elected to the other place in 1992 was the Shire of Bulla, which was a council that went in hard to fight for its community. There was not the sort of party-political bickering that we see in some councils today. It was a council which put the people of that municipality at its forefront. We need more councils now like the old Shire of Bulla. In the early days of Hume it was much the same, before the party politics took over and the residents and ratepayers were basically left for dead.

We have some bad councils, and when you get a bad council, generally speaking you really know about it — and I have seen a few of those over my time. I remember the old Keilor council which I ran a campaign against for many a long year until it was dismissed. Some years ago under the former Kennett government it was merged, and I think there was a great sigh of relief. Sadly, we did not know what was coming or that sigh of relief might not have been quite so enthusiastic.

A good council is clearly something that is a good thing for the community and it is something we should be all aiming to encourage. Whether we be in government or in a community organisation, wherever we may be, we should be working hard to ensure that local councils do the right thing by their communities. I think that is the most important thing.

Like Mr Viney, I too have been involved in many council elections over many years and, having lived in the old city of Broadmeadows for a good many years, I was involved in a number of very interesting elections. I remember when we elected Dot White as a councillor for the city of Broadmeadows in a pretty strong Labor area. Dot was elected as an Independent. Some years later Jack Culpin, a former member of the other place, who I am sure some members will remember, also ran as an Independent in the ward I was living in, and on that occasion he creamed the Labor Party.

I could go on for quite some time about the candidates I have supported. I have to say that very few of them were members of the Liberal Party. Very few of them were members of any political party, but they were very good candidates and, when elected, very good councillors. That is the judgement I make as to why candidates should be supported: not which political party they might be a member of or support, but whether they will be good councillors who are going to work hard for their communities. I see Mr Elasmar over there. I know he has a long and distinguished history in local government, and I am sure he would agree with me when I say that the most important thing is what is best for the community, irrespective of any political party. That is uppermost in my mind as I speak on this particular bill today.

Mr Viney spoke also about the importance of maintaining the integrity of the voting roll. That is so important, because in some of the elections for council I have been involved in over the years there have been very real questions over the integrity of voting rolls. There is an old joke that the Labor Party used to get 100 per cent of the vote at the Fawkner Cemetery booth. That may be not too far from the truth.

Mr Guy — Now Natalie Suleyman gets it!

Mr FINN — Natalie may get it now, although she does not cover Broadie. But there is always Keilor. As a Parliament we must ensure that the integrity of the voters roll is protected at all times, and I am hoping this legislation will go some way towards ensuring that will always be the case.

The city of Melbourne is obviously a place that is very close to all our hearts. In terms of local government it is important that we accept that there are two components of the city of Melbourne. Yes, there are the residents, and over recent years there has been an increasing growth in residency in the city of Melbourne. It was in fact during the Kennett years that the heart of Melbourne was revived, when people realised that inner city living — actually living within Melbourne, the central business district — was something that was desirable. Now we see that many thousands of people have decided that the centre of Melbourne is the place

for them to live. As I say, you can trace that rejuvenation of the centre of Melbourne back to the days of Jeff Kennett as Premier, and particularly of Rob Maclellan as planning minister — and local government minister as well, I might point out — for whom I have a great deal of admiration. I believe he did a superb job in both portfolios.

We have the residents of Melbourne, as I say, but there is also the commercial sector. It would be very easy but also very foolhardy for anybody in this house or outside it to forget about the commercial sector, because without the commercial sector the city of Melbourne in particular would die. There is no sense in the view expressed by those who suggest that only the residents should get a vote in the city council elections. We have to recognise the importance of commerce to the city of Melbourne, and I put on the record that those people involved in commerce in the city of Melbourne should be recognised as an extremely important part of Victoria's capital city and should be given voting rights.

One particular clause that takes my interest provides that councillors once dismissed by government for not doing their jobs properly cannot stand for election to council again for four years. I know there are some who have grave misgivings about this particular clause. Some would say that is really for the people to decide, but I think that given the hold over some councils some individuals have been shown to have had over the years and their ability to basically cause chaos for anybody who stands against them, this is probably a very good rule to implement. We have to realise that shonky councillors let us all down. They do not let just their own council down; they let us all down. They let local government down, they let us here in Spring Street down and of course, most importantly, they let their residents and their ratepayers down. A classic example of that, if I could use an example, is what we are seeing at the moment at the Brimbank council. What we have at Brimbank is a council which has gone feral and a council which has declared war within itself and on its own residents. We see a council where the deputy mayor, for example, has been inflaming ethnic tensions within the City of Brimbank. I would have thought — —

Mrs Peulich — Who is it?

Mr FINN — Cr Kathryn Eriksson. She has been out inflaming ethnic tensions. She is not the only one; there is a fair bit of it going on out there just at the moment. We have also heard the suggestion in just the last 24 hours of senior people outside the council using intimidatory and threatening tactics to get what they want for their chosen people within the council and of course being repaid in kind. When you have a council like this — a council that cannot hold a council meeting without police being present, a council that has a gallery full of people baying for blood — you have to be looking very seriously at that situation and you have to wonder why the government has not acted to this point to remove this council.

Last night in this house I called for the sacking of the Brimbank council. I was not alone. I understand that yesterday Mr Seitz, the member for Keilor in the Assembly, made some very colourful comments about the Brimbank council and basically agreed with my position that the Brimbank council should go. There we have political bipartisanship at the state parliamentary level that the Brimbank council should go, because this is a council that is not serving its community well. It is not serving itself well, for that matter, but it is certainly not serving its community well. In some ways it is sad for me to say that, because there are some councillors on the Brimbank City Council who are quite good and who care for those who elected them. That is why they, too, have joined the call for their entire council — themselves included — to be sacked. They should be recognised as people who have the integrity to stand up for the voters who put them there — the residents and the ratepayers of the City of Brimbank. I commend them for that.

I am hopeful that in the not-too-distant future the minister will get off his hands and make a decision on this matter, because what is happening in Brimbank at the moment cannot continue; it is just not a viable proposition. I hope that Mr Wynne, the Minister for Local Government, will not live up to his nickname of Do Nothing Dick and will move very quickly to sack this council, appoint an administrator and hold an inquiry into what is happening at the Brimbank council, in particular the roles of three non-councillors who seem to have a more than significant influence on what happens within the council — they are former mayor Mr Charlie Apap; Mr Hakki Suleyman, who got a bit of a mention in this house yesterday; and also Dr Andrew Theophanous, who seems to have an extraordinary influence over what is happening at Brimbank at the moment. I am very hopeful that the minister will act swiftly to bring about a satisfactory conclusion, not just for the people of Brimbank but for the Brimbank council, full stop. Hopefully in November under this legislation the people will get a chance to elect a council that actually cares about them, is not interested in internal faction fighting within the Labor Party and is not about kingmaking or empire building but puts the people of Brimbank first. That is something I plead with the minister to take into consideration at his earliest possible convenience.

The state government has a statutory responsibility to ensure that local government is acting in accordance with what we would expect of it. I recall that under the Kennett government I was chairman of the local government committee. We discussed amongst ourselves as well as with the general community some of the issues and the expectations that people have of local government. We were very keen to ensure that local government lived up to those expectations. I have to say that this government perhaps does not take that responsibility as seriously as it should. I wish it did — I hope it does — but at the moment that is not the case at all.

As I said at the beginning of my contribution, a local government can be one of the best things for any community. It can be the life of a community. It can bring a community together, it can lead a community, it can even push a community in a certain direction from time to time. But in the instance of a council that is letting the show down, the government has a responsibility to move in. And certainly at the moment in Brimbank — there may be others, but Brimbank springs to mind immediately — this government has a definite responsibility to act, and it should not be clouded by wanting to protect its mates. You cannot help but feel that at the moment that is what we are seeing. There is great involvement from members opposite, great involvement from members of the Australian Labor Party in general — factional warlords and so forth — and those councillors who are doing the wrong thing are being protected by their mates in this place and within the government of Victoria.

I conclude my remarks at that point. The opposition will not be opposing this bill, and I sincerely hope it will go some way to ensuring that local governments in Victoria will be vital, energised and healthy for many years to come.

Mrs PEULICH (South Eastern Metropolitan) — I am pleased to make a few remarks on the Local Government Amendment (Elections) Bill 2008 which, as Mr Finn and previous speakers have pointed out, the opposition will not be opposing. That is not to say, however, that I do not have any concerns — I have significant concerns about some of the provisions of this bill. I believe that if I am honoured to have the opportunity at a future point in time following the next election to again serve in this chamber and in this state, we will probably be reforming some provisions of this legislation.

I had the honour of serving in local government before entering Parliament, at the old City of Moorabbin. At the time, of my colleagues who were elected to Parliament across the former Liberal-National coalition in 1992, 62 per cent had had a background in local government. It was probably a reflection of the times when local doers — people who saw themselves as community builders — saw it as a part of their civic duty to make a contribution to their local community and serve as community leaders. Through the fortunes and opportunities that present themselves, sometimes that creates a path to this place.

This morning I mentioned having attended the thanksgiving service on the passing of Frank Le Page, former councillor of the City of Moorabbin and former mayor on three occasions, who served as part of a dynasty of three very substantial contributors to local government — the others being his father, Everest Le Page, and his grandfather, Frank Le Page, who was a personal friend of former Premier Sir Thomas Bent. Between the three of them they served the former City of Moorabbin and the shire for nearly 70 years. Many local community facilities were named after the Le Page family, including the Le Page Primary School in Cheltenham, Le Page Park, and many others. They began many of the steering committees that formed various community organisations in a growth area where none of those facilities previously existed. Of course now governments take responsibility for the establishment of those facilities, and a lot of the time we do not see the good men and women in the local communities emerging through civic involvement because those roles and responsibilities have been usurped by the government, be it state or federal.

I believe councillors are very important local community leaders — and there are good and bad. I have certainly had many a difference with many a bad councillor, particularly those who have made a commitment to a community but not kept it — for example, who have committed to keep rates low and have then supported a 25 per cent increase in council rates. I believe that if you give an undertaking to a community, you have to honour it and if you cannot honour it, you are obliged to make a full and unretractable explanation as to why; otherwise you do not deserve to be re-elected.

You have to wonder whether some of the reforms we have seen in local government in recent times, such as the movement away from annual to triennial elections, while certainly administratively convenient, have made local government a little less relevant.

Mr Vogels — It will be four years.

Mrs PEULICH — And it will be four years now, of course. Because the annual rotational election — which

I am sure that representatives of the department of local government would bemoan, and I am not flagging a return to that — provided for a regular and focused engagement of people in the community on the issues that are important to them. The engagement probably does not exist to the same level now, and I believe it gave the local community a greater voice on a regular basis. It did not throw out an entire council; there was a degree of continuity that it provided. I believe triennial elections or elections that occur on a four-year cycle diminish the impact of the voice of the community on its local council.

I believe postal ballots have also been fraught with problems. I am not a great supporter of postal voting. While it may be very convenient for a lot of people, we have seen examples of significant abuse and misuse and the use of stooges in order to cheat people of their votes. In my view, if you are going to put yourself up to be a local leader — a local councillor — you should go out and find yourself supporters, man the booths, stand for what you believe in and be seen, and then we would eliminate the shady characters who often have political parties or activists or various lobbyists carefully craft statements which make them seem enormously credible when in actual fact that credibility is not to be found.

There are other provisions in this bill which I think need to be looked at with caution, notwithstanding the opposition is not opposing the bill. There is the reduction of the caretaker period from 57 days to 32 days. It sort of makes sense to bring it into line with state and federal elections, but we know very well that local government, and local councillors — and in particular some, although not all, local councillors — are not averse to using the resources of the council to advance their own interests. All you have to do is have a look through the local publications that you get funded by the local council at ratepayer expense.

In South Eastern Metropolitan Region council rates have doubled since 1999, which adds to the pressures on families, adds to the pressures and costs on business, and continues to add pressure to the consumer price index because it is in the bundle of those services. Yet this government has done and continues to do absolutely nothing about it.

This is very much a hands-off government, but it is not averse to backing the sort of reforms which will actually see a diminution of representation and democracy in the local community. The reduction from 57 days to 32 days is okay where those resources are not going to be hijacked and used for the re-election of councillors who should be re-elected on the basis of their track record and their service, not through the expensive public relations budgets of local councils. There is absolutely no need to spend thousands and thousands of dollars in self-promotion through the hijacking of ratepayer funds.

I have a bit of a question mark over nominating in person or by means of a statutory declaration. There may well be a very legitimate reason, like someone being overseas, which perhaps could be given consideration, but I am not sure how it is going to pan out. I think these types of reforms need to be watched very carefully.

But the most important provision that I think every serving councillor and every member of the community should be concerned about is the provision that allows this government to dismiss a council and then to ban the councillors from seeking re-election. I came from a communist regime. Mugabe would have been very proud of this provision. It is the electors who should have the right to decide whether or not someone is entitled to be re-elected. In the past this government — and I do not believe it will be its only effort — has trumped up charges to dismiss a council for party political purposes, but I will not traverse that ground.

There was one transgression when an entire council was dismissed. One of those councillors went on to seek re-election, even though I think a number of them should have because they were totally blameless. They were locked in a culture that was destructive and dysfunctional. In many ways I believe it was a continuation of a previous culture of that council: divide-and-conquer tactics fostered by the hierarchy of the paid officers of the council. But why should a blameless councillor not have the opportunity of presenting their credentials for re-election? If the community deems them to be inappropriate, they would be voted down.

If a council is dismissed in the early days following its election, say in the first year, effectively it means that somebody can be banned for seven years from being re-elected or from having the opportunity to be re-elected. That is not democratic. A fascist government would have been very proud of that sort of provision. I apologise to the house, because that particular provision escaped my attention until today. I think it is outrageous, and I will be looking very closely to see when this government tries to exercise that provision.

I want to record again that there are many reforms we get caught up in. It becomes administratively convenient. This government has been very happy to interfere when it advances its party political interest and to hold back when it does not. An example is the

review of various wards. As a general policy they have moved to multi-councillor wards and proportional representation except where it does not suit Labor. I suggest the government either adopts it as a general policy or it does not.

I support multi-councillor wards where there are triennial elections and where individuals are held to account rather than being bundled in a cluster where no-one is accountable. As I follow this sector very closely, I would say councillors are now less accountable than they were under the old system of annual elections or where there were single-councillor wards. The community deserves to hold every single person who is elected accountable and to have the opportunity of having their voices heard on a regular basis, not just by community satisfaction surveys conducted by people like Mr Viney.

The government should stop mucking up the sector; it is an important level of government. The government has politicised it, it has diminished it and it has destroyed it. I am glad the Minister for Planning has just walked into the chamber. The government is just about to strip local government of its planning powers, yet the minister is probably going to increase the allowances.

In the days of Frank Le Page, Everest Le Page and Frank Le Page, Jr, councillors were paid nothing and they contributed significantly to the development of their communities. The payment of allowances will not necessarily bring better representation. A good, fair and democratic system that promotes accountability will deliver a better system. This government has done nothing to subject the local government sector to the sort of scrutiny that it deserves to be subjected to.

I have made comments before, and the Auditor-General's report highlights them, although I think the recent Auditor-General's performance on local government does not go far enough. Reporting on key strategic areas of activity is not enough. Reporting on outcomes is important. It is important for ratepayers to know how much rates they are paying in their council area vis-a-vis surrounding and similar councils.

The local government department has not been on the ball. The minister has not been on the ball — neither this minister nor the previous one. This government has failed the sector. I believe this legislation will take it backwards. Notwithstanding Mr Finn's concerns about Brimbank council — and there are those exceptional councils that deserve the wrath of their community and the exposure of their activities — this sector could be so much better than it is, but this government has done nothing to advance its interests nor advance the interests of the community.

With those few words, I will be monitoring very carefully the implementation of this legislation. The government should not try to trump, to undermine or to sack councils on the basis of party political opportunities; it should make sure that ordinary councillors who are doing a good job are not caught up in this ridiculous provision.

Mr SOMYUREK (South Eastern Metropolitan) — I rise today to speak in support of the Local Government Amendment (Elections) Bill 2008. At the outset I want to speak to Mrs Peulich's comments about the sacking of a full council and councillors not being able to recontest. I am advised that this is not the case, and that the minister himself has the power only to suspend the council and that it is only Parliament that can dismiss the council. This rule applies only to individual councillors and not to the full council. Therefore, this would not apply in the case of Glen Eira — —

Mrs Peulich — Or Casey!

Mr SOMYUREK — Or Casey — or Brimbank, unfortunately.

Mr Finn — That is not good enough.

Mr SOMYUREK — I hear what Mr Finn is saying, and I will make representations on his behalf. The purpose of the Local Government Amendment (Elections) Bill 2008 is to amend the Local Government Act 1989 and the City of Melbourne Act 2001 to improve a number of electoral processes for local government. Specifically the bill makes changes to electoral dates and times for councils; alters candidate nomination processes; clarifies enrolment requirements for corporations, ratepayers and absentee voters; amends procedures for council election countback processes; creates offences for making false declarations; and makes other technical amendments to clarify or correct minor legislative anomalies.

This legislation is introduced because the government is committed to ensuring that the Local Government Act continues to reflect the community expectations of local council provisions. It will improve existing arrangements for local government elections and strengthen local democracy. As part of the legislative process the government has undertaken extensive consultation with local councils and other interested parties through its consultation on better local governance. The provisions of the bill have been subject to consultation. Many of the amendments in the

bill were canvassed in consultation on the discussion paper with local governments, and they received strong support in submissions. Some additional amendments arose during the consultation process on better local governance which commenced in November 2007 and was conducted to the end of February 2008. There were 76, mostly comprehensive, submissions received, including 50 submissions from councils themselves.

The caretaker provision is very interesting. The definition of 'election period' is amended, as is the caretaker provision, which will now apply for 32 days rather than 57 days. This will make state and federal government elections more consistent. During this caretaker period the council may not enter into major contracts or entrepreneurial ventures or make decisions about the performance or employment of the chief executive, nor may the council publish electoral material unless it is about the election process itself. This period will begin on the last day of nominations rather than on the day of the close of rolls.

Another provision that is changed by this bill is the requirement for candidates to nominate in person. As the legislation stands, candidates do not have to lodge their nominations in person, and this has been the subject of previous controversy for some councils. The change means that individual candidates will have to present themselves to nominate, which will prevent some of the things alleged to have happened in the past from happening again.

Finally I speak to the countback provisions introduced by this bill. The existing countback provisions include different procedures, depending on whether the countback is manual or by computer. The manual process requires the returning officer to write to candidates, if they are still eligible and wish to participate, before the countback is defined, but it delays the process and allows manipulation of the results where candidates decide not to participate. A computer count does not require a prior agreement from the candidates that they wish to participate. The successful candidate is offered the position, and the recount is conducted if they do not accept it. With those words, I commend the bill to the house.

Mr ATKINSON (Eastern Metropolitan) — I am somewhat surprised at the title of this bill. I would have thought it might have incorporated the name 'Droutsas' somewhere within it because a number of the provisions brought forward in this legislation as though they are some enlightenment in democracy are simply designed to tackle rorting by a particular councillor at the Whitehorse City Council. I can say that securely in this place because he has made admissions to that effect. Indeed there are matters to that effect that I cannot go to with respect to the conduct of Cr Droutsas because they are sub judice and he is to face criminal charges brought by the police in December, conveniently after the next annual elections for local government in Whitehorse. Out of deference to the courts, I will not go into those matters in any depth.

However, in other proceedings Cr Droutsas has made admissions as to his conduct, which involved running dummy candidates in council elections at Whitehorse, preparation by him of statements on behalf of those candidates and lodging their nominations and certainly in some cases using facilities to undertake that activity — which would be considered to be the gravest conduct possible in terms of offences against democratic procedure in the City of Whitehorse. The alarming thing about all of this is that Cr Droutsas continues to be a councillor at the City of Whitehorse.

Mrs Peulich — What affiliation?

Mr ATKINSON — He happens to have been a Labor Party adviser to then Minister Marsha Thomson in the previous Parliament. More significantly, given his continuing association with the City of Whitehorse, he is also a Labor Party organiser at its state offices and continues to work in campaigns. He was significantly employed in federal election campaigns, in previous state election campaigns and in a number of other local government election campaigns. He has worked interstate on campaigns on behalf of the Labor Party. That causes me concern in two regards. The first regard is that clearly he has undertaken conduct in Whitehorse which is unsatisfactory, which by his own admission has clearly not been in the best interests of the ratepayers and residents of the city of Whitehorse and that has offended against the provisions, both in legal terms and certainly in moral terms, of the Local Government Act and the standards of behaviour that we would expect from people who take leadership positions in the community. On the basis of his behaviour it is alarming to think that he is going into other areas and running campaigns. You really wonder about the conduct that might be brought to those campaigns.

On the other hand, what also concerns me is that Cr Droutsas has been derelict in his duties at the City of Whitehorse for most of the period of this term of office. When he spends time campaigning for the Labor Party in other states and in other election contests he is not attending meetings of the Whitehorse City Council. He is being paid to be a councillor of the City of Whitehorse but he consistently does not turn up at meetings. City of Whitehorse councillors have on a

number of occasions raised this issue of his non-attendance at meetings and his failure to attend crucial meetings in terms of the forward planning of that council. On each occasion he gets in by the skin of his teeth by attending a statutory meeting, which enables him to continue in this position notwithstanding that he is really not meeting his obligations to the citizens of Whitehorse. I am surprised that he continues in the position at all, because the decent and honourable thing would have been to resign, especially after making the admissions in the first place of his conduct in regard to the last election.

The problem here is that Cr Droutsas has exploited — and I am sure he is not alone — provisions of the current Local Government Act which enabled him in a postal ballot election to run a team of dummy candidates who had absolutely no interest in being elected, who had no commitment to democratic principles and who were not campaigning but simply trying to harvest preference votes that could be directed to a preferred candidate or candidates in that election. The harvesting tools were people who were chosen either because their names were of particular ethnic backgrounds or perhaps because of their involvement in certain organisations within the community, but always because of their affiliation with or support for the Australian Labor Party and therefore the preferred candidates of the Labor Party in the City of Whitehorse. It is an outrage.

I have a very high regard for local government. I spent 17 years in local government at the City of Nunawading, which came to form part of the City of Whitehorse. I served alongside Labor Party people, Greens, people from a range of other minor parties and certainly Independents. I have to say that back in those days, happily, our focus was on the community. There were people who clearly stood as political candidates. I can remember John Madden, for instance, who stood for the Labor Party in the federal seat of Deakin. He was one of the most decent men I have ever met in my life and a man who refused to use his council position to try to advance his cause in the seat of Deakin. It was actually to his peril because he did not win the seat at that federal election. He recognised that local government was a different sphere of government, that the service of the community was an important station in itself and that the community's needs ought to be paramount in terms of his responsibilities. He was not alone. There were other candidates who stood for the Labor Party who had the same high standards. There were people who stood for other parties or as Independents who back then also maintained the position that the community was the focus.

Sadly, since the reforms of local government by the Kennett government there have been people who have not had the community's interest at heart. Instead they have had the political aspirations of the Labor Party and their own personal ambitions at heart. We have seen some grave travesties of democratic principles in the practices that have been applied in local government since that time. Postal voting has been central to most of the rorting. Suddenly people do not have to hand out how-to-vote cards. People do not have to actually do anything. They can simply put their names on pieces of paper. In most cases they do it themselves, although in the case of the City of Whitehorse they did not do it themselves, and that is where the charges arose and admissions were made. Usually people put their own names forward and that is that. They do not have to do much more, because somebody else bankrolls the exercise and makes sure that the appropriate promotional flyers get out to support the candidates to the extent that they are able to harvest the maximum number of preference votes.

It is my very firm view that in the interests of democracy we ought to insist that wherever postal voting is the selected system of voting in a municipality there should be first-past-the-post voting. The two should go together. It is the only way to eliminate this rorting, because suddenly you take out the incentive to run dummy candidates. Then you have only people who are prepared to run, who actually want to get elected. If it is a first-past-the-post system, you only have people who run genuine and fair campaigns in those postal ballots. There is no advantage in having running mates. That is what we ought to be doing with elections where postal voting occurs. It is the only way to ensure democracy. The behaviour of Cr Droutsas and similar behaviour in local government where running mates are put into fields — and you can have voters trying to choose from 17 candidates, many of whom do not even want to be elected — denies democracy to people. It does not advance democracy; it diminishes it. It takes away people's choice, because it is manipulating and rorting the system, and it has to stop.

The provisions that have been put in this legislation by the government are a step in the right direction; they are an improvement. The Droutsas provisions make some sense, but they do not go far enough, because this house should be demanding that postal voting can only be selected as a method of voting if indeed it is first past the post. That is the only way I can see us being able to ensure democracy in local government.

I turn to a sad situation at the City of Whitehorse. I reported yesterday in my 90-second statement on the death of Cr Bill Bowie after 15 years at the City of

Whitehorse. I guess Cr Bowie's position will be subject to consideration as to whether the council proceeds to elect a new member in his place or perhaps looks at opportunities to defer that election, given the proximity of a November poll. It is going to be difficult not to replace Cr Bowie because of the time required. On that basis what would be used is a countback system that is likely to deliver Cr Droutsas another victory. Another one of his dummy candidates, probably somebody who did not even want to be in local government, is likely to get up under a countback system, because of the rorting that occurred at the last election in the City of Whitehorse.

What a dreadful postscript to the service of a man who was a genuine councillor. Cr Bowie was, I might say, affiliated with the Labor Party and sought or sounded out preselection for a number of seats, including that of Forest Hill, where he was pipped by a fairly high-flying candidate. Cr Bowie was a genuine candidate who believed in local government, was committed to his residents and ratepayers and came from community organisations; he did not come with a very narrow political agenda of advancing the Labor Party's cause. What a bitter irony it is that this man, who has given so much to the community, may well be replaced by somebody who benefits from the rorting of the system at the last election! That cannot and must not happen in future, and we ought to go further in terms of these legislative reforms.

Other provisions in this legislation are good, particularly the one that removes some of the corporations' voting entitlements. Mr Barber spoke at length about those yesterday, and I think many of his remarks were quite appropriate in terms of the possibility of manipulation of the system through changes to ownership of particular facilities or the creation of new entities in respect of voting. Indeed, in relation to the voting entitlements of corporations, whilst I think corporations certainly have a significant interest in their local communities in many cases and their voices deserve to be heard, the current provisions are cumbersome and probably not in the best interests of democratic procedures in local government. I therefore believe on balance that what is proposed in this legislation is appropriate.

There are quite a number of provisions here. The Liberal Party has canvassed views fairly widely in its consultation on this legislation. It is not opposing this legislation. This is a step in the right direction. However, it is a great pity that two things did not happen: that Cr Droutsas was not recognised in perpetuity as part of the title of this legislation, given that — —

Mr Barber — They name other bills after people!

Mr ATKINSON — Exactly; they name other bills after people, and it would have been nice to have seen his actions recognised in perpetuity in forcing these changes. It would also be nice to see the Labor Party have some common decency in addressing the issue of the employment of Cr Droutsas in campaigning activities when he remains under some sort of a cloud in respect of proceedings resulting from his conduct in previous elections at the City of Whitehorse.

More importantly, it is crucial in my view that we address this postal voting issue realistically. If we do not address that and postal voting continues in its current form, notwithstanding the provision about candidates having to front up with their own nominations or a statutory declaration as to why they cannot do so and notwithstanding their being subject to clauses about offences, false declarations and so forth, we will continue to see people bend and break the rules — thereby encouraging the use of dummy candidates to harvest preferences. It diminishes democracy.

Mr GUY (Northern Metropolitan) — What an amazing bill this is, and how amazing it is to hear members opposite talking about improving democracy in local government in Victoria when we have a state government committed today to gutting local government and treating it as just another statutory authority it can bully, throw its weight around with and strip powers from.

It is quite amazing that in the debate we have had today and last night, members opposite have started to champion themselves as protectors of local government in Victoria. When local government was restructured in Victoria in the mid 1990s, councils were returned by the Kennett government with their planning powers intact and debt free.

Mr Leane — Is that a nice way of saying 'sacked'?

Mr GUY — That is what we did for local government. Mr Leane should be aware that if the Labor Party was so opposed to the existing boundaries of local government in Victoria today it could repeal the legislation that was introduced by the Kennett government.

Mrs Peulich — You've had nine years.

Mr GUY — Mrs Peulich is right, the government has had nine years. It could bring a bill to repeal it. The Labor Party had a majority in both houses at one stage of its term in government and did nothing about the

situation, so presumably the Labor Party approves of the boundaries that were established by the Kennett Liberal-National government in the 1990s, and why would it not? We left local government in a solid state financially and democratically around Victoria, so we face local government here today under the Bracks and Brumby Labor government.

We are facing the gutting of local government planning powers in activities areas — staring down the gun at the proposed removal of all local government planning powers, which seems to be the goal of this government and is certainly what is being whispered around boardrooms in Melbourne and regional Victoria by members of this government.

Unfortunately one of the worst examples of local government in Victoria and of the Labor Party's control of local government in Victoria — the City of Brimbank — has been referred to on a number of occasions, indeed by some of Labor's own members over the last 24 hours. The municipality of Brimbank is Victoria's third largest local government area. In population it has close to 170 000 people. By 2020 it will have around 190 000 people. It is behind Casey and the City of Greater Geelong.

The City of Brimbank is a $130 million operation and employs nearly 1000 staff. The number has risen from 960 to nearly 1000. The performance of the Labor Party in managing the City of Brimbank borders on the embarrassing and is a disgrace, scandalous and outrageous, but this is what happens to local government when it is left to the Labor Party to wreak its factional revenge: fights and brawls at the expense of local democracy. As I said, it is a $130 million operation with 1000 staff.

Mr Finn and I went to a recent Brimbank council meeting and there was more blood to be seen there than at the worst Lester Ellis boxing match one could ever have seen. Frankly, it was a disgrace. For the 170 000 people in Brimbank who are paying upwards of $1000 a year in rates — rates that will go up by 3.9 per cent over the next financial year — it was an absolute outrage, but this is what happens when the Labor Party gets its claws into local government and treats it as no more than a training ground for factional fights for the years ahead. There are plenty of examples of this not only in Brimbank but right around Melbourne, in the northern and western suburbs which are predominantly held by Labor Party members in the lower house — areas treated by the Labor Party, as I said before, as a factional fiefdom, as an area to blood yourself when it comes to factional fights at the expense of local democracy.

The meeting Mr Finn and I witnessed was a complete disgrace. Any ratepayer who sat in that audience and watched the spectacle that was a meeting of the City of Brimbank, a $130 million operation with 1000 staff, would have been outraged that they are paying $1000 a year in rates to that organisation.

Mr Barber — Except the Greens councillor.

Mr GUY — I take up the interjection of Mr Barber. The Greens councillor was one of one or two councillors who was treating the meeting perhaps a little better than some of the others, although he certainly participated in some of the outrageous debates that were taking place in that council on that night.

More to the point, as I said before, this is a complete disgrace to the people of Brimbank. This is not a factional game; this is not a Labor Party branch meeting. This is a major operation being taken for granted by the Labor Party and being taken for granted by all the councillors who were there, in particular Cr Suleyman. I do not know Natalie Suleyman personally so I cannot judge her on what she has done at any branch meeting because she is not in my party. I can, however, judge her on her conduct at that council meeting. To say that, as councillors, Cr Suleyman and her supporters behaved in a disgraceful manner is an understatement. It was a complete outrage.

I noted with interest that the City of Brimbank's website has a councillor code of governance which states a number of points. It is signed at the back by all the councillors, including the mayor at the time, Natalie Suleyman. The code states very clearly on a number of occasions that:

> We will perform our duties in the best interest of the community and not be influenced by fear, favour or adverse publicity.

Cr Suleyman and her supporters were not influenced by adverse publicity because they sat there tearing down the Sydenham Park Soccer Club, which had done nothing wrong. They sat there tearing down the reputation of one of their own members of Parliament, the member for Keilor in the Assembly, George Seitz, who at face value had gone there to help this soccer club and was torn down by his own party. It was a disgrace.

Further the code goes on to state that city councillors:

> … will work together and be honest, responsive, courteous and prompt in our dealings with each other …

This was amazing — there were three policemen in attendance at the meeting in case it got out of hand.

Mr Finn and I did not know if the three policemen who were in attendance were there to restrain the councillors from attacking each other or to restrain the 300 angry parents and sad children who were losing their club because of a factional payback by the Labor Party at the expense of the community. That is what it was: a factional payback at the expense of kids who were going to the Sydenham Park Soccer Club at the weekends to play and make friends. They spend their lives there and grow up in that environment, but they are being paid back by having that experience ripped out from underneath them — all for the sake of a Labor Party factional payback. That is how the Labor Party treats local government, and it is an absolute outrage.

It is worth noting the comments by the member for Keilor in the other chamber, Mr Seitz, about this council. Mr Seitz referred to members of the Labor Party on that council as behaving like Robert Mugabe, using government resources to pay people back. It was an absolute outrage by Cr Suleyman, who was supported by members in this chamber. That is the tactic she employed at the expense of the community.

Business interrupted pursuant to sessional orders.

DISTINGUISHED VISITOR

The PRESIDENT — Order! Prior to questions without notice, I draw to the attention of the house that in the gallery we have the Honourable Robert Lawson, a former member for Higinbotham Province.

QUESTIONS WITHOUT NOTICE

Brimbank: councillors

Mr FINN (Western Metropolitan) — My question is directed to the Minister for Planning. I refer to revelations made in this house last year concerning the conduct of the Brimbank City Council-owned Sydenham community centre and allegations of gross managerial incompetence and possible impropriety, and I ask: will the minister inform the house of the details and any outcomes of the inquiry into this community centre conducted by the department of which he is the lead minister?

Hon. J. M. MADDEN (Minister for Planning) — I welcome Mr Finn's interest in things in the western suburbs. As I mentioned yesterday, it is a new-found interest: the only other time we have had questions about the western suburbs from Mr Finn they were in relation to by-elections, so I welcome Mr Finn's interest in this area.

As I said in my response to his question yesterday, local government matters are the responsibility of the Minister for Local Government. If Mr Finn feels strongly about any of these issues he should refer them to the Minister for Local Government. If he feels strongly about any of these allegations, he should pursue them with the relevant authorities and make those requests accordingly. I encourage Mr Finn to continue to ask questions about the western suburbs and show an interest in the western suburbs, which is good to see after a long period of being in Parliament and having asked less than a handful of questions, and those questions related predominantly to issues around by-elections. I welcome Mr Finn's question, and if he feels strongly about these matters, I encourage him to refer them to the local government minister.

Mr D. Davis — On a point of order, President, the minister is the lead minister in this department. An inquiry is being conducted, the member has asked for details of that inquiry and the minister is required to answer questions on areas of his ministerial portfolio or with which he is connected.

The PRESIDENT — Order! There is no point of order on the matter Mr Davis has just raised.

Supplementary question

Mr FINN (Western Metropolitan) — I think I thank the minister for his answer. Given the fact that the chairman of the Sydenham community centre at the time under investigation was Cr Natalie Suleyman, daughter of the minister's electorate officer, Hakki Suleyman, how can the more than 170 000 residents of the City of Brimbank have any confidence that any inquiry under the responsibility of the minister will produce a fair and equitable result, given the obvious appearance of conflict of interest? And does the minister have any concept of what 'conflict of interest' means?

Hon. J. M. MADDEN (Minister for Planning) — As I mentioned in my previous answer to Mr Finn, if he has any concerns about matters of local government or about the governance arrangements of any local government area, I would encourage him to make those references and inquiries and express any of his concerns to the Minister for Local Government. The local government minister has that responsibility, and I encourage Mr Finn to express his concerns to the relevant minister in the relevant place.

Mr D. Davis — On a point of order, President, the minister has argued that he is not responsible for that area and the Minister for Local Government is, but he is

the lead minister in that department, and he is thereby connected, and he is required to answer questions with which he is connected.

The PRESIDENT — Order! It is not about connection; it is about responsibility. The minister has in fact answered the question, and whilst I understand the member is not happy with that answer, the minister determines the answer and there is nothing I can do about it.

Climate change: national emissions trading scheme

Mr EIDEH (Western Metropolitan) — My question is to the Minister for Environment and Climate Change, Mr Jennings. I refer the minister to the recent release of the federal government's green paper on its carbon pollution scheme, and I ask: can the minister inform the house of the Victorian government's assessment of its impact on Victoria and whether the government continues to support its introduction in 2010?

Mr JENNINGS (Minister for Environment and Climate Change) — I thank the member for his question and the opportunity for me to confirm and affirm that the Victorian government is very supportive of the initiative taken by the Australian government and its commitment to introduce a carbon pollution reduction scheme by 2010. In terms of the latest consideration of that policy proposal, Ross Garnaut has produced for this nation a very important report leading to the design elements and his recommendations about how such a scheme would work. Subsequently the Australian government followed with the release of a green paper dealing with various design elements to try to make sure that we as a nation stand up to our international obligations to meet the greenhouse challenge and that we address climate change in the face of climate change deniers with whom I may make eye contact from time to time. It is important for us as a community to recognise the capacity — —

Mr Lenders interjected.

Mr JENNINGS — It might be tempting before the end of the contribution to name them. It is important that we as a Victorian community make sure that we rise up to what is going to be one of the great transformative economic challenges of our lifetime, that we address our greenhouse gas abatement obligations and play our role in terms of a state within a nation that is committed to reducing greenhouse gas emissions and that we drive innovation and investment to make sure that we account for a renewable, sustainable future in a way that accounts for the protection and maintenance of jobs and viable communities in Victoria. Notwithstanding the challenge in Victoria, we believe we can respond positively to this. We are committed to joining with the federal government to make sure that the carbon pollution reduction scheme is implemented at the earliest opportunity. We are very supportive of broadening the sectoral engagement of this scheme to try to make sure that it leads to abatement at the lowest cost and that the most efficient economic transformation occurs within our country.

We certainly support the initiative taken by Ross Garnaut and the commonwealth and say that low-income households should be supported in the cost to their household budgets in driving this adjustment. We want to make sure that we drive investment in innovation and infrastructure.

This is in stark contrast to the contribution of members of the coalition opposition in the federal jurisdiction, where we have seen them floundering in recent times in trying to determine their position and their response. They have tried to recant on the position they took to the people at the last federal election. They have manipulated and contorted themselves in relation to this issue.

I had thought that the Victorian Liberal Party was not subject to these contortions, because on a number of occasions I have come in here at question time and Mr David Davis has asked me about the commitment of the Victorian government and our achievements in reducing greenhouse gas emissions in the state of Victoria, and I thought Mr David Davis was trying to keep me honest in this endeavour, which is something I congratulate him for.

The great difficulty in terms of the contortions of the Victorian Liberal Party is that we have an accumulation of evidence showing that this is a view and a commitment that is not shared by members on his front and back benches. In recent times Mr Gordon Rich-Phillips has been out in the media drawing attention to himself, obviously making a run for the leadership and trying to recant his leader's commitment to greenhouse gas abatement by declaring himself a greenhouse gas denier.

Hon. T. C. Theophanous — A sceptic.

Mr JENNINGS — A complete sceptic. But he is not alone, because there are other supporters on the back bench who join him in a coalition of contempt for the greenhouse gas challenge and the climate change challenge and who are deniers. Mr Finn joined that list as recently as today, and apparently in earlier parts of

today's proceedings he joined it with vigour. Mr Gordon Rich-Phillips and Mr Finn are obviously undermining the good, quality position adopted by Mr David Davis in pursuing with vigour my commitment and the Victorian government's commitment to greenhouse gas abatement and the transformation of our economy.

Mr D. Davis — We want you to succeed!

Mr JENNINGS — Mr David Davis, we appreciate your commitment and we look forward to you prevailing within your party to make sure these aspirants to a leadership role who are drawing attention to themselves in the name of climate change denial are not successful and that they join, you join and the Victorian government and the Victorian people join — —

Mr Drum interjected.

Mr JENNINGS — Are you declaring your hand, Mr Drum, in relation to whether you are a denier, a sceptic or a convert? Take the opportunity to declare yourself. President, if it were not for the fact that I might be abusing the forms of the house, I would ask members of the opposition to declare themselves in relation to their commitment to joining the Victorian government and the Australian community in our commitment to addressing the greenhouse gas challenge and transforming our economy in a sustainable way.

Mr Gordon Rich-Phillips may fail; Mr Finn may fail. I look forward to Mr David Davis prevailing and to the Liberal Party stepping up and joining the Victorian government and the Victorian community in being committed to transforming our economy and addressing the greenhouse gas challenge and global warming. Thank you, President, for your indulgence and your implied support for the importance of the Victorian government's position. We are committed to supporting our federal brothers and sisters in addressing the greenhouse gas issue by 2010.

Mr P. Davis — On a point of order, President, the minister has been speaking for 6 minutes and 14 seconds and has spent most of that time regaling the house with his bemusing attempt to disparage the opposition and to reflect upon the Chair. I would ask you to point out to the minister that it is inappropriate to reflect upon the Chair during question time.

The PRESIDENT — Order! Clearly there is no point of order, although I appreciate Mr Davis's attempts to assist me in protecting my integrity. But I can assure him and other members of the house that I am more than capable of doing that myself, and I am sure the minister appreciates that as well. The minister should not make any assumptions with regard to my views on any matter.

VicForests: harvesting and haulage contracts

Mr HALL (Eastern Victoria) — My question without notice is directed to the Leader of the Government in his capacity as Treasurer. I refer the minister to the recent timber tendering process by VicForests for harvesting and haulage operations. Will the minister inform the house of the outcome of the tender process, and in particular will he explain why only 65 per cent of the contract work has been awarded?

Mr LENDERS (Treasurer) — I thank Mr Hall for his question and his ongoing interest in the future of the timber industry, particularly his interest in the current harvest and haul tendering process. As Mr Hall said, 65 per cent of contracts were tendered; he is correct on that figure. VicForests will proceed to retender for the remaining 35 per cent in the next few months.

The reason for this is that in the tendering process VicForests goes out and seeks expressions of interest from the market and processes those. It obviously has standards it needs to apply. This government has been particularly conscious of occupational health and safety in the harvest and haul industry. There are also issues of needing to act commercially; VicForests needs to be satisfied that the people who tender can do it. There are also a commercial component and a whole range of other issues that go with this tender process.

Clearly it would have been desirable to have had 100 per cent tendered in the first round, but VicForests has made a commercial decision. It has its probity auditors, and it is going forward with a second round of tendering for harvest and haul. That is a commercial decision that it makes, and it is an appropriate one. I understand from my discussions with VicForests that it is now contacting every single person who sought to be part of the tendering process in the first instance to explain to them how the first round works and how the second round works so that there can be a second round of tendering to complete the work.

Mr Hall clearly will be seeking in his supplementary question to ask about completing that work, creating jobs in Gippsland and also having correct the necessary balance between environmental needs and job creation in regional Victoria. VicForests has a task: it is to commercially manage timber harvesting. It is doing that through, in this case, tenders for harvest and haul. It is proceeding down that path, and it will proceed with the second round shortly.

Supplementary question

Mr HALL (Eastern Victoria) — By way of a supplementary I point out to the minister that in East Gippsland, only 4 of the 18 harvest contracts were let and only 14 of the 18 haulage contracts were let. Given that a number of tender applications were conditional on winning both harvesting and haulage contracts, why did VicForests choose to split those tenders when contractors had previously been advised that their tenders would be assessed as a whole, not in part?

Mr LENDERS (Treasurer) — VicForests makes commercial decisions in these areas, and the way the contracting is handled is then under the supervision of a probity auditor. There was the issue of splitting harvest contracts from harvesting and haul contracts. They are decisions that VicForests makes.

As Mr Hall, if he had a second supplementary, would undoubtedly raise, there were some issues in communication that were far from perfect with Cann River Logging, and Slater and Green Brunts. I have spoken to the chief executive officer of VicForests, who has spoken directly to those companies — or he undertook to me that he would do so. There was some confusion over harvest and haul primarily due to some administrative issues in VicForests, but there was also some confusion over the email addresses used by those two companies.

Essentially VicForests' task is to deal commercially with the harvesting of timber in native forests, to do it within the scope of the government's Our Forests Our Future policy and to do it in a way that is both commercial and has probity overlays on it. It has sought to do that under its charter. It has now completed that for 65 per cent, and the remaining 35 per cent is being done. While it is my obligation as minister to supervise the overall governance of VicForests, the individual commercial arrangements are correctly done by it as the commercial organisation acting on behalf of the Victorian community. It has done so, and I will obviously watch with interest how the second 35 per cent goes.

Film industry: government initiatives

Ms MIKAKOS (Northern Metropolitan) — I refer my question to the Minister for Innovation. Could the minister inform the house how the Brumby Labor government is supporting Victorian filmmakers taking their projects from ideas to the big screen?

Mr JENNINGS (Minister for Innovation) — I can assure Ms Mikakos and the house that I will not be referring to any film being made about the Liberal Party during the course of my response. I will, however, draw attention to the outstanding Melbourne International Film Festival, which is currently under way. We are halfway through the festival and it is as popular as ever, as it has been for the last 50 or so years — I think this is the 57th Melbourne film festival. The crowds are coming to support not only Australian but international films, creating opportunities for our community to be well versed in the culture of this city and of the global community.

Very importantly, in terms of its support for the Melbourne International Film Festival, the Brumby government has tried to take that support, in a very tangible way, a little bit further than just creating opportunities for people to come together and immerse themselves in culture. We have tried to provide a crucible for filmmakers where they have an opportunity to showcase their work and then build on the showcasing of their work to build a market for the international distribution of their work.

We have done this through establishing two programs. The first program is the Melbourne International Film Festival Premiere Fund, which is providing funding to enable six films to be made and premiered during the Melbourne International Film Festival. I am very pleased to say that I have seen three of the six films, and I can congratulate those filmmakers for a number of outstanding films that have already been added to the armoury of Australian cinema through the creation of the Melbourne International Film Festival Premiere Fund. The film that opened the film festival, *Not Quite Hollywood*, is a documentary about the genre — —

Mr D. Davis — That is the movie with Ms Mikakos in it.

Mr JENNINGS — Mr David Davis's interjection is not based upon any malevolence in relation to Ms Mikakos; he was just postulating, because in fact it is a documentary about genre films, which exposed me to a whole range of Australian films I had never seen or heard of before, films that deal with a very exuberant, exotic and hyperactive lifestyle that obviously I was not privy to previously, and I thank the filmmaker Mark Hartley for creating the opportunity for me to have my eyes opened about some successful films that have been made in Australia over the last 20 years.

Similarly an outstanding documentary was made by Tim Jolley and Kirsty de Garis about Dominick Dunne, who was a very prominent writer in the United States of America. Another film, called *Rock 'n' Roll Nerd*, which was screening earlier in the week, highlighted

the outstanding talents of Tim Minchin. That was made by Rhian Skirving and Lizzette Atkins. These are outstanding pieces of work.

Beyond showcasing films in the festival, though, as I indicated earlier, we actually have a program that brings distributors of works throughout the globe to the festival to build a market. The 37 South: Bridging the Gap program has provided an opportunity for 65 production houses and distributors to come in and in a market setting bridge the gap between those local creative talents, the people who have made these films, the producers, and an international marketplace. That has been a very successful model, which we believe will lead to Victorian film product being distributed throughout the world.

It is a very exciting component of the Melbourne International Film Festival which has been generated by the Brumby government in the last two years, and it is a model which we believe will lead to great successes in terms of spreading the word on Victorian and Australian cinema throughout the globe and finding a marketplace and an outlet for that great creative talent. We are very happy to support that; we are very committed as a government to supporting the film festival and opportunities for our cinema makers to develop their work and to have it showcased and distributed throughout the world.

The PRESIDENT — Order! Earlier in question time during the asking of a supplementary question Mr Finn referred to a particular woman and the fact that she happens to be the daughter of another citizen. I had an instinctive concern about the reference, of no relevance whatsoever to the question, to someone being a family member.

I have subsequently looked at both the standing orders and previous presidential rulings, which confirm my view that it is not appropriate or desirable for members in the house during the course of question time or whenever, to raise in an irrelevant manner the names of other family members or the relationship. I remind the house that this is a robust environment that we work in, and it is tough enough without having family dragged in unnecessarily.

I remind the house that I relate the position I am taking strictly to that particular question and the subsequent supplementary question that was asked. I will paraphrase, for the house's edification, standing order 8.02(1)(b), which relates to questions. It says that statements of facts or names of persons, unless they are strictly necessary to explain the question and can be authenticated, are out of order. That is confirmed by previous presidential rulings. I ask the house to be mindful of not going any further than we have to in regard to family members.

Mr D. Davis — On a point of order, President, could I have a clarification of your point if it is possible? In the case you have just referred to reference was made to two individuals, one of whom is the employee of a minister and the other a family member of that minister. The essence of the question was about the conflict of — —

The PRESIDENT — Order! The supplementary question simply referred to a child, if you like, who happens to be the daughter of so-and-so. That is not strictly necessary by any estimation; it is unacceptable.

Mr Finn — On a point of order, President, I wish to point out to you — and I hate to take a contrary view, as you would understand — that the reference was relevant because of the fact that we were talking about the chairman of a centre that was being investigated by the minister's department. We were referring to her father also being employed by the minister. It was relevant indeed.

The PRESIDENT — Order! Mr Finn may have been wiser to choose his words better in his supplementary question. I remind him that the wording of his supplementary question referred to a person who happens to be the daughter of someone else. That is not strictly necessary in terms of the question Mr Finn asked. Therefore I am not asking him to withdraw it: there is no point, because it is on the record. I am simply asking the house to reflect on what I am saying in terms of unnecessarily dragging family members into an issue. If Mr Finn wants to do that in some other substantive way, he can do so.

Brimbank: councillors

Mr GUY (Northern Metropolitan) — My question is to the Minister for Planning. Given the allegations of corruption and gross political patronage at the Brimbank City Council, much of which has been highlighted by some of the minister's own Labor colleagues, I ask: will the minister now order an independent review of all the planning decisions made by the Brimbank council over the past three years, and if not, why not?

Hon. J. M. MADDEN (Minister for Planning) — I welcome Mr Guy's interest in these areas, particularly around planning decisions. The position of the opposition in relation to many of these matters around

the role of local government is ambiguous, because on one hand, we have an opposition — —

Mr P. Davis — On a point of order, President, I think the minister knows full well that when he is asked a question in relation to the stewardship of his portfolio he should respond in terms of government policy administration. He should not attack the opposition.

The PRESIDENT — Order! The house is more than aware of my views in relation to attacks or abuse by members of the opposition when asking questions or by government ministers when answering questions. In this case Mr Philip Davis is correct. I remind the minister of the standards I require.

Hon. J. M. MADDEN — As I mentioned previously, this government is committed to working collaboratively with local government. I have made that case and have pointed that out on a number of occasions in this chamber, as opposed to other governments that we have seen take a sledgehammer approach to local government. I find it inconsistent to have questions from the member opposite, who on one hand seeks to give councils all the independence they want but on the other hand seeks to intervene at every opportunity. That is certainly not a clear position from the opposition.

But in direct response to the member's interest in this area, of course there will be a fair degree of interest from the opposition in relation to any local government that might seem to be squabbling on issues. There is no doubt that there is public squabbling at the Brimbank City Council; it is well known and well reported. We know, and we can see from the delight in Mr Finn's eyes, that he finds a great deal of joy in these matters. It is never good — —

Mr Finn — On a point of order, President, apart from the fact that the minister is flouting your previous ruling by attacking me in this regard, I take offence at that last remark, and I ask him as to withdraw it.

The PRESIDENT — Order! I have two points: one is that this is question time and we can all expect a bit of robust debate and repartee. The practice and the standard that I require is that comments do not overtly criticise members. I do not believe the flogging with a wet lettuce leaf Mr Finn just got was overt criticism.

I take the second point, that the comment made by the minister is offensive to Mr Finn. I will refer to the oracle just here in front of me as to whether or not that comment can be deemed offensive. I will read the actual standing order. It states, on offensive words:

> No member will use offensive words against either house of Parliament, any other member of either house, the sovereign, the Governor or the judiciary.

This standing order may cover Mr Finn:

> 12.20 Imputations and personal reflections
>
> All imputations of improper motives and all personal reflections on members will be considered highly disorderly.

I ask the minister, therefore, to withdraw.

Hon. J. M. MADDEN — Certainly, if Mr Finn is offended, I will withdraw — —

The PRESIDENT — Order! No, the minister is to withdraw.

Hon. J. M. MADDEN — I withdraw.

Mrs Peulich — Good boy!

The PRESIDENT — Order! I know I am getting on a little bit and some people might suspect that I do not hear too much of what is going on, but I heard Mrs Peulich. 'Good boy' is not an appropriate comment.

Mrs Peulich — Bad boy!

The PRESIDENT — Order! I have never been accused of lacking a sense of humour and I do not intend to start now, but I warn Mrs Peulich that there is a precipice and she is very close to it.

Hon. J. M. MADDEN — On a point of order, President, I find the term 'boy' offensive, and I ask the member to withdraw her remark.

The PRESIDENT — Order! On the issue of frivolous points of order — having been a victim of that in my youth on the back bench — I remind the house that we can all engage in a bit of fun and repartee from time to time, but there is no point of order.

Hon. J. M. MADDEN — As I was saying, it is never good to see any local government squabbling over any issues, particularly if they are personal issues. As I have mentioned on a number of occasions in this chamber, if people have concerns about the behaviour or performance of any local government, they should refer them to the local government minister in the normal way and the local government minister can consider them accordingly. If anybody has any concerns about planning matters and decisions and feels that they warrant further investigation, they should refer them to the appropriate person — either the Minister for Local Government in relation to the performance of

the local government or to the Ombudsman in relation to the matters and decisions.

I suggest to opposition members that if they have a strong opinion or a strong policy in this area in relation to decision making of local government, they should make that explicit. They cannot have it both ways. They cannot say that local government should be able to make these decisions, but as soon as it makes decisions they do not like or they feel nervous about people should be asked to overturn those decisions.

What I say is that local government has its role. We recognise that role and we work collaboratively with it. If people have any concerns about the behaviour of any local government, they should refer those to the appropriate authority — the Minister for Local Government — or if they have other, greater concerns, they should refer those to the relevant authorities.

Supplementary question

Mr GUY (Northern Metropolitan) — Noting that the minister and his department enthusiastically launched inquiries into the activities of some regional councils' planning processes, on limited bases of evidence, is it a fact that the minister has not launched an inquiry into Brimbank's planning activities, contrary to demands by members of his own political party, primarily because of his own conflict of interest with his electorate officer and the Labor Party's ongoing internal factional warfare in the Brimbank region?

Hon. J. M. MADDEN (Minister for Planning) — I make this point to Mr Guy, and I want to make it absolutely clear here. He needs to know this if he does not already know it, because there are two things that this reflects on. Either he does not know my responsibilities — and being the shadow minister, he should — and they relate to planning matters. He should know also who has responsibility for local government, and that is the local government minister. Mr Guy is either pretending not to know or, worse still, he does not know. He should know, because any shadow Minister for Planning should know what the responsibilities of the respective ministers are.

Any investigations into local government have been undertaken by the Minister for Local Government. Let us make that particularly clear. Any other investigations have been undertaken by the Auditor-General. It is not my role as planning minister to investigate local government performance. That investigation is undertaken by the Minister for Local Government.

I know that those on the other side of the chamber would like to tarnish as many people in this chamber as possible. In the game that I come from, when you do not have the skill, you play the man — don't go for the ball, go for the man. When there is a vacuum in policy coming from the other side of the chamber, they play the man, not the ball. Continually we can see members of this opposition failing in their duty to provide policy and instead going for the man, not the ball.

Information and communications technology: government initiatives

Mr PAKULA (Western Metropolitan) — My question is for the Minister for Information and Communication Technology. Can the minister inform the house of how the Brumby Labor government is taking action to promote careers in the information and communications technology industry?

Hon. T. C. THEOPHANOUS (Minister for Information and Communication Technology) — I thank the member for his question. ICT (information and communications technology) is an important and emerging industry for Victoria. I have talked often about some of the emerging industries that we have in this state, one of which is the information and communications technology industry. This really is an important industry. Just to give members an indication of how important it is, members may not know that now this industry generates $24.4 billion per annum — that is the value of this industry — and it exports over $1.8 billion and employs 85 000 Victorians. So this is a huge industry by all accounts, and Victoria's share nationally is also enormous: we have one-third of the ICT industry at a national level.

We have seen significant growth in this industry. From June 2004 to December 2007 the sector grew by 21 per cent, or by about $4.3 billion of additional value to the state. Employment grew by 41 per cent. That is 24 000 new jobs. Sometimes I get frustrated when opposition members come in here and talk about 10 jobs that have been lost here or some bad news story that they continually raise in the house, because that is all they do. When you come back with figures like 24 000 new jobs over a period from June 2004 to December 2007, they are the statistics that Victorians care about and they are the things that are really driving the Victorian economy.

It is important that in order to feed such a huge and growing industry Victorians be encouraged to consider a career in the information and communications technology industry. There are activities across Victoria for National ICT Careers Week, which is being held between 28 July and 2 August. That careers week is very important to having the skills for the continued

growth of this industry. If there is one thing we need, it is young people being prepared to go into this industry and make it a career. I would say to young people: the ICT industry is not an industry made up of people sitting in front of computers. That is not what it is. It is an industry which has enormous career capabilities. It allows you to do imaginative things, to do critical things and to develop a strong career.

That is why the main event for National ICT Careers Week is the ICT & Careers Expo at Melbourne High School, which is being coordinated by the Victorian Information Technology Teachers Association and is sponsored by the Brumby government. The event is closely aligned to the Brumby government's collaborative campaign, under the title 'ICT: Start here. Go anywhere', that promotes ICT skills and career paths for young people. This campaign and the message it gives have been so successful that it is being utilised now in other states and also on a national level. Once again, Victoria is showing how we have to do these things from the grassroots up. We have to go down to the level of ensuring that there is a supply of skilled people in our educational institutions and shaping the image of the industry itself so that it is a desirable path for young people. It is a thrill for me and the government to be involved in these initiatives, and I certainly would encourage young people out there to consider the ICT industry as an important career path.

Manufacturing: future

Mr DALLA-RIVA (Eastern Metropolitan) — I direct my question without notice to the Minister for Industry and Trade. I refer the minister to the announcement yesterday by smallgoods manufacturer Don KRC that it will close its doors and walk away from the Altona plant, leaving 420 Victorians without a job. Is this closure, the latest in a series of manufacturing closures, further evidence of his failure to act on his 2006 promise of a Victorian manufacturing strategy?

Hon. T. C. THEOPHANOUS (Minister for Industry and Trade) — I do not know how the member has asked me this question — it is the same question in a different form that he asks me continuously in this house.

Honourable members interjecting.

Hon. T. C. THEOPHANOUS — The member has never asked me about additional jobs — he has never made a comment in the house about the 2000 jobs that we got for Satyam.

Mr Lenders — He sacked 9000 teachers!

Hon. T. C. THEOPHANOUS — Well, he was part of a government that was prepared to sack 9000 teachers, in response to the Leader of the Government, but he could barely hide the smile on his face as he got up to talk about the job losses arising from the Don KRC announcement. I think it is amazing that, after my having got up as Minister for Information and Communication Technology to answer to a previous question just asked of me and having talked about the fact that in a three-year period following 2004 we added 24 000 jobs in the ICT (information and communications technology) industry alone, the member should get up immediately afterwards and ask, 'Aren't you a failure because of the job losses at Don KRC?'.

Mr Guy — You don't care about 420 jobs?

Hon. T. C. THEOPHANOUS — Well, with 24 000 jobs, 2000 jobs at Satyam, the extra jobs in the aviation industry that we have been able to get, the fact that — —

Honourable members interjecting.

Hon. T. C. THEOPHANOUS — I am happy to be judged on our record, Mr Dalla-Riva, on the fact that Victoria puts on — —

Mr Guy interjected.

Hon. T. C. THEOPHANOUS — The fact is that Victoria puts on more jobs every year than any other state. Last year we put on in excess of 90 000 jobs.

The PRESIDENT — Order! Mr Guy has had a fair bit of licence in his interjections et cetera, but he just made a mistake when he referred to the 'stupid comment'. He knows that is unacceptable and I ask him to withdraw.

Mr Guy — I withdraw.

Hon. T. C. THEOPHANOUS — Here we are, we have put on more jobs overall than any other state, and I might add that this includes the resource-rich states of Queensland and Western Australia. It is in this context that the member comes in and continually wants to bring this government to account on the basis of picking out the one or two examples where there have been unfortunate job losses.

I am happy for the government to be judged on its overall record. We should accept responsibility for our overall record. But it is not the best form of politics to come in and to be picking out the one or two examples,

because there will always be some job losses, there will always be closures — and they are unfortunate. We do our absolute best, in two regards. We do our absolute best to try to ensure that they do not happen, and when they do happen we try to ensure that the employees involved get their full entitlements and have other opportunities going on from that circumstance. We provide other opportunities either through direct involvement by the government or because the economy is itself growing and there is job growth in the economy.

Last year we had more job growth in Victoria than in any other state. I just gave one example in the ICT industry where we put on 24 000 jobs in a period of three years. I have given other examples where with direct government intervention we have put on thousands of jobs.

I of course find it unfortunate that in this instance the Don Altona plant will be shutting. There will be some expansion at the Castlemaine facility, and that is a good thing for the Castlemaine region and regional Victoria. Of course we find it unfortunate. However, in the overall scheme of job creation in this state, I am pleased to be able to say that Victoria is doing better than most other places and certainly better than other states in the commonwealth.

We are happy to stand by our record. We will do whatever we can for the workers involved at the plant at Altona, and we will continue to create real jobs in this state for Victorian workers.

Supplementary question

Mr DALLA-RIVA (Eastern Metropolitan) — I thank the minister for his response. I am a bit disappointed in his understanding for the 420 Victorians. Given that we have a crisis facing the manufacturing sector — not the information and communications technology sector, but the manufacturing sector — and further that we have also seen the reported closure of the Dartmoor sawmill, causing the loss of 130 permanent jobs in a community of just 400, can the minister tell us on what date and in what year this supposedly important manufacturing strategy he professes will be delivered, or can we expect more job losses in the manufacturing sector before he decides to act?

Hon. T. C. THEOPHANOUS (Minister for Industry and Trade) — This is similar to the question that was asked of me by the member yesterday. It is virtually the same question, about the timing of our statement.

Honourable members interjecting.

Hon. T. C. THEOPHANOUS — Yesterday I was asked a question by the opposition about this issue. The question was about the Victorian industry and manufacturing statement, and I made a number of comments in the house about it. I am happy to repeat those statements to the member for his edification, but, as I said yesterday, the issue of the Victorian industry and manufacturing statement is one which we have discussed with the Australian Industry Group, with the Victorian Employers Chamber of Commerce and Industry and with a range of other industry bodies. We have decided to take into account a range of commonwealth government reviews which are currently under way, and we want to include information from those reviews in our Victorian industry and manufacturing statement. Therefore we expect to deliver that statement shortly after those reviews conclude, which I expect to be at the end of August or the beginning of September.

I gave all this information to the opposition yesterday. The industry is very clear that later this year there will be a Victorian industry and manufacturing statement. I am very excited about that statement because that statement will contain — —

Honourable members interjecting.

Hon. T. C. THEOPHANOUS — That statement will set a framework for the ongoing building of our manufacturing base in Victoria.

Mr D. Davis interjected.

Hon. T. C. THEOPHANOUS — The manufacturing base, for the information of Mr David Davis, was left in complete disarray under the previous Kennett government and is being rebuilt by this government.

Honourable members interjecting.

Hon. T. C. THEOPHANOUS — Whether it is being rebuilt as a result of action — —

Honourable members interjecting.

Hon. T. C. THEOPHANOUS — And again I am happy to refer to these things: the fact is that we now have record exports of motor vehicles out of this state — record exports of motor vehicles out of Victoria — the fact is that we have been able to attract things like the production of a hybrid motor car to Victoria and there is a range of other initiatives in the manufacturing sector. I am happy to provide the house

with a whole list of the things we have been able to do in manufacturing to maintain and to rebuild this sector after the dark years of the previous government.

Let me say that we have taken the very strong view that manufacturing is an important part of Victorian industry. It will always be important to the Labor Party, and we will continue to ensure that manufacturing, along with our other sunrise industries, forms a part of a continuing strong economy for Victoria.

Planning: Transport Connections program

Ms BROAD (Northern Victoria) — My question is to the Minister for Planning. In the past 12 months the Brumby Labor government has shown particular commitment to creating cohesive and vibrant communities right across Victoria, including in regional Victoria and in my electorate of Northern Victoria Region just a little further north. I ask the minister to advise the house on the Brumby government's plans for building strong and connected communities in regional Victoria, especially in the shire of Mitchell.

Hon. J. M. MADDEN (Minister for Planning) — I welcome Ms Broad's question, particularly in relation to matters in her own region because I know she is particularly interested in and active on those issues, especially around building strong communities. Critical to that, of course, is the connectivity of those communities, particularly through transport. We are very conscious that smaller communities, particularly those out in the regions, find it difficult to provide the critical mass for large-scale public transport for those who do not have cars or who do not have ready access to vehicles.

It is critical that we support the communities to connect those individuals who do not necessarily have vehicle access on a regular basis. They might be older residents of the community who need to attend appointments or participate in community activities; they might be the younger members of the community who do not have a licence but who need to travel for work or study; and they might in particular be those in the community with a disability of some sort. These are the sorts of people who often remain isolated in those communities and are not connected in terms of transport. Worse still, they often suffer from isolation because they are not linked to the broader community and cannot access other services.

As part of investing in some of the small communities, particularly in the regional areas, last week I had the good fortune to be in Broadford at the community health centre to announce the provision of $280 000 as part of a Transport Connections program about community building called Connecting Mitchell. This is a mechanism by which we will ensure that the existing assets, particularly the transport assets and services, whether it be taxis, school and community buses or volunteers, are used to help get more people around and connected to their respective communities, particularly the sorts of residents I mentioned earlier. If you do not have a car in these regions, sometimes it is very difficult to do the small tasks you need to do as part of your day-to-day existence. This project will help to build a sense of community and also of volunteerism in particular for the people who support it.

We have established a steering committee through this funding to make sure we not only enhance the investment in these areas but build significant support through those inclusive communities. This is part of a greater commitment by this government in investing $18.3 million in the statewide Transport Connections program so that projects like Connecting Mitchell can invest in and develop support for those communities, enhance people's lifestyles, and ensure that we make and continue to make Victoria the best place to live, work and raise a family.

Planning: Whitten Oval, Footscray

Ms HARTLAND (Western Metropolitan) — My question today is for the Minister for Planning. I am sure it will give him a chance to use some football analogies. In regard to the application that has been called in by the minister for the Western Bulldogs football club and the Whitten Oval, I would like the minister to explain something to me in regard to ministerial powers of intervention in planning and heritage matters. A practice note issued by the Department of Sustainability and Environment states:

> … where a person other than the minister proposes the intervention, expect the proposal to be made in writing and to identify the basis on which the minister should intervene, addressing the criteria set out in this practice note …

I would like the minister to explain how the Bulldogs went about asking for this intervention and why the council was not also consulted about this.

Hon. J. M. MADDEN (Minister for Planning) — I welcome the member's question. As I have often mentioned in this chamber, as Minister for Planning I do not seek to intervene, and certainly I do not seek to intervene on a regular basis. The planning process should in a sense assist in making decisions through good and proper process. From time to time ministerial intervention is warranted, and there are guidelines around that intervention. The critical component to

intervention by the planning minister is normally based on state policy or projects of state significance.

No doubt the community-building initiative undertaken by the Western Bulldogs football club at the Whitten Oval, which has received significant investment from the state government and the federal government, is a project of state significance. It will have a significant impact in the region and more broadly that will impact across the state. In relation to the request for intervention, a series of requests came to me: not only personal requests from various organisations at meetings but also substantial and highly detailed requests in writing from the proponent, as well as supportive requests from Victoria University and the Australian Football League.

As I mentioned before, I am never enthusiastic about intervention from a planning minister, but in these circumstances I believed it was warranted on the basis that it involved a project of state significance. More importantly — and this is not being critical of the Maribyrnong City Council, although I know some parties in the media who have criticised that council — it was a set of circumstances that occurred because of a very significant project and in a sense it was an innovation. It was unexplored or uncharted territory for many of these organisations which, given the circumstances, found themselves at a very difficult point that threatened not only the project but also their viability and, as I said, it was not an intervention that was undertaken lightly. It was considered thoroughly, but I believe it was warranted and will assist the project to proceed.

I look forward to encouraging the Western Bulldogs to work collaboratively with the City of Maribyrnong into the future. I have also offered the opportunity for an independent mediator to work through these issues. I look forward to making sure that we support the Maribyrnong City Council, as we have on a number of initiatives, and to maintaining and enhancing a collaborative relationship with the city. I also look forward to the coming to fruition of a significant project for the western region of Melbourne that will not only complement the Victoria University, the Western Bulldogs football club and the community of the Maribyrnong region and the western region, but will also enhance the City of Maribyrnong's reputation going forward. I understand the sensitivities displayed by the City of Maribyrnong, but I do not see this as a criticism of any of those parties, just a situation that needs to be resolved.

Supplementary question

Ms HARTLAND (Western Metropolitan) — I am glad to hear that the minister does not lay blame on the City of Maribyrnong. Having been a councillor there and having had to deal with the Bulldogs for a number of years, I have to say that I think the council officers have displayed a high measure of patience on this issue.

The PRESIDENT — Order! Does Ms Hartland have a supplementary question?

Ms HARTLAND — The supplementary question is: does this mean now that football clubs which put in their applications in April this year do not have to go through the normal planning process, which will disenfranchise the entire community of West Footscray that will now not be able to object to this?

Hon. J. M. MADDEN (Minister for Planning) — I welcome the supplementary question. Whether this had been a football club, a community health service or any organisation would not really have had any significant impact on me, given my background. I want to make that perfectly clear. Just the fact that I played football did not in any way influence my decision in relation to these matters.

There are a number of community organisations involved in this project — Victoria University and the Western Bulldogs Football Club — and in many ways, as I said, this is uncharted territory. It is a collaborative arrangement and bringing this together has been new for many of those involved, and no doubt when you explore these issues there is some degree of difficulty.

As well as that I am conscious that in the process the City of Maribyrnong has sought to undertake a permit had been granted for the building but the specific use of that building — in terms of an education facility to be used by Victoria University — was the matter that needed to be determined by the relevant authority.

The critical issue was, I understand, related to car parking arrangements. This was not a major issue in terms of built form, but no doubt one of amenity for the community. I will ensure that the issues the community was to be consulted about will be considered, and I am open to having any issues relayed to me. I understand, though, that in relation to this project at the time I sought to intervene there had been only one objection, and I am happy to work through that objection with representatives from my department.

I also say that I will ensure that we continue to work collaboratively with the City of Maribyrnong. I encourage the Western Bulldogs football club to make

sure that it is thorough and has relevant advice in relation to planning matters, because I know there is speculation on other matters where it has other applications I am monitoring. But again, I do not intervene unless it is on the basis of policy or of major significance. I look forward to making sure that this project comes to fruition, that it does justice to the community and that, if there are any concerns about amenity, they are resolved.

Importantly, any additional investment into the western region of Melbourne and any benefits that flow on from that, whether it be through the university or through community organisations, have certainly been complemented by this government and the federal government. We need to be enthusiastic about that sort of investment, given the issues we have already talked about in this chamber in relation to the needs of the west. It is important that we get behind these projects and make sure they come to fruition.

Economy: performance

Mr SOMYUREK (South Eastern Metropolitan) — My question is to the Treasurer. How has the Victorian economy fared in light of recent economic events?

Mr LENDERS (Treasurer) — I thank Mr Somyurek for his question. I need to be brief again because Ms Lovell is asleep today. Mr Somyurek has asked a question about how the Victorian economy is faring at the moment. As the house knows, there has been a worldwide economic slowdown.

Mrs Peulich — And you are trying to talk it down further.

Mr LENDERS — I take up the interjection from Mrs Peulich about trying to talk down the economy. On the contrary, this government takes extraordinary pride in the strength and diversity of the Victorian economy, extraordinary pride in the ability of this state and of our citizens to deal with difficult global economic times. It takes extraordinary pride in how our budget and eight years of our economic stewardship have positioned this state. For the record, we have averaged 1000 new jobs a week for the eight and a half years that Labor has been in government in this state. So I respond to Mrs Peulich's interjection: we are not ashamed of the state of Victoria, we are proud of it.

Mr Finn interjected.

Mr LENDERS — I take up Mr Finn's interjection: 'John Howard's effort', he says. It is interesting that John Howard, who was Sydney-centric and ran Moscow on the Molonglo, had the benefit of economic growth seen to happen in the state of Victoria, which his Treasurer turned his back on because it does not have the resources. What we see here in Victoria now is a strong and diversified economy, and the investments made by this government over eight and half years — the investments in people, the investments in infrastructure — are now paying dividends when we look to other non-resource states that at the moment are suffering in these difficult times.

What happened in the budget is that we forecast modest growth for the months ahead and modest growth through the forward estimates. We have also seen the Reserve Bank of Australia seeking to slow down the Australian economy, and we are seeing evidence of that slowing down. But what we see is that Victoria has a strong and diversified economy. We saw the business investment figures and we saw the building investment figures yesterday in residential and non-residential, which saw Victoria continue to grow strongly. We are seeing investments. Last week the Premier and I were at Melbourne Airport at Tullamarine for the Tiger Airways announcement and there was the John Holland announcement of more jobs in Victoria.

The fundamentals are that we have invested in people and we have invested in infrastructure, such as the investment in transport infrastructure. Eight and a half years ago the opposition mocked the government for investing in regional fast rail, but eight and a half years ago we made the investment and we are seeing the return now. Where the rest of the country scampers to catch up with infrastructure in regional areas, we are seeing the benefits.

We are also seeing 1031 extra metropolitan rail services operating in Victoria since we inherited government from the Kennett government. We are seeing them now because we have invested $5.8 billion in better roads, including more than $2.5 billion on regional roads. In education we have seen a massive investment in the system — $7.3 billion. Whether it be in schools or whether it be in staff, we have seen the investment.

We have seen the investment in health right throughout the term of this government. The significance of these investments is that today in Victoria we are training more apprentices than any other state. We are seeing today in Victoria stronger year 12 completions than any other state. We are seeing consistent investment in infrastructure, consistent growth in employment and consistent strength in a diversified economy. We are in a worldwide challenging economic time; the International Monetary Fund tells us that, and our media tells us that.

What is happening in Victoria is that we have a strong and diversified economy, and it is the work of this Labor government investing in people and investing in infrastructure that is delivering results for Victoria to make the state an even stronger place and an even better place to live, work and raise a family.

Sitting suspended 1.10 p.m. until 2.18 p.m.

LOCAL GOVERNMENT AMENDMENT (ELECTIONS) BILL

Second reading

Debate resumed.

Mr Viney interjected.

Mr GUY (Northern Metropolitan) — I have not yet finished my contribution, and Mr Viney may like to know I have a couple of other councils to refer to. Before I do that, and in relation to the bill and the election clauses within it, I will make some concluding remarks about the Brimbank City Council.

It is worth noting that, as I said earlier, Mr Finn and I attended a Brimbank council meeting. We found it quite unacceptable from a community point of view that a number of councillors there, particularly those led by Natalie Suleyman, found it fit to treat local democracy as some kind of plaything, a toy, and to treat the local community with contempt. I think, if anything, unfortunately Cr Suleyman, who obviously has had a long career in local government, may have found herself to be no longer preselectable.

Indeed, I found interesting the comment made by a colleague of hers, Mr Seitz in the Assembly, that her actions and those of her supporters resembled the actions of Robert Mugabe. That was quite astounding; we are talking about local government, which is a very important facet of Victorian democracy, as this bill implies.

While saying how disgusted I was with the meeting we observed, I will move on from Brimbank to look at some other aspects of the bill from the point of view of the Banyule council. The bill talks about the method of election; it was interesting to note that the method of election the government is hedging towards throughout the state seems to be changing in certain areas. I find it interesting that in some areas there are still single-member wards, particularly given there are some comments from local Labor members in those areas who prefer that method of election, while in others there is the new proportional representation method.

In Banyule the wards are still single-member wards. Banyule council is actually a very good council. There is a local project it has supported heavily, the Green Edge Project, which fits in well with Melbourne 2030 goals. No doubt the minister will be or is quite supportive of it. It is a very good project. In relation to local government and this bill, Banyule is an example of where local government is discharging its responsibilities very well. The Labor member for Bundoora in the Assembly is a former Banyule councillor, and during his time on the council it was similar to Brimbank — a factional fiefdom and venue for warlords to express their points of view and for the internal politics of the Labor Party. Yet now it has been cleaned up, which is good for local democracy, and projects like the Green Edge Project can succeed.

It is a shame that the Labor member for Bundoora seems to be intent on bringing down the Green Edge Project, a project his own planning minister is very supportive of. The member for Bundoora is in the paper most weeks slamming the project, even though it is Melbourne 2030-compliant and has the backing of local business, the local community, the local council and, surprisingly, the state government. I put on the table, as we consider this bill and look at councils that are operating well — and certainly Banyule is one of those — that it would be helpful if the councils that are doing a good job and doing their best to comply with state government policy were actually supported by state government members. In the case of Banyule, it is not supported.

I know we are coming towards the end of the debate, but I will quickly make some comments in relation to the Glenelg Shire Council, another good council down towards the South Australian border. It has featured in debate in this chamber, although not at the level of Brimbank. I noted with interest some past comments made by the planning minister in relation to the Glenelg Shire Council. With respect to the minister, either he does not understand the issue, he is poorly briefed or he is seeking not to put the corrects facts out — which I, of course, would never think the minister would try to do. Therefore I believe the minister must have been ill advised or just did not understand the issue I refer to in relation to Rossdell Court and some land a gentleman had which had been rezoned. He went to sell the land, but it was called in by the state government. It was government land that had been sold to him at a premium price.

Mr Winfield purchased the land in good faith. It was rezoned by the state government with the approval of local government. Then the state government called it in. It obtained a premium price for his land, and it then

called in the application for the project that was to be built on the site, with no talk of compensation and no negotiations with Mr Winfield or his family. It has left Mr Winfield in a terrible position. His family is no doubt suffering tremendously from the stress he has been placed under. It is all at the behest of the state government — not the former government, this government. This government called in the proposal for that piece of land and then decided to knock it off, which is a scandalous and outrageous thing to do when you have rezoned the land and sold it off to the highest bidder. If Labor wanted to fix the problem, it could have done so, but it chose not to; it chose to make a mess of it.

Further in relation to the Glenelg Shire Council, as I was talking about councils in the south-west of Victoria I want to make some quick comments in relation to DPO7, which is an area towards the west where I think Glenelg is again one of the councils that is affected by this bill to some extent. Comments were made by the minister in this chamber about the member for South-West Coast in the Assembly, Denis Napthine.

I note that the minister has had neither the courage nor the will to make those comments outside this chamber. As we all know, Dr Napthine had no political support for a gentleman the minister mentioned in this chamber as a council candidate. In fact the member for South-West Coast asked the minister to correct himself, and it has not been done. Let us get it on the record in relation to this bill that the member for South-West Coast has performed his role openly, transparently and correctly. It would be helpful if the planning minister would make some corrections to *Hansard* where he mentioned Bernie Wilder and Denis Napthine in relation to local government and the Glenelg Shire Council. His comments were completely false and made for typical party-political reasons, with no basis. He is probably just as ill informed as he was over the Rossdell Court issue, but his briefing and advice were obviously poor. It is a shame he does not correct those matters. I note that the Liberal Party will not be opposing the bill.

Motion agreed to.

Read second time.

Committed.

Committee

Clauses 1 to 40 agreed to.

Clause 41

Mr BARBER (Northern Metropolitan) — I move:

1. Clause 41, after line 21 insert —

'( ) In section 9C(1) of the **City of Melbourne Act 2001** after "may appoint" insert "up to".'.

For the benefit of members present, the operative part of my series of amendments is amendment 4, which proposes to repeal section 9D of the City of Melbourne Act.

In relation to the changes the government is proposing to make to entitlements to vote under this act, these proposals have arisen out of some kind of embarrassment, I suppose, or inability to explain why voting rights are attached to certain sorts of inanimate objects, such as pieces of land used only for parking a single car, and why that would entitle someone to two votes compared with an ordinary citizen or an occupier of rateable property or ratepayer.

The government proposes to take out by exception certain classes of ratepayer or occupier of rateable property, because in its argument people who merely own a car park or merely park their car there do not have a sufficient connection to the community to deserve a vote. That is boiling it down simply to the way the minister characterised it in his public statements.

Car parks will not get a vote; telephone towers will; boat moorings, no; electrical substations, yes; storage lockers, no; billboards, yes, and on and on it goes through all the different types of rateable properties, while at this stage the minister has chosen to act on only a few categories.

My amendment by contrast is not about removing anybody's entitlement to vote, although I will support the government's overall amendments. My amendment operates on section 9D of the City of Melbourne Act, that procedure whereby if a person with an entitlement to vote makes absolutely no effort and does not nominate the relevant corporate directors or board members to vote, the City of Melbourne is forced to pick the names of people from various published records and put them on the electoral roll, and in that regard the City of Melbourne Act is different from every other local government act.

This leads to ridiculous situations where, for example, a mobile telephone tower that is owned by some massive international conglomerate telco is given an entitlement to vote, and the City of Melbourne has to look up the annual report to see who the chief executive officer is

and grant that person a vote. On the minister's own criteria the people who have a close connection to their community should be given a vote and those who do not have sufficient connection should not be entitled to vote. I think someone who comes to the city and at least parks their car there every day has more of a connection than the head of an internationally listed company.

When they consider how to vote on this issue, members should think about the politics of it, which have already been considerable. We have individual councillors at the Melbourne City Council — some Labor, some Green, some Liberal and some with various other alignments — saying the current system is a shambles and is bringing the council election into disrepute.

As I mentioned in an earlier contribution, there are issues of postal voting which have impacted on this to some degree. A set of postal ballots could be mailed to a postbox or an individual who is not expecting to receive them and who does not have any intention of dealing with them. In a few months when the electoral roll is exhibited, inevitably we will look at it and again see which new crazy-sounding anomalies have popped up. Then it will be too late for the minister to start bringing in new amendments to pick up exceptions that he has not anticipated. By contrast, my amendment will remove large numbers of these. The benchmark for whether a person deserves a vote will be whether they are prepared to fill in a form and so get one.

Mr HALL (Eastern Victoria) — I want to make a couple of comments on behalf of the coalition. Liberal-Nationals coalition members have considered Mr Barber's amendments fairly closely. Although we see some merit in them, the issue we have about supporting these proposed changes — and I think Mr Barber identified this in his contribution — is that they will not address all but only some of the concerns that constituents in the City of Melbourne might have.

I remind the house that the motion I moved a month ago calling for a review of the City of Melbourne specifically said that the operation of section 9 of the City of Melbourne Act 2001 should be included in that review, because we believe there is probably significant community opinion about a range of matters contained in section 9. Just one aspect of the potential concerns of people is being addressed here. We believe we should be looking at the whole entitlement issue as one rather than considering just one component of it, as suggested by these amendments. To be consistent with the approach we have taken in the past of calling for a complete public review of the City of Melbourne, including section 9 of the act, we do not believe it is wise to support Mr Barber's amendments in the absence of consideration of some of the other entitlement issues.

Hon. J. M. MADDEN (Minister for Planning) — I will make a short response, and as always I am happy to answer any questions from the other side of the chamber in relation to any clause. The government will not be supporting the amendments proposed by the Greens. The Minister for Local Government has made it abundantly clear that a review of the City of Melbourne will not take place. The committee has been told that the Melbourne City Council had asked for such a review. That is correct, yet it was requested that such a review take place after the Future Melbourne review is complete. Melbourne's electoral structure is set out in the City of Melbourne Act 2001. This legislation was enacted to recognise the council's unique capital city responsibilities, and it reflects the diversity of stakeholder and community interests that make up the municipality. The act was the culmination of an extensive public consultation process, and the current structure serves the city well.

On a more practical note — and it is worth Mr Barber bearing this in mind — time does not exist for the bill to be returned to the Assembly with the presented amendments and new clauses. To do so would render the whole bill redundant for use at the local government elections in November. This is time critical. That is the significant point that no doubt has been highlighted here today, but is worth noting in terms of *Hansard* and any amendments proposed in this chamber.

The DEPUTY PRESIDENT — Order! Perhaps the government might advance its legislative program to allow members the courtesy of reflecting properly on bills and returning them to the Assembly in due time.

Mr BARBER (Northern Metropolitan) — That is correct, Chair. On the minister's last comment, I can be reasonably confident that another bill with house amendments that will be coming forward immediately after this one will be raced down to the lower house to allow it to pass, so the minister's final comment is completely disingenuous.

Committee divided on amendment:

Ayes, 4

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

Noes, 35

Atkinson, Mr	Madden, Mr
Broad, Ms	Mikakos, Ms
Coote, Mrs	O'Donohue, Mr
Dalla-Riva, Mr	Pakula, Mr

Darveniza, Ms	Petrovich, Mrs
Davis, Mr D.	Peulich, Mrs
Davis, Mr P.	Pulford, Ms
Drum, Mr (*Teller*)	Rich-Phillips, Mr
Eideh, Mr (*Teller*)	Scheffer, Mr
Elasmar, Mr	Smith, Mr
Finn, Mr	Somyurek, Mr
Guy, Mr	Tee, Mr
Hall, Mr	Theophanous, Mr
Jennings, Mr	Thornley, Mr
Koch, Mr	Tierney, Ms
Leane, Mr	Viney, Mr
Lenders, Mr	Vogels, Mr
Lovell, Ms	

Amendment negatived; clause agreed to.

The DEPUTY PRESIDENT — Order! I am advised by the clerks that amendment 1 did not technically test Mr Barber's other amendments. However, I am advised by Mr Barber that he will not proceed with those amendments because amendment 1 has been defeated by the committee. Unless there are any other comments to be made on any of the remaining clauses, in which case I would ask members to highlight which clause they want to address, I propose to put the rest of the bill to the test.

Clauses 42 to 49 agreed to.

Reported to house without amendment.

Report adopted.

Third reading

Motion agreed to.

Read third time.

HERITAGE AMENDMENT BILL

Introduction and first reading

Received from Assembly.

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

GAMBLING REGULATION AMENDMENT (LICENSING) BILL

Second reading

Debate resumed from 12 June; motion of Mr LENDERS (Treasurer).

Mr GUY (Northern Metropolitan) — Here we are again talking about gambling; and here we are, again talking about this government and its relationship to people in this industry, looking at some of the recommendations in the Merkel report.

I think it is worth noting that gambling is a multimillion-dollar industry nowadays in Victoria. How many people in this chamber knew that the former Treasurer of Victoria, a man by the name of Tony blow-out Sheehan — —

Mr Finn — Guilty!

Mr GUY — Guilty indeed; he was in fact an economic vandal. That aside, though, his company was ready to be paid $1 million for a successful licence bid from Intralot. This was agreed to just days before Mr Sheehan appeared before the upper house inquiry into gambling licensing. This was an astounding revelation when it surfaced — well after the inquiry had taken place — but it surfaced nonetheless. I recently looked through the *Herald Sun* articles from May relating to this matter, which were much maligned by members opposite when we were going through the process of the upper house inquiry. It was interesting to note the page 1 article headed 'Tony Sheehan's $1 million deal for gambling licence'. I say this particularly in the context of Intralot, which is now a third player in the market. No doubt we have all seen its perplexing, weird advertisements on TV. But it is interesting to note that the *Herald Sun* reported how Tony Sheehan landed the million-dollar deal, and that it was agreed that the awarding of a 10-year lottery licence to Greek gambling giant Intralot broke Tattersall's 50-year monopoly on the scratchie deals. The *Herald Sun* details:

> Mr Sheehan's private consulting firm was to be paid $83 000 for every year for the licence …

which is $830 000 for a success fee — —

Mr Finn interjected.

Mr GUY — It is not a bad gig, Mr Finn, if you can get it. And there was an up-front fee of $300 000, yet the government is saying, 'The process was squeaky clean; you can rely on us'.

Today I will go through this bill clause by clause — and I will go through it in probably tedious detail. By way of some introductory comments, it is concerning to the opposition — the Liberal Party and The Nationals — that we have a situation in Victoria where lobbyists can be paid such astounding amounts of money just days before they are to give evidence before an upper house inquiry into the same process. That says something profound about this government's view of

the word 'probity'. There is probity for everyone else, and then there is probity for deals done by the Australian Labor Party — they are clearly very different things.

Part 1 of the bill, as I said before, deals with its purposes and basic provisions. Part 2 permits the minister to grant an application to a holder of a gambling operator's licence for an extension of that licence up to five months. That has been principally because without that provision, the licence held by Tattersall's would expire in April 2012 but the licence held by Tabcorp would expire in August 2012. It picks up that anomaly, and we do not have any problem — —

Mr Barber interjected.

Mr GUY — Mr Barber, you are interjecting — —

Mr Barber interjected.

Mr GUY — Maybe you would like to make some contributions after this and you can have a beef about it. It is funny how the Greens always have issues about everyone else's probity, but when it comes to the bill we just passed regarding electoral funding, Mr Barber had nothing to say about entities that are not companies or the like. Those guys get most of their money from overseas. It is interesting how that comes up; the Swedish Greens and others never come up.

The part of the bill that I just mentioned contains a number of definitions which go back into the principal act, such as 'secretary'. That term refers to the Secretary of the Department of Justice, the minister's departmental secretary, who will report to the minister on registrants for a wagering licence — that is in new section 4.3A.4 in clause 9; I love those legal terms!

In terms of each licence application, the latter report is to be used in determining whether an applicant is successful. Yet again we have a bill which says that issues which go to character and honesty as well as to technical capabilities will determine whether adequate systems are in place. This is another bill this week in which we are talking about character. I think there was a bill in the other place where members were talking about character. It is amazing that this government is putting on the record issues of character, honesty and the like.

Mr Finn — Are you talking about Brimbank again?

Mr GUY — No, Mr Finn. We could be, but character and honesty are two things that appear to be missing. Character is certainly there, but it is just of a very low level.

The department's role is also noted in this bill. I find it amazing, because the VCGR (Victorian Commission for Gaming Regulation) is having some of its powers almost usurped. When I was preparing some notes on this bill I noted that when the bill was before the other chamber the member for Malvern, who is a very good man, noted that that may have been a loss of face for the VCGR, or for the government in the VCGR. We have everything there to assume that that is the case.

When we had the upper house inquiry into gambling regulation and gambling licences we put questions to the VCGR about issues such as Duncan Fischer's probity. He was the former chief executive officer of Tattersall's. It is amazing that the VCGR came back with a number of different answers. I found it quite astounding that the VCGR could not even get that right; and it did not. Mr Fischer had a different point of view; the VCGR had a different point of view; and the government had a different point of view and tried to come up with some lines to set up its point of view, but — surprise, surprise! — it was wrong. It was wrong, deliberately or otherwise, in this process on many issues.

The lottery licence fiasco and the investigations by the VCGR into the process were rejected by the steering committee which was chaired by the Department of Justice. They were considered to be inadequate; that was a slap for the VCGR. It brought in a Queen's Counsel, a junior barrister and an instructing solicitor, all at taxpayer expense, which again I found amazing. The solicitor-general then came in. Then there was Ron Merkel's report, and I will go through some of its points shortly. But Merkel noted in paragraph 77 that:

> … the serious risk that the commission's report was invalid … the risk that Intralot … had not been accorded procedural fairness …

We are talking about a process involving billions of dollars. Ron Merkel turned around and said there are problems with the process. Others are saying that there are problems with the process, but the government rubs its hands and says, 'No, trust us; everything is fine'. Even the VCGR had some issues.

Some probity investigations had to be redone. As we know, new commissioners were appointed, but the new staff were not given any details of cost and who would pay. The issues came up in the upper house inquiry; it was quite astounding. None of these additional costs was met by the applicants; it seemed that the taxpayers got the bill yet again. So yet again, we have a bungled process by the government, a bungled process by the VCGR — and who foots the bill? All of us; the

taxpayers foot the bill. It is quite astounding but that is, again, where we are at.

I noted briefly that in terms of the licence process, clause 9 inserts a new section 4.3A.5, which authorises the minister to issue a wagering and betting licence, although new section 4.3A.2 makes it clear that there would not be any more than one wagering and betting licence in operation at the same time. But in doing so, the government would state its intention to have an exclusive wagering and betting licence. The question is whether or not we can maintain exclusivity with things like the internet and Betfair because of the recent success of Betfair in the High Court of Australia.

Interstate bookmakers are also taking bets from Victorian punters — and why would they not? You can now make bets with interstate bookmakers over the telephone and over the internet on Victorian events, such as country races. Victorian bookmakers are obviously looking to set up their own operations in other jurisdictions, particularly in the Northern Territory.

Section 4.3A.11 provided that the duration of the licence was 12 years, with the minister having the capacity to grant an extension of up to a further 2 years, and there was, as noted in the other place, some transitional flexibility. To the coalition, an extra 2 years on a licence for 12 years warranted some further scrutiny.

The minister and his department — no officers from the government — have set out why a two-year period is proposed. It is a significant period. It is 15 per cent of the licence period or more, and it certainly could devalue the project with the prospect that, with a 14-year licence, the government may not have to require a premium provision on the extension.

I wanted to have a look very quickly at the procedure for a wagering and betting licence, and it is the same procedure as that used for a keno licence. I will not go through that, but given that it follows the same process as lotteries licensing, I would have thought that the government would learn from that process — a process that certainly appeared to be tainted and discredited and indeed in many ways corrupted, as we will find from Merkel's report later on, a report the government commissioned. You have to ask why the government then proceeded down the same line all over again, going through the same process, given that a report commissioned by the government found there were considerable probity inadequacies with that process. I found that quite astounding.

I want to quote from paragraph 170 of Ron Merkel's report, which states:

> The perception does not arise solely in the context of the letter as it is now clear that, at an early stage of the licensing process, Hawker Britton —

a Labor lobbying firm —

> was given preferred access to a licensing process document by someone in the minister's office. In fairness, it should be pointed out that the person in the office who provided the access was not identified. Also, as the special commission observed, Tattersall's Ltd's failure to investigate fairly serious allegations in relation to Mr White's conduct as a lobbyist was not satisfactorily explained to the special commission.

So even the Merkel report commissioned by the government is stating there were serious breaches in the process: material was given to a lobbying firm full of ex-Labor Party staff, and it was given preferred access in a multibillion-dollar tender process. But of course this is the state of probity in the state of Victoria. Paragraph 164 of Ron Merkel's report states:

> It is this latter aspect that gives rise to the panel's concerns, as that preferred access could occur at any stage of the licensing process.

So here we have serious concerns about the lotteries licence process and now we are doing the same thing all over again. But should we be surprised, coming from a government that regards probity as having a very low level of importance?

I wanted to make some other comments on where the report effectively got to the point in paragraph 176, where it said:

> The panel is of the view that the future probity requirements for a lottery or gaming licensing process should expressly prohibit lobbying activities in respect of that process once it commences.

That is a very important point here, because where the Liberal-National parties have concerns is in respect of the role of lobbyists in this process and, as we expressed concern during the upper house select inquiry, we express concern again today that the government has not done the work. The government has not regarded with any sense of importance the words that Ron Merkel used in relation to probity, the concerns he expressed in relation to probity, the concerns about a process as large as this and how it could be corrupted and influenced by those outside the system such as Hawker Britton and those who were passing on material to bidders in the process before a decision has been taken. But that is where we are at and that is what the government has done. It is with those

points in mind that I move my own reasoned amendment.

I move:

> That all the words after 'That' be omitted with the view of inserting in their place 'this bill be withdrawn and redrafted to ensure that the probity requirements of the licensing process are protected by prohibiting lobbying activities as recommended by the Gambling and Lotteries Licence Review Panel'.

We do that very clearly because the Liberal and National parties regard this issue — lottery and gaming licensing — with the utmost seriousness, and we believe the process needs to be of the utmost and highest integrity while we proceed with these kinds of tenders. Clearly the government does not believe that. There is not a good lobbyist and a bad lobbyist, someone who may do an okay job and someone who is trustworthy and someone who is not. This is not a nod-and-a-wink kind of situation. We are dealing here with issues that require absolute, perfect integrity — the highest level of probity in government dealings. We do not have that and we did not have that in the last process. We need to have that in any process going forward. We believe the bill needs to be taken away and looked at and that all references to lobbyists should be withdrawn on the basis of exactly what Merkel recommended as well. We are simply saying that the procedures recommended by Merkel and the Lotteries Licence Review Panel should be adhered to, and that this bill take into account the seriousness of the issue of what we are dealing with and the need for absolute integrity in this process.

It appears the government does not believe any of that. It appears that the government is willing to proceed in a haphazard way. I accept that that is the way the Labor government operates in Victoria today, although we believe it is substandard, which is why we have moved this amendment today.

In conclusion, as I said, we do not believe the bill is so flawed that it needs to be knocked out should our amendment not succeed; however, noting that, the Liberal and National parties certainly wanted to move the amendment, which would give the government an opportunity to improve the bill and bring it back to the Parliament in a state that is acceptable to all of us in relation to probity. We certainly take note of the importance of absolute transparency in the process before we go forward with more licensing agreements. With that I think I have made enough comments on a very technical bill, and I will hand it over to further speakers.

Mr BARBER (Northern Metropolitan) — In his contribution Mr Guy skipped very lightly over clause 5 of the bill. That is the clause that does not fit into this bill because the bill is predominantly for the purpose of creating a wagering and betting licence for betting on horseracing and harness racing and also for the creation of a keno licence. But there it all is in a short few words in clause 5 that, if invited by the minister to do so, the holder of a gaming operator's licence — that is, a pokies licence — may apply to the minister before the licence expires for a licence extension.

I am informed this relates to a five-month difference between Tattersall's and Tabcorp pokie licences and that the intention may very well be to give Tattersall's an extra five months of running the pokies in 2012. By my estimate five months of pokie receipts for Tattersall's may be in the realm of a quarter of a billion dollars, so for a quarter of a billion dollar clause to be waved through so gently by the Liberal Party in conjunction with the government has been a great surprise to me.

While most of Mr Guy's contribution was in relation to lobbyists and the evils of them, you just have to wonder how good a job they have already done if Labor and Liberal can sit here together and write Tattersall's such an enormous cheque at a time when it is well known that it is in litigation with the government over various forms of compensation and licence fees, and when the government has announced a model that will exclude those duopolies post-2012 — one of the clear implications being that Tattersall's will pretty much have depreciated its investment by then and that such an additional stream of revenue might be pure cream.

With everything we have been through, with an upper house inquiry into poker machines and issues of problem gambling, it seems the Liberals have not really changed or picked up any new information or new policy in that area, except for their same old policy, which is to make a small reduction in the number of poker machines in Victoria — but that's it!

While most of Mr Guy's contribution was, as I said, about the evils of lobbyists, his party has not yet created any new policy showing how they propose to fix this situation, and from a party that continues to take money from the tobacco companies, you have to really wonder what the big difference here is. Get ready for a lecture on the sanctity of life from these people somewhere down the line in later legislation.

Since the Greens moved a motion in Parliament about an independent commission against corruption, which the Liberal Party at that time reluctantly supported,

Liberal members have been running around talking about an ICAC because it is a great 7 second sound grab, but an ICAC will be a toothless tiger if there are no laws out there that constrain the conduct of public officers against which ICAC could actually measure people. Without those laws ICAC will end up saying, 'Yes, we have investigated it, and we don't think everything is completely squeaky clean here, but we can't recommend any charges because nobody has done anything wrong. There aren't any laws that say that was wrong'.

As I speak about this I am aware that since this bill was last before Parliament the Labor and Liberal parties have been in negotiations about how they may change certain provisions of this bill — in fact, the majority of it — that deal with licensing processes to make some small improvements, but that despite their best efforts on this occasion, unlike so many others, they have not been able to get together. I believe a government speaker is about to stand up and confirm that the government will be bringing forward some further amendments to tighten up the licensing process. But in my view you cannot fix the problems that we identified in the inquiry into lottery licences by simply making small amendments setting out procedures as each individual licence comes up.

You need either a genuinely independent gambling regulation commission, and I will comment more on that in a moment, or you need some kind of overarching scheme that sets up probity requirements, prohibited contact and a range of other offences for large tenders overall.

In relation to the independent gambling commission, every time a gaming minister has stood up in this Parliament to make changes to the act through an amending bill they have talked about how we have an independent gambling regulator in Victoria. It has been seen as value to not just the gambling system but also the political system to have a group of people out there making decisions and providing advice on gambling operations and licences — separate from the minister and their immediate reports through the Public Service Act. That is not included in this bill.

That sort of rhetoric is not included in the second-reading speech or in the commentary around this bill. The reason is that this bill actually takes more power away from the independent commission and has licensing recommendations being made directly by the minister. Personally, I do not know whether that is right or wrong.

The independent gambling commission, as we found out during the lotteries inquiry, is not independent, because when the chips were down and when the advice they were bringing forward to the minister was not seen to be satisfactory, for whatever reasons, the government was able to reject that advice, to take the commissioners who had given that advice off the case, to appoint its own new commissioners, and then to ask those commissioners to redo the homework, which subsequently brought forward what was clearly the recommendation the government wanted. Again I pass no particular judgement — because we have never been shown what was behind that curtain — on whether that process was right or wrong; I simply point out that they are not independent, and with this bill we are no longer maintaining the pretence.

At the same time, if we are to rely on changes and requirements set up through the tendering process, and even through this bill, to be our safeguards, the ones that are here still leave it in the basket of the minister. That means, for example, that if prohibited contact was to occur between a bidder and the minister's office, the minister may be in the difficult position of actually pinging someone's bid because of the wrongdoing of someone on the government side of the program.

That in itself still leaves no independent arbiter of whether the bid, as opposed to the minister's advice on the bid, is sound. Our view is that we need a much higher level of legislation to bring in all sorts of public conduct. The offences that are out there now, such as of misuse of public office, are just too general to provide for the various sorts of prohibitions we need to keep licensing and tenders clean.

That brings me back to clause 5. I understand the government will now accede to our request, which is to get rid of the provision that extends the Tattersall's licence for five months. I do not know what position the Liberals will now take on that, but I understand that an amendment will be moved to achieve that, and I think that is appropriate.

We have not yet been given a piece of legislation that sets up the entire architecture for how the new gaming or poker machine system will work. We have had numerous press releases from the government, saying, 'This is how the licences may be allocated' and, 'This is who to' and, 'This will be the structure', but that stuff should all be put together into a bill and brought to the Parliament for us to scrutinise so that we will know what the profit shares will be between the various players, who will be able to operate machines and under what conditions. Until we know what problem gambling measures are in-built into that legislation,

why would we give the government a free kick on a five-month extension to the Tattersall's licence?

I cannot for the life of me understand it; I have not been able to understand it so far. But if it is the case that the government is now planning to pull that clause out and make some recommended changes to the licensing process, then the Greens are willing to support the bill, cognisant of the fact that the government could at any time before 2012 come back and bring in another piece of legislation that gives Tattersall's another huge free kick. That is just a chance we have to take at the moment. I hope that sense prevails as we get down into those specific issues.

Ms PULFORD (Western Victoria) — It gives me a great deal of pleasure to rise and speak on this bill. Firstly, I will make a few comments about some reasonably recent developments in the area of gaming policy. It is important to note that the state is leading the nation in some innovative areas to diminish the impact of problem gaming on Victorian families.

We know problem gaming can have a devastating impact, and so in a broader context it is important to note that the government has now taken action to remove automatic teller machines (ATMs) from gaming venues with effect from the end of 2012; with that removal goes ready access to cash, to the money that pays to put petrol in the car and food on the table in households. There will be reasonable expectations in small regional centres, where an ATM in a gaming venue is the only access to an ATM, but we expect that they will be few and far between, and the test there will be about vital access.

The government is intending to increase penalties for any provider allowing a minor to gamble. Again, this is part of the work we are doing to prevent harm associated with gaming. A very recent initiative and one that is being looked at keenly by our interstate colleagues is that by 2010 all new gaming machines will be required to have a mechanism to preset time and loss limits. This very innovative policy again demonstrates this government's commitment to regulating gaming in a variety of different forms. In the broader context there is further demonstration of our support for the racing industry which is a vital part of the social and cultural fabric of Victoria, an enormous driver of economic activity and an employer of tens of thousands of people, many of them in country Victoria.

Some of the clauses in the bill further demonstrate our support and commitment for the racing industry. Specifically, the bill provides for a new and separate licensing regime for the issuing of a single wagering and betting licence and for a single keno licence. Those provisions will operate after the termination of the current wagering licence and Club Keno authorisations in 2012. As an additional probity measure, the bill introduces a two-stage licensing process. It will involve a registration stage and then an application-for-licence stage which will certainly make the process more efficient and more cost-effective but will also make the process that applicants go through for licensing more transparent.

The bill also provides that future wagering and betting licences will not be coupled with the gaming machines licence in future legislation. It provides for the secretary of the department to report to the minister with findings and recommendations following assessment of registrations of interest as part of the process I referred to earlier. As I indicated, the bill supports the Victorian racing industry by requiring bidders for the wagering and betting licences to be able to demonstrate a commitment to a growing and vital racing industry, so that will become a criteria. Our support for the racing industry is certainly a matter of public record. I am pleased to support the Gambling Regulation Amendment (Licensing) Bill, and shortly on behalf of the Minister for Planning I will introduce government amendments.

The bill amends the Gambling Regulation Act 2003 and puts in place legislative provisions supporting competitive licensing processes for keno and betting and wagering. It also clarifies the governance arrangements around them. The bill is another piece of legislation that follows the broad review of gaming regulation which has been undertaken by government over the past four years. In July 2004 the then Minister for Gaming announced a timetable for the review of Victoria's electronic gaming machine, Club Keno and wagering and lottery licences. In its initial phase the gambling licences review considered options for lottery licences, concluding with the government's announcement last year that two lottery licences would be granted from 1 July.

The second stage of the review was announced in January 2006 and included the industry arrangements for electronic gaming machines, for keno and for wagering, plus funding for the racing industry beyond 2012. The review was directed by a gambling licences review steering committee chaired by the Secretary of the Department of Justice, and that committee had membership drawn from the Department of Justice, the Department of Treasury and Finance and the Department of Premier and Cabinet and an independent member. Through the course of that process the gambling licences review has included acceptance of a

large amount of public information and has involved a significant amount of public submission and debate. There have been information papers, issues papers, public submissions and consultations and consultations with submitters regarding wagering and betting, Club Keno and funding of the racing industry for the period after 2012.

As members are well aware, in 2007 the government established the independent review panel chaired by former Federal Court judge Ron Merkel, QC, to report on the processes followed during that review. The panel's reports were tabled in Parliament in April this year. In April the government also announced the new industry structure arrangements for wagering and betting, for keno and for gaming machines after 2012. Under these new arrangements, rights to operate keno will be offered as a single 10-year licence, and a single 12-year licence will be offered for wagering and betting. In place of the current gaming operators, approved venue operators will be able to bid directly for 10-year gaming machine entitlements, which will authorise them to own and operate gaming machines. I am advised those gaming machine matters will be the subject of separate legislation. The bill implements the regulatory arrangements for the keno licence and the new single wagering and betting licence and provides for these new separate licensing regimes.

As I said, an essential aspect of the bill is to create the two-stage licensing process for both keno and wagering. An initial part of the process will involve a registration-of-interest stage which will require applicants to be considered in the light of criteria which are consistent with the objectives of the act and some key priorities of government in this area. It includes those organisations fostering responsible gaming and ensuring wagering, betting and playing keno are being conducted honestly and that their management is free from criminal influence and exploitation, promoting tourism, employment and economic development throughout Victoria and consideration of what is in the public interest. That first stage will be tested against those criteria. Applicants will then be invited to participate in the second stage of the process, and doing so will enable a more efficient assessment, as the applicants will have been required to satisfy that first set of tests.

The bill seeks to establish a future wagering and betting licence that will not be coupled with gaming machine licences in future legislation, and future gaming machine licences will not be linked by legislation to the keno licences. In each instance a process will be established by which the Secretary of the Department of Justice will report to the minister with findings and recommendations about the assessments of registrations of interest and applications. The secretary will be able, as appropriate, to require the Victorian Commission for Gambling Regulation to use this statutory power to assist the secretary in performing this role. The process established by this legislation will create a more transparent and responsible way by which organisations can first register their interest, satisfy that criteria and then be invited to apply, with greater transparency at every point along the way.

It is a good process and it complies with the recommendation of Ron Merkel in his consideration of these issues. As Mr Barber indicated, there has been a lot of discussion in Parliament about the details of this legislation since the bill was introduced into the Legislative Assembly in April.

Government amendments circulated by Ms PULFORD (Western Victoria) pursuant to standing orders.

Ms PULFORD — I will comment on the amendments and start by taking up Mr Barber's concerns about clause 5. The proposed amendments to clauses 1 and 5 relate to the extension that was proposed in the original legislation; this option to extend for a period of five months was in the original legislation with a view to being able to bring the expiry dates of these arrangements into sync. But having had consultation and discussion with the minor parties, the government will be moving an amendment to remove that option.

Clause 9 gives legislative force to the government's determination not to allow wagering licensing processes to be influenced inappropriately and to further safeguard against any form of improper influence. The government is committed to the highest possible standards of probity in this area. The amendments to clause 9 will expressly prohibit an interested person in a register of interests or an application for a grant of these licences from improperly influencing the preparation or making of a recommendation or report relevant to the licensing process. The prohibition will not only apply to the registrant or applicant for a licence but also to their associates, to any officer, servant, agent or contractor of a registrant, applicant or associate, all of which are captured under the definition of 'an interested person'.

The amendments will require a registrant or applicant to have written protocols or procedures to prevent an interested person from improperly interfering with the preparation or making of a recommendation or report for the licensing process. An applicant or associate of a

registrant or applicant will be required to verify by statutory declaration that they have complied with these requirements and that they have not improperly interfered with the licensing process.

The Secretary of the Department of Justice will be required to report to the minister on whether these requirements have been met. If the improper interference requirements have not been complied with, the minister will have the power with the passing of these amendments and the legislation to not consider the registration of interests or licence application associated with the person who has failed to comply with these measures.

The amendments to clause 9 give legislative force to arrangements the government has already said it will include in the registration-of-interest process through the notice and licence application documents, but we are serious about this and certainly demonstrate our commitment to this again by creating legislation to ensure that the highest possible probity standards are applied for these wagering licensing processes.

Clause 18 is identical in its nature and form to clause 9; however, it relates in exactly the same way to the application of a keno licence, whereas clause 9 relates to the wagering licence.

The final amendment, to clause 24, is a minor technical amendment where a provision ought to have made reference to the Victorian Commission for Gambling Regulation instead of the Secretary of the Department of Justice. That amendment seeks to correct a drafting error. I commend the amendments and the bill to the house.

Mrs PETROVICH (Northern Victoria) — I rise to speak on the Gambling Regulation Amendment (Licensing) Bill. I will firstly comment briefly on the amendments circulated on behalf of the minister by Ms Pulford, none of which we were consulted about, I believe, and which have really not gone any way towards improving the outcome of this piece of legislation.

The purposes of the bill are fourfold. Laid out in clause 1 the bill deals with a number of aspects of this bill in relation to the racing industry. It seeks to amend the Gambling Regulation Act to authorise the conduct of betting on horse racing, and harness, gallops and greyhound racing are included in that. It relates to the conduct of games and permits and the extension of gaming operators licences, and provides for the appointment of additional deputy chairpersons and commissioners to the Victorian Commission for Gambling Regulation (VCGR).

Part 1 deals with the commencement provision which will come into effect following the royal assent to the legislation. Except for part 3 of the bill, which deals with the amendments for the responsible gambling codes of conduct provisions of the act, this will only take effect when the previous legislation that empowers the VCGR to approve such codes is commenced.

Clause 5, to which a government amendment will be moved, relates to two permits which expire. It attempts to bring into sync the expiry of gaming operators licences. Without this provision, the Tattersall's licence would expire in April 2012, whilst Tabcorp's would expire in August 2012. Obviously it would be better if these two licences were to expire at the same time, but the aim of the amendment is to withdraw that provision. This is probably a pretty cheap political manoeuvre on the part of the government in conjunction with the Greens. As I said earlier, there has been no consultation with the Liberals on this, but I do not know about the coalition in total. It does not achieve the best outcome; it is just a cheap trade-off with the Greens to obviously effect some other outcome in the bill.

I would like to raise concerns about country racing, of which I am very passionate, particularly the concerns of thoroughbred horseracing which is worth many millions of dollars to the state of Victoria and is of value right throughout Northern Victoria Region, which I represent. In that region and particularly in the Macedon Ranges, Seymour, Kilmore and Euroa, the breeding, training and racing of thoroughbred and standardbred horses are important to these communities for so many reasons, in addition to cultural reasons.

The economy of these areas is hugely dependent on the money generated not just from the racing end but from the stud and track side of the business. There are large numbers of people employed in the breeding, caring, feeding and preparation of these horses. This equates to $2 billion worth of income from this industry, which employs 70 000 people, not to mention the other associated industries that rely on racing for their income. These ancillary industries that provide support for racing continue to feed economies not only in the Northern Victoria Region that I represent but right across the state. They have an effect on the economies of metropolitan Melbourne as well.

These economies provide jobs in rural Victoria, which this government crows about in this chamber. We also crow about them; we know how important they are to the sustainability of our communities and the continued

employment of our community members. Before the cock crows three times this city-centric government is once again ripping into country Victoria and downgrading and pushing many of our country racing clubs towards an uncertain future. We sometimes forget that without racetracks there would be fewer owners, trainers, farriers and all the other ancillary industries that support horseracing in Victoria.

It is just another case of the Brumby Labor government not getting the vibe. It just does not get it: country Victorians enjoy country racing. It is an integral part of the social fabric of country communities. It is disappointing for those communities which have already lost race meetings. Kilmore, Hanging Rock and Kyneton have all lost a race meeting, but they are in a better position than little clubs like Gunbower.

I know Gunbower quite well. It is a 1400-metre track, the longest harness racing track in Victoria. The club supported both gallops and trots, but is now no more. This was not an unsafe track, and it attracted substantial attendances. Unfortunately this city-centric government does not understand the economic and social importance of a venue such as Gunbower. It always causes me to wonder how Melburnians would react if the theatre district or perhaps the MCG were shut down. What economic and social implications would that have? There is a very real similarity.

Mr Lenders might think it is funny, but it is very important for those communities to have the opportunity to meet and congregate, particularly in times of drought. It may be the only entertainment and opportunity to gather together that the community has.

On current figures the racing industry is assured of $75 million per annum under the current process. It has something like $225 million of internally generated revenue. We are talking about a $300 million business. It is estimated that by 2012 the $75 million will potentially have risen to $100 million per annum. The removal of that $100 million per annum would be enough to decimate the racing industry.

I would also like to speak about Tattslotto agents in rural and regional Victoria. I have to say that around the local newsagencies the government is about as popular as the rats under the house.

Mr Drum — Not that popular!

Mrs PETROVICH — You are right, Mr Drum, they are not popular at all. Under this bill, the net effect on these very vibrant, hardworking family businesses — very often small businesses — is they will now have to apply for a second licence from Intralot. I think the estimated cost of that is an additional $8500. As a result, they will also have to refit their businesses and face a doubling in their power and infrastructure bills. I think this is an unfair, costly and inefficient delivery of gaming competitions to rural communities.

The impost on businesses made by the stroke of a pen by this unfeeling government is most unfair to these people. You only have to go out into those communities to see the ripple effect the drought has had on economies throughout country Victoria. All small businesses are feeling the pinch. Any additional cost or overhead is something that they would find very difficult to sustain and not very palatable, I can assure the house.

I would also like to draw attention to a further symptom of the problem in the racing industry — that is, the number of bookmakers who are moving their businesses interstate. This particularly relates to bookies who have moved their businesses to the Northern Territory. This raises the question of how exclusive the licences will be in reality. We have seen Betfair successfully challenge in the High Court the restrictions on its activities. How exclusive will these licences be? What restrictions are there for these operators on the internet or phone betting to interstate agencies? It just does not seem that it has been thought out and is a manageable situation.

There is strong evidence that Victorian bookmakers are setting up their operations in the Northern Territory. This amounts to a loss and a loss of expertise to the Victorian racing industry. I do not think the government has considered this. It continues to do nothing to assist them.

As many members who have had discussions with me would know, I am a horse enthusiast; I have the equestrian disease. I enjoy all things about horses, horseracing and equestrian activities. An area of concern is the prospect of banning jumps racing.

I share concerns about the safety of horses and jockeys. I am very concerned that the baby is going to be thrown out with the bathwater and that that will severely impact on the racing industry, particularly in the Western District but also right across Victoria. Although I do not think we should look at overregulating and banning, I think conditions should be placed on the way we conduct jumps racing. As a horseperson I know that not all horses jump. That a horse is too slow on the flat does not necessarily mean it is going to be a good jumps horse. This issue relates to time and education. Something we need to put some

effort into in the racing industry is that these things can impact on the safety of the horse and more particularly the safety of the jockey. I think we need to look at the distances we are running these horses over. We are looking at 3200 metres, with large spaces between the jumps. You have horses running at flat gallops, and they are not prepared for the jumps. They are not educated for jumping. They are running as a mob, and you have to remember the herd mentality of horses.

Again, I think there is a lack of understanding by this government of the culture that country areas operate in. We certainly need to be more considered about how we do this and give some assistance to the racing industry to ensure that these animals have longer racing careers and that there is safety for both horses and jockeys. That can only be done through the education of those in the racing industry and the animals that are about to race.

Another area I am particularly passionate about is the lack of probity surrounding the community benefit fund, which has not been audited for 10 years. I have raised this matter in the house a number of times. I have also raised the issue of licensing being imposed upon communities in the Macedon Ranges and areas across country Victoria which clearly do not want poker machines imposed in venues in their main streets. They have the right to choose, and there have been a number of plebiscites and a challenge which was mounted by the Macedon Ranges council to a decision that had come through Victorian Civil and Administrative Tribunal for poker machines in the Romsey Hotel, which are clearly not warranted in that community. The community does not want poker machines. The government is looking to redistribute those licences come hell or high water. The government has too many in the west, and although I am not supporting the fact that there are too many licences in the west, the government should not take its rubbish out and ruin the country once again.

A Monash University report showed that less than 3 per cent of the $376 million claimed by Victorian pokies venues had been directed to philanthropic purposes. There are instances where the Bracks government has previously allowed, and the Brumby government is currently allowing, agencies to claim operating expenses such as wages and the costs of gas, electricity and insurance as well as renovations and furniture. Such things as plasma TVs have been included as part of discharging that community benefit obligation. If we are going to be fair dinkum about this issue, let us get this fund audited and ensure that if poker machines are to be in communities, we abide by the community benefits obligations that were clearly set out when these machines went into communities.

I would also like to comment on the probity processes and procedures set out in this bill. In many ways they are the same as the procedures set out in relation to keno licensing. The processes are as laid out previously — that there will be calls for registration of interest in the awarding of licences, that conditions will be published in the *Government Gazette* and that reports will then be made to the minister by the secretary of the department — not, as I would have thought more appropriate, by the Victorian Commission for Gambling Regulation. Apparently a short list will then be compiled of those invited to apply and reports will be made to the minister, once again by the secretary of the department, not the VCGR.

This process is almost identical to the lottery licensing procedure, and I ask the question: why would we walk this slippery path again? This process has already been discredited and has already failed. The Merkel report, as it has been called a number of times today and in the other house, demonstrated one example of the corruption of the lottery licensing process. It found that confidential and sensitive information relating to licensing was sent from the office of the Minister for Gaming to the lobbyist David White and then straight to his client Tattersall's. Again, this does not bode well and raises issues of disclosure and transparency. It has been made clear that dealing with lobbyists, particularly Labor mates, has proven a flawed process.

The Merkel report states:

> … it is now clear that, at an early stage of the licensing process, Hawker Britton was given preferred access to a licensing process document by someone in the minister's office.

The Merkel report identified clearly that this confidential licensing information had come from and been passed on by the minister's office, and this could have happened at any time. The Merkel report goes on to say the panel:

> … finds the very notion of lobbying in respect of a proposed or actual lottery or gaming licence application antithetical to the probity of the licensing process. Evidence was given to the select committee that lobbying was about 'opening doors' to government. Preferential treatment or preferential access means unequal treatment and unequal access, which inevitably undermine the requirements of impartiality and a level playing field. Those requirements are essential if licence applications are to be determined fairly and on their merits without any improper conduct or interference on the part of any of the participants in the process.

If the Merkel report is clear on the point that we should have an impartial, transparent licensing system that meets government and probity expectations — if it is clear on that point alone — how can we continue to follow the same slippery path and duplicate a flawed and dangerous process?

Mr ELASMAR (Northern Metropolitan) — I rise to speak in support of the Gambling Regulation Amendment (Licensing) Bill 2008. In May 2008 an independent panel reported to both houses of this Parliament the outcome of our review into gaming licences. This review had been commissioned by the Minister for Gaming, Tony Robinson. The purpose of the review was to establish whether sufficient regulatory requirements were in place to ensure that probity and transparency were and are adequate and that accountability, a keystone and a critical success factor of the government's intentions, was being adhered to. The independent review panel found that it was satisfied that the highest standards of honesty and transparency prevailed within the gaming industry.

Arising from the review and in consultation with all the interested and relevant parties, new licensing and regulatory arrangements have been instituted which will take gaming licences forward in Victoria into 2012. Under these new arrangements, keno will be offered as a single 10-year licence. A single 12-year licence will also be offered for wagering and betting. Approved venue operators will be able to bid directly for 10-year gaming machine entitlements, which will authorise them to process and operate gaming machines. But this is not an automatic process and licences will be awarded only after a competitive, two-stage licensing process is concluded successfully.

In an effort to minimise problem gambling, automatic teller machines (ATMs) will be banned within 50 metres of an entrance to the Melbourne Casino gaming floor. With this announcement, Victoria will be one of the first states to have banned ATMs from gaming venues. By the end of 2012 ATMs will be banned from all gaming venues, with the possible exception of rural venues that may need the ATMs for purposes other than gambling. Substantial changes that will also occur by 2010 will provide gamers with the ability, prior to playing, to program the machine they have selected to play with a preset time limit and loss limit. This is a positive step towards helping problem gamblers in Victoria.

Now for the first time in the state's history the Labor government has introduced competition to the Victorian lotteries market. It has also introduced a code of conduct and a responsible gambling code. These measures require the new licence-holders to provide their gambling products in a manner that fosters responsible gambling.

Gamblers understand their limits. I am told there are people who play poker machines for 9 hours at a stretch. We all know that some elderly citizens stay all day in pokies venues, but I believe that is for a number of reasons, not least of which is the fact that many single or widowed senior citizens are lonely, and the venues are usually a safe and comfortable environment for them. There is no magic button on any of the poker machines that will pay a fortune if tapped in some strange or foreign ritual that some players think will net them a fortune. Gambling is a leisure industry, and as such it is paid for by the user. However, notwithstanding common sense and the logic of a person trying to beat the odds, the Labor government has introduced sensible measures for the future that will hopefully assist problem gamblers in our community and those at risk of becoming problem gamblers. As we all know, at the end of the day it is the families of problem gamblers who suffer the most.

In addition to all this, for the first time in the state's history, the Labor government has introduced gambling regulation legislation to the Victorian lotteries market. On the positive side for shareholders, there will no longer be arbitrary restrictions on the quantity of shares that may be held in a publicly listed keno licensee and wagering and betting licensee.

The key to gaming probity in Victoria is honesty and transparency. The mechanisms and processes outlined in the bill are clearly open to public scrutiny, as no doubt they should be. I support the bill and the amendment moved by Ms Pulford on behalf of Minister Madden.

Mr DRUM (Northern Victoria) — I am pleased to comment on the Gambling Regulation Amendment (Licensing) Bill 2008. In the second-reading speech the government says that the report from the independent review panel on renewal of betting and wagering licences will be made public and will be subject to all the openness and transparency that the government talks about in its usual hollow rhetoric.

What it is really saying is that, providing the process goes smoothly and there are no hitches and once the licences have been let, it will let people review the process — that is, if the process goes well, the government will open up its books. However, when the process is muddied or if government processes have not worked and there has been a breach of probity or lack

of integrity within the system, the government will close up shop.

It has form in this area; that is the process we are expected to agree to today. With the late arrival of the amendments that have been prepared while the bill was between the houses it is pretty hard for us on the opposition benches to work out what we are expected to agree to. We are trying to read and understand these amendments only minutes before getting to our feet in this place, to decide whether or not we should allow these amendments to go through.

Even though the lotteries licence has been partly let to Tattersall's, some of the Tattslotto product remains with Tattersall's, while others have been handed over to Intralot in the form of scratchies and some of the kenos. We still cannot get the government to come clean on what forced the solicitor-general in the last lotteries licence renewal process to twice disallow a report recommendation being accepted by the Labor Minister for Gaming. We have been through it twice.

The VCGR (Victorian Commission for Gambling Regulation) put the report together, recommending that the government take a certain course of action in the lotteries licence renewal process, only to have that report not be delivered to the minister. That is when the solicitor-general came out and made the comment that there had been a lack of natural justice afforded to one of the two tenderers for the contracts.

If the government is being half serious about the claims it is making with this new licence renewal process, surely no damage could be done now by it making those documents available to the public and putting to bed once and for all the claims of impropriety, lack of probity and lack of due process. At that time the government made that claim because the process was still under way and because the licences were yet to be awarded. It said potential commercial negligence could be in the wind if any of these documents made it into the public sector.

Those contracts have now been let, and all of the supposed commercial-in-confidence documents can no longer cause any problems. Why will the government not come clean and put to rest once and for all the claims or justify the decision that was taken by the opposition parties to launch the investigation to try to unearth what the government was trying so hard to close down?

We know what the government did about having all of its public servants sworn to secrecy when they were called to appear before the upper house committee. Public servant after public servant, who are supposed to work in an environment of giving apolitical advice to the government of the day, were effectively told to plead the Fifth Amendment, as the Americans know it, and not to embarrass the government by detailing the truth of what had happened behind the scenes.

Before we have to stomach too much more of these claims about open, transparent and accountable processes, it is important for the people of Victoria to understand what this Labor government will really do if anything happens to go wrong. It will do exactly what it did the last time: it will close ranks, it will force their public servants who work in the various departments to plead the Fifth, to claim commercial in confidence. The last thing they will be allowed to do is what the previous Minister for Gaming did when he first heard of these problems coming to the fore. On the front page of the *Herald Sun* he said, 'I want to go public, and I want to set the record straight'. He never quite made it. He was gagged in the usual Labor way. It is just worth the public being aware of that fact.

In relation to problem gambling, the government is going to make it harder to get cash from ATMs (automatic teller machines). That provision is in the bill. It will impose a 50-metre limit from the gaming floor of a casino, but I think that is already the case. Whenever you run out of money at Crown Casino, you have normally got to go down two flights of steps — or use lifts and escalators — and about halfway down towards the car park to find a bank of ATMs. What is the government going to do? Is it going to move them a further 10 metres away to ensure they are 50 metres away from the floor? It is a 'nothing' provision.

In the five and a half years that I have been a member of this place this government has made so many 'nothing' provisions surrounding problem gambling that it has become absolutely embarrassing. If it does not want to make an impact, it should just come clean. But it will not. It will just keep the spin going about what it is going to do.

The bill will raise the limit of the penalties associated with allowing a minor to gamble. With the help of the parliamentary library I have tried to work out just how common these breaches are. How many times does a minor get caught gambling in a gambling house? Occasionally I walk through a poker machine room, and I do not see too many kids who look anywhere near 17 or 18 sitting at a gaming machine. I might go to the casino every three or four months, but I would not normally see 16 and 17-year-olds on the floor of the casino. Why is the government making a big deal about raising the penalty to $13 000 for allowing minors to

gamble? I may be wrong on this one, but in my opinion that offence is not a practical way to control gambling problems.

There are issues not addressed in this bill about Victoria's bookmakers fleeing to Darwin. We even have Tabcorp making noises about applying for a licence in the Northern Territory, and right throughout the licence renewal process we have the VCGR being usurped by the Secretary for the Department of Justice. Like Mr Barber, I am not sure whether or not that is a good provision. It seems that the government is bringing more of these processes in-house with less independent scrutiny, less panel analysis of the process, less probity and more in-house advice being given to the minister for him to make his decisions in a less open and less transparent manner than is currently the case.

We understand that the new process is going to mirror what we have just had with the lotteries licence renewal process. There will be a call for expressions of interest. Those applications will be short-listed, and a second round of applications will come in. From there, recommendations will be given to the minister and the decision will be made. From the inquiry there seemed to be a very good process in place, a whole raft of checks and balances in relation to probity and who could meet with whom at what stage. There just seemed to have been breaches within the process. It is not a matter of changing the process; it is simply a matter of adhering to the processes that are put in place.

It is clear that in the lotteries licence renewal process there were breaches of probity. There were claims that Hawker Britton — and mainly the former Labor minister, lobbyist David White — was seen to have been given preferential treatment. The Merkel report, which is the government's response to this bungled mess, states that at an early stage of the licensing process Hawker Britton — in other words, David White — was given preferred access to a licensing process document by someone in the minister's office.

That was stated in the Merkel report. Merkel then goes on to state that his panel is of the view that:

> The future probity requirements for a lottery or gaming licensing process should expressly prohibit lobbying activities in respect of that process once it commences.

The message coming out of the Merkel report is quite clear: once the licensing renewal process has commenced there has to be a total prohibition on lobbyists having access to the minister and his office and the government in general.

It is impossible to talk about the lotteries licensing process without talking about the mess that this government has created with the way it has introduced Intralot into the Victorian community. Replacing one monopoly with two monopolies is not competition.

The products were split and 800-odd Victorian agencies — the vast majority of them newsagencies — made to pay an additional licensing fee. I do not know if members and the general public in Victoria are aware that previously when you purchased the licence to operate as an agency you actually paid Tattersall's a licensing fee for the express privilege of selling its products. Apart from generating ongoing revenue for Tattersall's and for the government as well as for yourself, you actually paid a licence fee at the start of that process for the ability to do so. Now what this government has done is split the products into keno, Tatts 2 and the scratchies, and handed that lot over to Intralot, which then duly announced that it wanted another $10 000 in licence fees from each agency. It was $10 000 across the board. Intralot threw in a $1500 discount as an incentive to pay early. You then had to pay GST on top of that $8500. You then had to pay a $30-a-week delivery fee and $30 a week in terminal fees. Depending on how many terminals you needed, the ongoing costs were going to be exorbitant — to the extent that, of the 800-odd agencies around Victoria that were previously selling the scratchies, more than 200 were simply unable to keep selling them under the new arrangement that the government set up. Whether the government set it up or whether the government failed to act to stop it being set up is immaterial, because the government's decision created the mess that Victoria is now left with.

It is an absolute disgrace that communities right across Victoria in which the average citizen used to be able to go along to the newsagent and buy a scratchie ticket now no longer have that service available because their small population and the turnover at the local newsagency does not allow for a $10 000 fee to be paid — especially with no guarantee that the agent will not be slugged another $10 000 in as little as five years time. There are also high recurrent costs, high delivery costs, and the daddy of them all is that Intralot believes that the scratchies market is grossly underserviced here in Victoria, that other jurisdictions around the world have a ratio of up to three times as many outlets per head of population as we currently have here, and so what Intralot is looking to do is sell a licence to the newsagent, and then four doors down sell one to the milk bar, and 10 doors down sell another licence to the local service station. As it goes on and on we are going to get a situation in which Intralot is taking licence fees hand over fist, diminishing the overall pool of clients

and customers who have an ability to buy a scratchie ticket, and making it harder and harder for these Victorian businesses to make ends meet.

That is just the lotteries. What about the mess this government is in the middle of creating in relation to gaming machines? Now we have thousands of venues across the state, hotels and clubs, which have no idea how they are expected to operate after 2010. There is an air of absolute confusion. We have been told that you are going to be able to bid for your own licence, that Tattersall's and Tabcorp will not be bidding on your behalf to pick up the licence fees. By doing some simple arithmetic — and I am sure the Treasurer would have done his maths — you would realise that the $3 billion that Tattersall's or Tabcorp was about to pay the government for a 10-year extension represents about 15 per cent of the total take of these companies. Now that individual hotels and clubs are going to be competing against each other for the ongoing licences, the Treasurer would know that they are going to be bidding in the vicinity of 30 per cent to 40 per cent to 50 per cent of their gross take for the future licences. The government is likely to increase its $3 billion fee to something in the vicinity of $5 billion to $6 billion for the gaming machine licences. The government's response to this is that the tax take from gaming machines after 2012 will effectively be revenue neutral to the current level. The ongoing tax take might be revenue neutral, but I bet its take for licences will be an absolute bonus to the Victorian government, and it is going to clean up at the expense of the businesses, community clubs and problem gamblers of Victoria.

So all of these claims about openness and transparency we know to be a lie. All of these claims that the government is trying to do something about problem gambling we know to be a lie, all of these ideas of the pokies being revenue neutral after 2012 we know to be a lie. We know that everything this government says in relation to gaming, problem gambling and anything to do with these products has effectively been a lie. I just wish that we knew how we were supposed to be voting, because it is nearly impossible for us to digest amendments delivered to the chamber just 20 minutes ago and give a well-considered verdict in such a short space of time. Now we will have to resume our seats and try to read up on these circulated amendments to work out which is the most responsible way for us to vote, when it comes to either accepting or rejecting these amendments.

Mr ATKINSON (Eastern Metropolitan) — I note that for much of this debate there have been very few government MPs in the chamber. In fact, for much of this debate the Minister for Environment and Climate Change has been by himself in this chamber. I think members are rather embarrassed about being associated with this particular legislation. Indeed, there is not a great deal of enthusiasm for speaking in this particular debate. It is not really surprising, because I believe some government members are genuine in their concerns about problem gambling and process issues in the conduct of gaming in Victoria. Those members must be very saddened by the government's approach of late to gaming in this state. They must be squirming uncomfortably about the rhetoric of protecting problem gamblers when in fact the gaming legislation that is continually brought forward by this government does everything to worsen the problem gambling issue, to make it harder for people who suffer an addiction and by insidious methods to recruit more people to gaming.

I find it extraordinary that this government is so addicted to gaming revenues that it is continuing to try to push the envelope with its take from gambling and, under the guise of introducing competition, is in fact increasing taxation. In trying to pursue those dollars from a taxation perspective, the government is increasing problem gambling right throughout this state, and it will also undermine many businesses.

It is interesting to me that Tony Robinson, the Minister for Gaming, who shares part of my electorate — he is the member for the lower house seat of Mitcham — professed to be very concerned about problem gambling and the expansion of gambling and suggested that it ought to have been curtailed. All that was said before he became a minister, of course. The reality is that this Minister for Gaming, Mr Robinson, has now presided over one of the greatest expansions of gambling in the history of gambling in this state. You probably have to go back to the introduction of poker machines to find such an elaborate and massive increase in gambling product being perpetuated by a government in this state. This government is absolutely addicted to the revenues of gambling.

I talked before about insidious methods of introducing gambling in the community. On lottery licences, Mr Robinson has gone out and talked to people about new forms of gambling and how we might be able to deliver gaming product on mobile phones and on television sets in people's living rooms. Wow! Members should consider the issues associated with that and problem gambling. This legislation is full of rhetoric about problem gambling and how the government is tackling it, yet the government is making it much easier for people who have an addiction to fall and get caught up in problem gambling because of the extensions the government has put in place. Intralot did not actually seek them when it was going for its

licences, and I do not believe Tattersall's was pushing for them, but the government wanted them. Why did the government want them? Because it saw increased revenue opportunities. If you can recruit more people to gaming, you can increase your taxation take. The easiest way of doing that is to deliver gaming on a mobile phone.

How old is the person who has a mobile phone? How old is the person who is in their living room, perhaps isolated, with desperate needs and who may well be depressed and dislocated from the rest of society? Here comes a gaming product that promises the world and the realisation of their dreams. The temptation to gamble and to keep gambling is there and it is unfettered because of the method of delivery that I believe is totally insidious. That has been brought about by this particular government and this particular Minister for Gaming, Tony Robinson, who claims that he is concerned about problem gambling and opposed to extensions of gambling while he is the one who actually introduces them.

It is no wonder that small business confidence is down so heavily in this state when you consider how this government is riding roughshod over most of the business community and particularly small business. There are things like the clearways issue, where this government just pushes ahead with a plan without any consideration of the impact on businesses. Then you look at the lotteries licences and the ridiculous proposition that was put by this government in developing lottery licences. Many small businesses could well face financial ruin as a result of the decisions that have been made by this government and the process that has led to the introduction of Intralot in Victoria.

Boy, didn't we do a great job with Intralot? As I understand it, the minister and the government were not encouraged to look at Intralot as a significant new player in the Victorian market and the bureaucracy was not pushing the value of competition, perhaps because it recognised that there had been no market analysis work done on gambling and perhaps because it was trying to be responsive to the government's rhetoric on problem gambling. Yet, the government insisted that it should have a second player and called in Intralot. What a disaster it has been! We have businesses that have a limited number of games. There are almost no sales on this product, by the way. The business owners in my area that I talk to tell me that they are lucky if they take $30 a day from the Intralot games.

It takes forever to use the machines. The technology is antiquated, old-fashioned and simply not state-of-the-art in terms of what these people had before with Tattersall's, and yet they have had to cough up $10 000 for the licence fees and in some cases had to make other undertakings. In many cases they were looking at bank guarantees, which would have cost them $2000 apiece to set up as a minimum to meet obligations to Intralot, a totally unknown quantity in the industry. As Mr Drum says, they do not exactly get territories as they had with Tattersall's. In fact they can have a shop next door selling the same product.

This is an absolute disaster. It has very adversely impacted on these businesses. To his credit, the Minister for Gaming went to a meeting of the Lottery Agents' Association and spouted about how important it was for government to convert gaming revenue into hospital funding, and so on. On that occasion he showed a great deal more enthusiasm for gambling than he had before he became the minister — again indicating his duplicity.

The reality, however, is that when the Tattslotto agents and the newsagents turned up at the meeting to hear the minister, to put their case to him and express their concerns about the Intralot rollout, the minister said, 'Sorry, I can't stay. I have to go to the football'. The minister was not really interested in listening to them; he was not really interested in any sort of constructive dialogue on their issues, their problems and the impact on small businesses. The minister was more interested in getting off to the football, because after all, he had had his say and he could say, 'Well, I have actually appeared at a meeting with these agents' when it came to the parliamentary session. But to all intents and purposes, there was no consolation for any of these small businesses that are losing money on the basis of this government's behaviour over the gaming industry.

Tattersall's is a world leader in technology, and Tabcorp is not far behind. Tabcorp might dispute that and claim that it has the leadership, but there is no doubt that those two companies have served this state well in terms of their responsibility, in meeting their community obligations, in providing transparent and fair gambling, and in working to ensure that problem gambling issues are addressed in a responsible way. They are both public companies, but this government seems hell bent on weakening them, on crucifying them as public companies.

We already have Tattersall's saying, 'We may well look at moving interstate because there is not much point our being in Victoria any more — our traditional home of more than a century'. These two public companies — significant employers, significant corporate citizens, companies that have contributed to

the community, companies that have had a great deal of support for small businesses across Victoria — are now being weakened by this government to the point that they are likely to face takeovers.

Who will those takeover companies be? Will it be overseas operators who share our expectation in terms of community citizenship and particularly our focus on responsible gambling? Will they be some of the Packer family's gaming interests or Woolworths' gaming interests? Will we simply be changing the people who sit at the chairs around the gaming table and seeing a consolidation of the industry and less competition rather than more, which is what the government believes it is trying to achieve?

I think that is a ruse. I do not think the government is at all interested in competition at the operator level. The government is only interested in competition in the context that Mr Drum raised it in his remarks — that being that if they have more players, they can charge higher licence fees and have an auction process with more bidders, thereby increasing their revenue.

I think that is their only interest in competition. It has nothing to do with competition at the retail level because gambling product is a product that, if you are serious about problem gambling, ought to be subject to some restriction and significant regulation. It ought not be a product that you are simply seeking to open up to massive competition.

The reality is that this government has shown an extraordinarily cavalier attitude on gaming issues, and its behaviour in terms of the analysis of those lottery licences has been nothing short of disgraceful.

I heard Mr Elasmar say today that we were enshrining processes — this is paraphrasing, but certainly the two keywords are his words — and enshrining honesty and transparency with this legislation. As Mr Drum says, this legislation is nothing but rhetoric. This legislation is wallpapering over the cracks. This legislation talks about being concerned about problem gambling at the same time that as expanding gambling and opening up new forms of gambling which could prey on the most vulnerable people. I defy anybody to tell me how you can have a responsible gaming process where you leave people to use televisions in their living rooms or mobile phones. You have no control over the consumer in that situation and the elections that they make over who is even doing the gambling. The result is that you have got an absolute cocktail for disaster in problem gambling.

This government has done no analysis of this sort of work in opening up the competition. If it has, it should put it on the table now. Let us all see it; let us understand what it has done, and let us decide how it reached the conclusion that expanding gaming in this state would be beneficial to the state while paradoxically reining in problem gambling. Let us see how it has reached the conclusion that its decisions on gambling would not destroy investment and value in this state for many businesses, particularly small businesses, but also even the two largest businesses, which, although I have no great vested interest in the performance of either of them, have at least acted responsibly, from my perspective, as corporate citizens in delivering gambling product.

This whole process is a charade. The government has created uncertainty right across the board for small businesses. The second-reading speech talks about the importance of racing and gaming in terms of tourism product, and yet it creates enormous uncertainty in the racing industry generally, and particularly in country racing. As I said, I accept that some MPs are genuine in their concerns about gaming interests in this state. The reality is that they must have a great deal of disquiet about the processes of this government, about the way in which the previous inquiries were unable to establish the processes the government had pursued because of a lockdown, because the government refused to divulge any information, and then at the end of it said there was no wrongdoing found.

The reality is that the processes of this government when it comes to gaming are anything but open and transparent, anything but honest in the sense of Mr Elasmar's remarks about its being an honest and transparent process. As I said, the government is using the guise of competition to simply try to maximise taxation revenue.

There is no benefit in most of the initiatives this government is taking in this legislation, in my view, and in fact there is just total duplicity from the minister down — a minister who says he is concerned about gambling but who in fact has presided over a massive expansion of gambling product in this state and who says he is concerned about problem gamblers when in fact he introduces dimensions of that gaming product that are going to cause serious problems in people's lives.

This is an outrageous process by a cavalier government that has run roughshod over small business and has had very little regard for those problem gamblers for whom the minister claims to have regard. The government is

simply addicted to the taxation revenue from gambling. This is a very sad day for Victoria.

Mr VINEY (Eastern Victoria) — I am pleased to support the Gambling Regulation Amendment (Licensing) Bill. I am going comment on what I have just heard. I think it is always disappointing to hear a member accusing a minister of duplicity, but what we have just heard from the opposition is absolutely the example of utter confusion of policy that has come from the opposition on this. On the one hand the opposition suggests that this government is unconcerned about problem gambling and that the government is, as the member says, addicted to gambling revenue, but then, in the same speech, the member talks about all the great businesses, particularly the duopoly of Tattersall's and Tabcorp, in relation to poker machines, says what great businesses they are and what great jobs they create and extolls the virtues of those two companies.

I am not here to criticise those two companies, but I am not quite sure of the position Mr Atkinson is taking, as those two companies exist because of gambling and electronic gaming. You cannot come in here and accuse government members of being unconcerned about gaming and then talk about the great virtues of the companies that are directly involved. There is utter hypocrisy from the opposition on the issue of gaming here. The opposition set up a — —

Mr Drum interjected.

Mr VINEY — Mr Drum, don't tell me — I listened to Mr Drum in the gaming inquiry question witnesses with Dorothy Dix questions about the great contributions of clubs and gaming to country Victoria. They were almost sycophantic questions about how wonderful this all is for regional and country Victoria. So let us be absolutely honest in here about at least this: we all recognise that gambling is occurring in our state, and we have to have a regime of regulation and management and of ensuring that the Victorian community obtains benefit from the existence of gaming in our community. That is what we have to do in this Parliament. I have not heard one single person come into this Parliament and say that all gaming in the state of Victoria should be abolished because of the bad sides of it. No-one has said that — Mr Atkinson has not said that, Mr Drum does not say that; no-one is saying that all gaming should be gone.

What we are discussing is not this government's or anyone else's addiction to gaming; what we are discussing is: how do we best manage a set of products that provide some entertainment but also cause some harm? That is what we are discussing. It is absolutely outrageous that opposition members suggest that members of the government are not concerned about problem gambling — members of the government are absolutely concerned about problem gambling and are as perplexed and troubled about how to manage this as all other members of this chamber. I do not bet on poker machines because I think they are designed for the player to lose. If anybody were to ask me, I would advise them, 'Don't bet on them; you'll lose. That's the way they are designed'. If people want to have a little bit of a flutter and a bit of fun, I do not have a problem with it. But the thing is that people use them, they exist in our society, and unless members of the opposition — —

Mr Guy interjected.

Mr VINEY — Some people do not have a bit of a flutter, that is correct, Mr Guy; some people are terribly addicted to these machines, and we have to provide the support systems to help them. We also have to ensure that we have the right regulatory and management regime to make sure those machines that exist in our community are run responsibly by the operators.

The government has gone through an enormous process of review and oversight for the relicensing of a range of gambling products. It goes right back to 2004, when the Minister for Gaming first announced the broad scope, approach and a timetable for that whole review process. Then we had the gambling licences review consideration, in its initial stages, concluding with the government announcement in 2007 that the two lotteries licences were to be granted from 1 July 2008. We had a second stage, which was announced in January 2006. It was looking at keno and wagering and the funding for the racing industry beyond 2012, as well as electronic gaming machines. The review was directed by the Gambling Licences Review Steering Committee. We had the gambling licences review process, which included the release of an information paper and four issues papers; an invitation for public submissions; the conduct by Peter Kirby of public consultations; and consultations with other submitters regarding wagering and betting, club keno and funding of the racing industry. The government also established the independent review panel in 2007, known as the Merkel review, which reported to the Parliament on 10 April 2008. On that same day the government made various announcements about a range of issues regarding gaming.

This bill is about the process of implementing all of those reviews and oversights. And on top of all that this house established a select committee, the purpose of which was to smear the former Premier by association.

That was the fundamental purpose, and it was a spectacular failure.

Mr Guy interjected.

Mr VINEY — Mr Guy was there; he knows how much of a failure it was. It was an appalling smear campaign and process undertaken by members of the opposition, and it was a complete failure. I speak as the deputy chair of that select committee.

Out of this whole process of review and oversight, the fundamental evidence that the attempted smear on the Premier was a complete failure was the announcement by the government that it was abandoning the two-operator system for poker machines. The fundamental accusation was that this government was too close to the operators; that there was something dodgy between the government and the operators. If there was something dodgy between the government and the operators, the operators did not do too well, because the operators are basically out of the system, where now clubs and pubs can directly own and operate gaming machines. There are good, sound policy reasons for that — given the time and the fact that other people want to speak I will not continue with that line — not the least being that the government believes that getting the clubs more directly involved with the operation of the machines gives an opportunity for a closer relationship between communities and the operators. We hope there will continue to be a community benefit arising from, particularly, the clubs' direct association with gaming machines.

Before I finish I want to deal with the allegations by Mr Atkinson about Intralot's proposals in regard to telephone betting — and I do not mean telephone betting on the races, I mean telephone gaming; I guess that is what you would perhaps call it. Intralot has apparently expressed some interest in this, but there has been no consideration by the government nor any intention by the government to consider it, and no policy considerations have been undertaken in terms of looking at that. It is not a proposal before the government, and it is not a proposal the government is seeking submissions on. It is not a proposal that the government is considering in any way. The fact is that there may be lots of companies operating in this state and in other states that want to suggest all sorts of ideas and proposals for the expansion of gaming. I do not know what they are; I am certainly not an expert on the options for gambling. My gambling is limited to a weekly Tattslotto ticket. But I have to say that the fact that there are companies out there that are thinking up ways they could enter the gaming market and make money is of no great surprise to me.

Of course there are companies that are doing that all the time. It does not mean it is a proposal in front of the government, and it does not mean they are proposals the government seeks. It is a case of putting up the straw man. There is no proposal before the government, and there is no intention by the government to seek such proposals. There is no point in coming into this house and accusing the government of wanting to go down a particular path when there is no path even being entered upon let alone considered.

This legislation is about putting in place and implementing a framework for the delivery of the decisions that have been made out of all of those processes of review going back to 2004, and the probity recommendations from the Merkel review. I commend the bill to the house.

Mr KOCH (Western Victoria) — I think we have had a very good debate in relation to the Gambling Regulation Amendment (Licensing) Bill. I am aware we will be going into committee, so I do not propose to hold up the process longer than necessary.

I think it is important to say that quite some consultation has taken place with both the gaming and racing bodies. Both have been contacted over an extensive period and have made comment, and I must say that on not all occasions have those comments been favourable.

The purposes of the bill are:

> to create a wagering and betting licence authorising the conduct of wagering on horse racing, harness racing and greyhound racing and the conduct of approved betting competitions …

It also includes the creation of a keno licence authorising the conduct of keno games, along with permitting the extension of a gaming operators licence, and to provide for the appointment of additional deputy chairpersons and commissioners to the Victorian Commission for Gambling Regulation, more commonly known as the VCGR.

The bill is in two parts. Part 1 covers gaming and lottery licences. That has been covered extensively this afternoon, and I will only make a short contribution to debate on that part. Importantly, in 2004 the government decided to review gambling licences, which should not surprise anyone. The government has always seen that gaming licences have offered an opportunity of a cash cow for everyone other than the government. I think the harvest of dollars reaped by the government over the last seven or eight years has exceeded all expectations, and the government has tried

to move down the line on only one vein — that is, to try to realise greater profits from the gaming licences.

In the last five or six years we have seen the start of the government getting involved by way of increasing EGM (electronic gaming machine) licences which were originally $333 per machine. We saw that graduate to $1533 per machine under the guise that it would assist in creating funds to assist with upgrades and developments at hospitals and to shorten waiting lists. We had hardly digested that fact when the licences increased to $3033 per machine, with much concern in the industry that they would be further lifted another $1500 — and lo and behold, we did not have to wait long! Now licences for EGMs sit at $4500 per machine — an unbelievable lift from $333 which was in place when this government came to power eight years ago.

It has always been the desire of the government to break up the duopoly of Tabcorp and Tattersall's. Although the government has achieved that break-up, I do not think it has achieved in the short term what it set out to do, and people have openly backgrounded that here today. From 10 April the government announced new structures for the gaming licences beyond 2012. It also awarded a licence to Intralot for various lottery activities across the state of Victoria in competition with Tattersall's and, of course, Tabcorp.

There were also 12-year licences offered for the wagering and racing industry. In many ways it is going to be very interesting to see how this unfolds as time goes on especially after Betfair has entered the arena. Any state government which did what it could do to withhold the racing nominations from the Betfair organisation has lost through High Court cases. I believe that was probably always going to take place, especially after Betfair set up its headquarters in Tasmania. We admit that right through this process it has been messy and somewhat flawed. Finding another operator was not easy. The margins are and always have been very fine in the gaming and lotteries industries in Victoria, but the interesting aspect is that Crown has remained unscathed in the break-up of the machines across the board.

It is interesting to note that under the licensing procedures in the principal act the VCGR has been sidelined in favour of the Secretary of the Department of Justice, and many of us continue to ask why. I suggest the minister obviously has lost confidence in the VCGR, or is it more an example of *Yes Minister*? I leave that for others to ponder.

I think what has historically been a well-managed industry that rewarded not only players but certainly providers, venue operators, machine owners and especially the government has in many ways been turned upside down. The second-reading speech describes the many efforts to tidy up the industry and says that those who do not toe the line will be penalised to a greater degree, which is fascinating from the point of view of minors. On page 2 the second-reading speech states:

> The government has also announced that in future legislation it will move to double the penalties for any gambling provider that allows a minor to gamble.

I ask members to remember the word 'doubling'. It continues:

> From a minimum penalty of $1100, fines will be increased to a possible maximum of over $13 000.

I am not sure what 'doubling' is, but that sounds about twelvefold to me. It goes on:

> This shows how seriously the Brumby government takes the issue of allowing minors to gamble.

The Premier should give us all a break. This is something that indicates to me and to many others, especially in the gaming industry, that in many ways the government has lost the plot in relation to gaming activities and the manner in which it is going to address them.

Today I read with interest about the success of putting in place our third lottery player, being Intralot. An article on page 3 of today's *Age* by city reporter Kate Lahey is headed 'Lotteries rejig has left "no winners"'.

This afternoon it was ably demonstrated that this has been fantastic, that it has entered competition into the industry which was going to be more beneficial to all parties and that it is certainly going to grow the industry — but I think we have learnt very early in the process that that is not going to be the case, and I will quote a couple of pieces from the article in the *Age* today which says:

> About 500 businesses in Victoria are losing 15 per cent or more of their lottery income and are unlikely to recover it, according to the Lottery Agents Association of Victoria. Chief executive Peter Judkins said the … government should never have split the lottery licence between Tattersall's and Intralot and must take responsibility for the situation. 'It's just a disaster,' he said.

The article went on:

> Mr Judkins said his organisation estimated the government was now losing about $900 000 in lottery tax every week.

And I believe from speaking to others in the industry that that is a conservative number. It goes on to say:

> Daylesford newsagent Les Faulkhead is preparing to challenge Intralot in the small claims tribunal after deciding to abandon his arrangement with them. He said he paid Intralot $9350 —

for his licence —

> and received nothing but trouble in return. 'The ticket checker for people to check their tickets was in Greek,' he said.

Isn't that amazing! The article also says:

> Gaming Minister Tony Robinson conceded Intralot's first month could have been better.

It would be very difficult to say otherwise.

I think the fascinating thing for the providers of Intralot is that they are rebuying the licences that they have historically owned under Tattersall's, and there is no doubt from what has been put in the press today that there is much concern right across the board in relation to what has taken place.

The other thing that has been raised here today is in relation to the Community Support Fund, which was put in place to assist problem gamblers but to date all evidence would indicate that it has been a smokescreen. The returns to the Community Support Fund have been far short of what was anticipated. It is being returned to local government areas, not particular venues, and it has been very hard to track where this money has been expended in support of overcoming problem gambling, which is something that, regrettably, I do not see going away in the near future.

I think we should all feel for people who suffer from problem gambling. I know it is a very small proportion of those who exercise their right to participate in gambling, whether it be in the wagering area, with our fabulous horseracing, or whether it be with gaming machines at the various venues. Far more has to be done for problem gamblers and this government has certainly let problem gamblers and our community at large down.

The second part of the bill relates to racing's new wagering and betting licences across our three codes: thoroughbred racing or Victoria Racing Ltd and its shareholders, the harness racing industry and the greyhound racing industry. Importantly, many Victorians are not aware of how big the racing industry is and its value to Victoria in many ways, not only because of the revenue it produces but also from a social point of view.

Racing is, to the best of my knowledge, Victoria's third largest industry by turnover. It turns over approximately $2.5 billion on an annual basis. It employs in excess of 70 000 people and, importantly, 65 per cent of that employment is in regional Victoria and makes up a large component of regional employment. Its prize money is underwritten principally by 25 per cent of gaming machine revenue, or in the past about $75 million but, as we are aware, the government has indicated that that amount of money will certainly increase. It is something that this side of politics has a major concern with because we see most of this revenue disappearing under the proposed legislation. The value of wagering licences — and I will touch on that later — will clearly demonstrate the concerns that are being reflected.

Racing makes a big contribution, as I said, to rural Victoria's social fabric, and if it is further diluted obviously it will have some effect on the viability of smaller communities. A clear example of that is what the directors of Harness Racing Victoria did under cover of darkness two or three years ago when they took out seven harness racing clubs in regional Victoria. The closure of many of these clubs had a detrimental effect not only on social activities in those smaller areas but also on their viability. One example is the club in Hamilton where I live, and it should never have been closed. It services the far south-western end of Victoria where there is no other club, and a huge burden has been placed on those who want to remain in the industry to participate. In Hamilton alone $1 million on an annual basis was lifted out of that community, never to come back, which most people have not appreciated. It has been drawn out of those areas of further employment, hospitality, obviously feed and produce for the horses, veterinary and farrier services, transport, fuel and local sponsorship. Those services never come back once they are taken out. The biggest problem, as I mentioned earlier, is the cost to participants. It costs participants dearly and unfortunately many have left the industry.

The clubs that were affected, as members may be aware, were St Arnaud, Gunbower, Boort, Ouyen, Hamilton, Wedderburn and Wangaratta. We are now seeing that Harness Racing Victoria is putting its own Crystal Palace together out at Melton, and I am sure there are many who are concerned as to where the meetings are going to come from for Melton. They would be looking for at least another meeting a week. I am not sure whether that can be extracted from Moonee Valley, but I believe there are contractual arrangements there and that they will not be extracting them with any ease. My major concern is that more of our country clubs will be stripped of the rights of running harness

racing events in their local communities. That may come at a further cost to those communities which not only enjoy but historically have prospered out of harness racing.

I have to say that greyhound racing has done extremely well under the leadership of Jan Wilson. I enjoy Jan Wilson's company. I think she has done a fine job with the committee of Greyhound Racing Victoria. She has certainly raised the profile of greyhound racing. Of all the racing codes I think what has taken place at Greyhound Racing Victoria with Jan Wilson and John Stephens has certainly indicated to the industry that they have found their way through to gain the opportunity for their product. That of course has certainly had flow-on effects to their participants, which is very good.

The introduction of betting exchanges like Betfair and the move north of corporate bookmakers, particularly to Darwin, where these activities have been taking place for quite some time, has come about due to the constraints that this government has placed on bookmakers, especially the costs imposed on those who hold licences in Victoria. The current situation of gaining any competition for an exclusive licence must be under serious threat here in Victoria.

There is little doubt that Tabcorp will be reviewing its current position. It will most likely not be upward. I do not think there is any doubt about that. The only upward movement Tabcorp might have in its thoughts on wagering would be to move some of its activities to Darwin.

My further concern is that, in gaining this so-called competition for wagering licences in Victoria and the competitions introduced to our gambling licences, once that move takes place institutions such as Tabcorp, home-grown here in Victoria, may well relocate interstate and possibly to Sydney, where it obviously has other business interests. That would be a very big shame.

Although it is the highest taxed of all wagering licences, the licence currently held by Tabcorp holds no protection from the growth of betting exchanges, illegal tote odds or illegal advertising from corporate bookmakers. In fact it faces many restrictions, like sports betting; credit betting; 24-hour, 7-day off-course betting; and restrictive, fixed odds wagering. It is amazing that an entity like Betfair has come into the industry as it has. I do not deny any betting exchange the opportunity of coming into the industry and I think it is marvellous that we get more competition, but it should be on fairer grounds than we have seen in our racing industry. The exclusive licence that Tabcorp has for wagering in Victoria comes at a penalty of returning to punters 84 per cent of revenue, with the remaining 16 per cent shared between government and the runners of the operation, being Tabcorp. Betfair has come on the scene making little or no contribution to the product — between 3 per cent and 5 per cent. Obviously it has a run-up start on returns to its punters and that in itself is very attractive.

This government certainly made sure that there will never be any further exclusive wagering licences issued in this state. That is a huge threat to our racing industry, which is internationally renowned. This government has gone out of its way to undermine the industry, but hopefully it has the capacity to recover to its former glory. Everything possible has been put in the way to make sure that this does not happen for many who have put in so much. From that point of view I think the government will whistle in the wind to attract any great premiums for a wagering licence in this state. Many in the industry think exclusive licences are a thing of the past after the High Court ruled in favour of Betfair in the Western Australian challenge, which saw the regulation of wagering swept away completely.

If we are to support the community and the punting public of Victoria, deregulating the industry means that in many cases it will be difficult to gain the same outcomes that we have seen in the past. Many of us have watched where the gaming licences have gone and the results that have come out of that process. Although racing is supposedly going to favour the state coffers and the revenue base by approximately $130 million in the coming year, we should be concerned as to what will underwrite the racing industry prize money beyond 2012. Industry leaders across all three racing codes in Victoria are at a loss to know where the necessary funds will come from.

I must say that the racing minister continues to tell everyone that he has a plan for the industry and that it will not be worse off than it is today. He has two commitments: firstly, to the importance of growing a viable industry and, secondly, to funding for the industry being on a not less favourable basis. This rhetoric rolls on, but the proof is yet to be defined or announced.

I notice that, unfortunately, the minister has returned to his old form and continues to call many around him — the shadow minister gets a fair flogging — anything that comes into his head. I was surprised to read in *Hansard* recently, after this went through the lower house, that the minister had succumbed to using such language as calling people 'Noddy' and 'Chicken

Little' and describing others as 'lead in the saddlebag of the industry'. The truth here is that industry people from all walks of life and at various levels think the minister himself is a dill, has lost the plot and is going to be detrimental to this great Victorian icon. I for one hope that is certainly not the case.

I will go further and indicate to the house that I have a personal belief — and I think the industry has this belief to a degree, and if it does not then industry participants do — about probity and governance across this fabulous racing industry. In fairness, I believe it related more specifically to the thoroughbred and harness industry. As I mentioned earlier, I believe that Greyhound Racing Victoria has gone a long way and, although there may be some shortcomings there, I believe they are certainly not of the same degree as we have seen in the other two codes.

I am particularly concerned about where our thoroughbred industry is going. We saw in the *Sunday Age* 22 June an article reporting that:

> State racing minister Rob Hulls … had moved to distance himself from the industry's embattled administration following revelations that the former detective hired to oversee Victorian racing's integrity once worked privately for a suspected drug dealer.

I believe very strongly that an industry the size of the racing industry does not and should not deserve that sort of criticism about anyone it has employed. I will not draw too heavily on this, but the minister is reported in the same *Sunday Age* article as saying that he understood RVL (Racing Victoria Ltd) had run checks on Mr Dayle Brown and that Mr Brown had revealed his association in 1994 with nightclub owner Paul Pavlovski, who was later convicted on drug charges. If this was thought to be a tidy way of our racing industry getting its probity system back into order, it has turned out to be very messy. It is something that could have been done and handled a lot better.

It really shook me when I was told something about getting the probity situation in order — and I believe it was common knowledge, which concerns me more. When statutory declarations on this were signed, the first one was found not to be correct and a second had to be put in place. If that is probity and good governance of such a large industry, I think we all have to be terribly concerned. This, I may add, is on the back of the release and resignation of the RVL's former CEO (chief executive officer), Mr Steven Allanson, because of his own wagering activities which, although not illegal, were certainly outside the bounds of his employment as the CEO at Racing Victoria Ltd. Those wagering activities were determined to have taken place over a far greater period of time than he had indicated to his directors. I wish the new CEO well, but I think there are many bridges there to be mended in the foreseeable future.

Our racing industry is far too big and too important for things like this to take place. Probity and governance will always be an issue anywhere there are dollars involved, and as we know many dollars are involved in this fantastic industry, which a large proportion of Victorians enjoy and participate in on a daily and weekly basis.

While saying that, it would be remiss of me not to recognise the last day of work of the chief steward at RVL, Des Gleeson. Des is one of those gentlemen who are very few and far between. Probity has always been something of a very high order for Des Gleeson. He is recognised not only in the state of Victoria but nationally and internationally for his stewardship of this fantastic industry. The Des Gleesons of the world do not come by too often. As many members would be aware, Des has been the chief steward at RVL for many years and was at the VRC (Victoria Racing Club) prior to that. Like many good country people, Des came from Warrnambool. He has been a racing man all his life, and I think his contribution to the racing industry should go down in history as one of the finest. So, Des, from many in the racing industry, including myself and many participants, congratulations. Yours is a great record, and we only hope your replacement can be of the calibre that you have exhibited over your long years with the racing industry.

Another area of the racing industry that should not go unchecked is jumps racing. As a racing enthusiast and someone from western Victoria, the home of jumps racing, I think it is so important that this be brought forward on this occasion. We know that an industry report on jumps racing in Victoria is being sought by the minister. I believe that report will be returned in October. It would be an absolute tragedy if the government pursued the demise of jumps racing in Victoria. It has been a long-time fixture of racing in this state. We know it has been banned in all other states except South Australia. Jumps racing has been a fixture in western Victoria racing forever. It is where it started, it is where it is at its best and in my opinion it should remain. There is absolutely no doubt that in recent times we have seen — unfortunately, with many concerns in the community, especially from Animal Liberation people who are concerned about it — the falling of horses and the loss of bloodstock. We all share the concern, especially for the jockeys and the owners of the horses.

Much effort has been made over the past five years to try to correct some of these positions, but it has been a losing battle. I personally think some of this has gone the wrong way. It hurt me badly to see the live fences pulled out at Warrnambool and replaced with modular jumps, which we all know have yellow tops for about 18 inches to 24 inches. Unfortunately the horses tend to jump through them, not over them. The only live fences remaining in Victoria are at my home racing club in Casterton in the far south-west. I will be most annoyed if the industry goes ahead and removes the last surviving fences in Victoria.

The industry, for whatever reason — I believe it was in the best of interests — indicated that the modular jumps would be used at the Casterton Cup meeting in the steeplechase and that the steeple brush fences would not be used. We had six jumps where we would normally have a dozen or 15. The horses ran so fast on the flat it was unbelievable. They endeavoured to jump through the modular jumps and not over them, and regrettably due to the speed and the horses not jumping in a correct manner, one horse in the back straight of the 3200-metre steeplechase race hit a rail on a modular jump and did itself an injury that could not be repaired. Unfortunately we lost that horse to the industry.

At the next meeting at Casterton on 13 July a similar event occurred, and we have seen more than we would like to see across Victoria in the last 12 months. I have no doubt that the dryness and the speed of the horses on the ground have been big contributors and that the racing is too fast.

Importantly we have to recognise that horses are not mugs. They know if they can jump through a hurdle, and if they can they will jump through it every time. In fairness to the jockeys, they all endeavour to win the race, and the sooner they get to the line in first spot the better the reward. That is not being rude to jockeys; that is the competitive nature of the industry, and I support that.

I hope the racing people who may read this report and put things in place will give consideration to exercising and training horses over jumps they have to jump over, not jump through. Wherever possible the return and retention of the brush fences, certainly at Casterton, should be maintained. There is a fallacy that people believe, which is that horses can come off flat racing and automatically go into jumps racing. I can assure you that is not the case. We have seen the migration of horses coming off the flat from other states where there is no jumps racing coming back into Victoria and being put over our jumps. That is having a detrimental effect on the industry across the board.

To try to take the pace out of these races we should not be running jumps races, be they hurdles or steeples, on anything but probably dead 4 or dead 5, possibly dead 5, tracks. The sport will have to return to the wetter months, and wet weather is not something we are blessed with on many occasions at the moment. If due to climatic conditions jumps racing could be held in abeyance at this stage and not lost, it would benefit the future of the racing industry. There are many fantastic people involved in the racing jumps industry, especially Eric Musgrove, who has done an excellent job over the years. If jumps racing is removed from south-western Victoria, it will lead to the demise of racing in places like Coleraine, which only has one meeting a year but has the Great Western Steeple, a steeplechase revered across the racing industry. As many members would know, one of the people most learned about the steeples and winners at Coleraine was Adam Lindsay Gordon, whose bust stands in the park on the south side of Parliament House off Spring Street at the end of Little Collins Street. He was probably one of the best steeple riders that Victoria has ever produced. Unfortunately he took his life in his 30s.

If the grand annual steeplechase at Warrnambool is lost forever the Warrnambool Racing Club and the Warrnambool community will face a serious downturn, and that is something I do not for a second believe should occur.

Another race club that is not getting a fair trot at the moment is the Werribee Racing Club. The matter of that club has been raised in this house before. For various reasons the Werribee racecourse has been put out of contention as a racing venue at the moment. Many of us are aware of the contribution that the Werribee Racing Club has made over the years. President Alan Harvey and his great supporter Geoff Smith, the deputy president, have done much work down there. They have put together a fantastic convention centre which allows viewing opportunities and ventures to take place at the Werribee racetrack as never before.

I have little doubt that after expending the funds and doing such a fantastic job, not having the race meetings locally has given them some serious concerns. The club races currently as a tenant at Geelong, but to take that flare away from Werribee is a real shame. They have been great participants at Werribee. It is a sister club to the VRC's Flemington and historically has made a fantastic contribution.

I have with me a record of some of the outcomes achieved at Werribee. In its endeavours to gain a regional racing super-centre, whether it be at Werribee,

Little River or in between, where further opportunities may be possible by putting down a greenfield track, it is important to give a snapshot of what has been forwarded to me to show that its contribution to the racing industry is of importance. I have a document prepared by the Werribee Racing Club called 'Leading the field to establish racing's first super-centre', which is a plan for growth at this centre.

There is little doubt that Werribee has made a great contribution. The publication states that returns to owners in excess of 100 per cent and regularly higher than other leading provincial clubs have taken place in the last three years. On-course wagering per meeting was the fifth highest of all country clubs in the season 2005–06. It had the second highest off-course turnover on Cup Day, after Geelong, in 2006–07. It had the fourth-highest on-course cup turnover in the same season. It has the third-highest off-course turnover on Cup Day after Geelong and Cranbourne in the current 2007–08 season, which will be completed today. Racing seasons, as we all know, start tomorrow, 1 August, which is the date of all horses' birthdays.

The Werribee club had the seventh-highest total for attendances in the 2005–06 season in circumstances where the club had less meetings than other major clubs. The opening of its $3 million grandstand and function and convention centre with dining facilities, took place in 2007. This publication goes on to say that prior to racing being discontinued at this venue its non-race day function income was envisaged to be growing with a budget of $1.2 million gross sales per annum within a two-year period.

Werribee, which comes under the Country Racing Victoria banner and needs a lot of money spent on its track to bring it back up to form, cannot manage to get support from country racing, which only has approximately $4.5 million on an annual basis to look after its many clubs right across Victoria. I am sure many will support Werribee in trying to gain the opportunity of hosting the racing super-centre as proposed. That is something I think we will be seeing across Victoria, having read recently in the paper that we may be flat out keeping all our smaller clubs on the map.

I forecast this when Harness Racing Victoria, under cover of darkness and without consultation or warning, unfortunately closed the seven clubs I previously mentioned. Clubs such as Coleraine, Penshurst, Edenhope, Apsley and possibly Camperdown, to name but a few in western Victoria, could be faced with this situation. That is something I would certainly not like to see. Those small communities make a fantastic contribution to the racing industry, and the racing industry makes a fantastic contribution to their communities; the last thing I would like to see happen would be the closure of those clubs.

In closing, I hope for the sake of the racing industry, owners, punters, those associated at the track and punters at our lottery and gaming venues that this government starts to get it right, because it certainly has not got it right at this stage. It has fiddled around the edges. It has made some grave errors at the top, and it is going to cost the punting community across Victoria dearly. It has been demonstrated already that it will start costing state revenues dearly.

More than that, it will take the opportunity away from Victoria of being recognised, certainly from a racing point of view, as one of the best racing centres that can be experienced anywhere in the world. Our spring carnival testifies to that. Capped with Melbourne Cup Day, I do not think there is a second in the world. We are recognised for it, and I hope the government respects that. The tourism spin-off on the back of it is something that should never be underestimated.

If any of it is put in peril, there is only one government that can look at it — and that is the government that is mucking around at the edges and doing its best in many ways to pull the guts out of what has been such a successful industry over so many years. It is not putting things in place, especially in the probity and governance area, to make sure that this industry stays at the forefront.

As I said, the way things have been managed since 2004 certainly leaves a lot to be desired. I have no doubt that there is room for a third licence in the gaming and lottery industry, but this government, as I said earlier in my contribution, has not covered itself in glory to this point in the way it has gone about things. The wagering industry unfortunately remains in limbo and awaits with some urgency news about where it might be going beyond 2012. There is a lot of uncertainty out there from the point of view of the racing industry. I can only hope that the racing industry goes on to bigger, better and greater things. At this stage I reserve my judgement and wish the bill a safe passage through the house.

Mr DALLA-RIVA (Eastern Metropolitan) — It is important from my perspective as the shadow industry minister to talk about one of the great industries in this state, with around $1 billion a year in revenue. In one way or another it touches people's lives on a daily basis. It is an industry that can be persuasive, it is an

industry that can be fun and it is an industry that can affect people in various ways.

However, we are again debating a gaming bill. Before I move on to that, I pay homage to the previous speaker, Mr Koch, who spoke exceptionally well and with passion about horseracing. He is a person who understands the industry and attends meetings on a regular basis, even in his role of representing the Western District. It is certainly a very good industry for Mr Koch to have an understanding of, and I know from previous experience that he has been very supportive of my understanding the complexities of how the industry works.

The industry touches on the area of gambling, and the Gambling Regulation Amendment (Licensing) Bill before us is very important, but it has been poorly managed by the government. We on this side of the chamber believe the bill ought to be withdrawn and redrafted to ensure that the probity requirements of the licensing process are protected by prohibiting lobbying activities, as recommended by the Gambling and Lotteries Licence Review Panel. This panel was established by the government when it decided that it needed to undertake a review. The review was undertaken by two leading Queen's Counsel, a junior barrister and an instructing solicitor, and the report was a benchmark — from which the government purported it was going to work — in terms of ensuring that all of the issues and concerns in the gambling industry would be dealt with. But we then find what is typical of this government — that the review was accepted by it only in part.

We know that there have been further reports since that review and since the inquiry undertaken by the select committee of this chamber into the activities and dealings of various individuals in relation to gaming and gambling provision in this state. Recently we saw a report in the *Herald Sun* headed 'Tony Sheehan's $1 million deal for gambling licence', which states:

> Documents seen by the *Herald Sun* detail how Mr Sheehan's private consulting firm was to be paid $83 000 for every year of the licence …

This being a 10-year licence awarded to the Greek gambling company, Intralot, the total fee is obviously $830 000 plus, and on top of that there are up-front fees of $300 000. So we are looking at a total reward of $1.13 million. Why was that the case? My understanding is that when Mr Sheehan gave evidence at the select committee on this particular issue he really would not reveal much. It was only after the event that these details were provided. We know that there were other lobbyists — including David White — behind the scenes meddling in the tender. They are the very clear reasons that we believe in the reasoned amendment, which would withdraw the bill.

I turn to the report of the Gambling and Lotteries Licence Review Panel to the Minister for Gaming in relation to the current public lottery licensing processes, known as the Merkel review, which went through a range of issues. In his second-reading speech the minister referred to the Merkel review and even acknowledged the limitations of the review in terms of its lack of capacity to cross-examine ministers or their staff. The minister referred to one example of the corruption of the lotteries licensing process — that is, the pipeline which sent sensitive, confidential licensing information from the minister's office to Labor mate David White, and from there on to the clients at Tattersall's.

I will refer to the report. It is important to understand that this was a significant investigation; it was not like something you would see on *The Oprah Winfrey Show* that would be a brief flyover. This is a serious matter. The important point, following on from what I said, is made in the Merkel report at paragraph 170, where it states:

> … it is now clear that, at an early stage of the licensing process, Hawker Britton was given preferred access to a licensing process document by someone in the minister's office.

As I indicated earlier, there was no capacity for investigation of the minister or his staff. It always astounds me that this government opposes having an independent commission against crime and corruption. You can imagine that if a body such as the ones established in New South Wales, Queensland and Western Australia were able to get its hands on this, it would be doing cartwheels, because there is so much that it could learn in terms of what the processes were. What were the processes? We do not know. Who gave the information, and what was the information that was given, in terms of the preferred access that was detailed in paragraph 170 of the Merkel review?

Having exposed this, what did Merkel then say about it? At paragraph 164 the report refers to the lobbyists. It states:

> … preferred access could occur at any stage of the licensing process.

Then further on, at paragraph 175 of the report, it states:

> The reason the panel has considered the lobbying issues at some length is that it finds the very notion of lobbying in respect of a proposed or actual lottery or gaming licence application antithetical to the probity of the licensing process.

> Evidence was given to the select committee that lobbying was about 'opening doors' to government. Preferential treatment or preferential access means unequal treatment and unequal access, which inevitably undermine the requirements of impartiality and a level playing field.

I think that is important. It goes on to state:

> Those requirements are essential if licence applications are to be determined fairly and on their merits without any improper conduct or interference on the part of any of the participants in the process.

In other words, what other forms of corrupt activity are there that might be on the point?

The report goes on to state at paragraph 176:

> The panel is of the view that the future probity requirements for a lottery or gaming licensing process should expressly prohibit lobbying activities in respect of that process once it commences.

Merkel is very clear about what he believes — that lobbying activities ought to be expressly prohibited once that process commences.

I will reiterate paragraph 182:

> It follows from the foregoing discussion that lobbying activities are antithetical to the integrity of the licensing process …

Nothing could be clearer in terms of this process. The government puts its hand into everything. Whether it is Brimbank and the problems it now has or whether it is this issue, the government always demonstrates how hard it is to follow a process. It has undertaken this in the incompetent way Cartman from *South Park* would have undertaken it. You might as well have grade 3 kids running this process, because that is what has occurred.

Nothing could be clearer in terms of what the Merkel report said: there should be a clean licensing process that is fair and impartial. You have to get lobbyists out of the process. What has this bill got? It has no exclusion in terms of lobbyists; it is silent on that issue. So why would you exclude lobbyists? Why would you allow that in terms of being clear and adopting the recommendations that have been put forward? There might be some roundabout way of talking about it, but the bill is not succinct and clear about ensuring that it prohibits lobbying activities as recommended by the Merkel review. This legislation is about setting the process for wagering and betting licences and for Keno licences. What does the bill say about the involvement of lobbyists? It says nothing; it is silent.

The government commissioned the Merkel report. The government now disgracefully refuses to adopt the report's recommendations. This is something we should take seriously — some more so than others. This bill should not progress from the adoption of what Merkel suggested in the recommendations — —

Mr Finn — What were the Merkel recommendations?

Mr DALLA-RIVA — The Merkel recommendations are outlined in the document I have, Mr Finn, and it is quite clear that the government has failed in that respect. It is why we have moved a reasoned amendment; that is why we believe strongly that the government seems to be keen on keeping the lobbyists' snouts in the trough. The government seems to be more concerned about looking after its million-dollar Labor mates than it is about probity; it is more concerned about ensuring protection for its Labor mates, and whoever else might be involved with them, than it is about establishing an independent crime commission.

The government is more worried about what may be uncovered in Brimbank, for example, and all the mess that is happening there. The factions in the dominant right of the Labor Party are an indication of where the real agenda of the Labor Party lies. The government does not care about the people of Victoria; the people of Victoria are a side issue; the people in the country are a side issue; and the people in Melbourne are a side issue. If the government were serious, it would pull out the north–south pipeline, it would stop the desalination plant in country Victoria, and it would start listening to people in country Victoria.

The government should ensure that Melbourne has an adequate transport system, not just talk about it. We are going to go through an enormous talkfest about the transport system and what the government proposes to do. As happened in 2003, 2006 and 2008, there will be another report that goes nowhere. We have seen this clearly with the Merkel report, which set out with great intent to ensure there was a balanced outcome in the gambling licence process in Victoria. We are about to enter into 12-year licences — possibly 14-year licences because of the minister's discretion to extend the licence by 2 years — when we still have questions about how the process went.

I think the hallmark of this government is going to be the whiff of corruption. It is a shame for Victoria, because after nine long years all this government has been able to do is reward its mates and deliver nothing in terms of real outcomes. The really sad thing about this bill is that it will deliver, as I just said, a 12-year licence, which will possibly be a 14-year licence

because of the 2-year extension, under a cloud because of a process that involved rewarding mates and rewarding lobbyists. We believe the bill should not progress without the adoption of the Merkel report recommendations. Let members not forget: Labor initiated the Merkel report; now it says it will ignore it.

The opposition does not intend to prevent the system from being fixed; it is trying to ensure that Victorians get a fair outcome from the system. But at the moment you would have to say that the whole process is rotten to the core. How do we know that? Daily we hear, read about and see the concerns of people who are trying to gamble using Intralot. It is amazing that we now have a system in place that most people will probably struggle with unless they can read or understand Greek. My wife is lucky, because she can read and understand Greek, but for the vast majority of Victorians and for the operators it has been a very difficult problem.

Why does the system take so long to fire up? Why does it frustrate everyone? If there had been a fair process, then maybe none of these issues would have been a problem. To a degree, this issue is like the Queen's corgi walking along the street. There is really no outcome in terms of what is going on. I think it is important to recognise and support the reasoned amendment we have moved, which proposes to withdraw the bill. If members want any further evidence as to how effective the bill is, they should consider that there are five pages of amendments — —

Ms Lovell — Government amendments!

Mr DALLA-RIVA — Indeed, Ms Lovell. If you were reading *Hansard*, you would say, 'Clearly, five pages of amendments to a bill would have come from the opposition, from the Greens or from the DLP. But hang on — they have not!'. It says on the amendment sheet:

> Amendments to be proposed in committee by Mr Madden

We have a bill that follows the extensive processes of the Merkel review, we have the weight of government and all the ministerial advisers — the thousands there that trawl through and do a good job every day for the government — but ultimately when it comes to the crunch, when we are in the chamber about to pass the legislation, the government lumbers in with five pages of amendments. It is as bad as my tie — full of stars and stripes. The government cannot get it right. If you reckon the subprime is bad in the United States, you want to be in Victoria where we have this sort of ad hoc approach to legislation: 'If the legislation is not right, we will just change it'. You cannot keep doing that. Time and again we have seen that with legislation in this chamber. We saw it with the Police Integrity Bill. It is bill after bill, amendment after amendment. I think there were about nine amendments to the so-called anticorruption legislation.

Mr Finn interjected.

Mr DALLA-RIVA — They went through, Mr Finn, year after year. Those who look at *Hansard* will see that that is so, and I cannot remember accurately because there were so many amendments involved in trying to get it right. I still do not think they have got it right, because we are now seeing, unfortunately in the media's view and in the view of the public, an issue that is now going to go before the courts. The decision is not going to be based on the guilt or innocence of certain individuals but on whether a particular political outcome is going to be of benefit to one group or another. That is not the way the law operates. You do not charge somebody with a serious offence and hope the outcome is going to be politically favourable for you. You do not charge somebody with a serious crime and then hope the outcome from a court of law will validate the actions of the government of the day or validate the actions of those who do the administration or who work for the government of the day.

Having said that, it is important that we understand that this is yet another example of a bill where the government has got it wrong. It has not only got it wrong in terms of the Merkel report but it has got it wrong in terms of the legislation, which has already been through the Assembly and was passed by Labor members in that place, who I must say with the greatest of respect just like sheep voted in unison without considering the merits of the bill. Why do we now have five pages of further amendments when the bill is being considered in this chamber? It just demonstrates why the bill ought to be withdrawn. It ought to be withdrawn and redrafted so that we get it right, because the bill is not right. If there are amendments now, what other amendments also need to be put into place? It is a shocking indictment of this government that after nine years in power it has to amend its bill. Nine years the Labor government has been in power and it still cannot get things right. The Hepburn Springs bathhouse has had six announcements. We heard the minister the other day talking about the bathhouse and the major project. He said, 'Come down. You can go in, but you need a bath towel', but if you stood out the front with a bath towel, you still could not get in.

With those few words, I must say that this is again a demonstration of a government that is arrogant and a government that is disgraceful in the way it treats

Victorians and the contempt in which it holds due process. It talks big about openness, honesty and transparency. I have always said this. I think it is a corrupt government. When we get an independent crime commission in place I think we will discover that there have been a lot of activities and a lot of advisers and other people who have been involved in processes that could only be described as corrupt, and due process will take place in a court of law down the track. I look forward to that day.

House divided on amendment:

Ayes, 16

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

Noes, 22

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

Pair

Mrs Kronberg	Mr Tee

Amendment negatived.

Motion agreed to.

Read second time.

Committed.

Committee

Clause 1

The DEPUTY PRESIDENT — Order! Minister Madden, to move amendment 1, which is a test for his amendment 2.

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

1. Clause 1, page 2, lines 1 and 2, omit paragraph (c).

The amendment removes from the purposes of the bill the reference to extending the term of the Tatts Group's current gaming operator's licence. The reference has been removed following consultation and agreement with the minor parties in this chamber. The bill includes a mechanism for the Minister for Gaming to extend the term of the Tatts Group's current gaming operator's licence, which expires on 14 April, 2012, for a period of up to five months, subject to appropriate payment, to allow the expiry date of that licence to be brought into line with the expiry date of the current gaming licence held by Tabcorp, which expires on 15 August 2012.

Mr GUY (Northern Metropolitan) — I am advised that this is a test for the minister's amendment 2, which is an amendment the government has proposed without any consultation with the Liberal Party or The Nationals. I understand from direct feedback obtained today by the Liberal and National parties from Clubs Victoria that it will cause considerable uncertainty for clubs. Further, it is our view that we will not vote for an amendment that we were not consulted about, particularly given that the bill and the amendments have been the subject of consultation for a number of weeks. I make the point that, if the government is serious about this clause being omitted, it should also say that it does not intend to introduce the provision at a later date.

Hon. J. M. MADDEN (Minister for Planning) — I am happy to make a response, which may not necessarily answer the query of the member opposite. My understanding is that there has been extensive discussion and consultation with the opposition in relation to a number of issues. I understand it has been exhaustive. I am not aware of the absolute specifics of that, but I understand that at the end of the day and of the process, the opposition chose not to commit to those negotiations. That is not a criticism, it is just the situation as I understand it to be the case. Hence the government has pursued other options in relation to the amendments that are proposed here today. I can only make reference to that.

Mr GUY (Northern Metropolitan) — I just want to say again for the record that amendment 2, which seeks to omit clause 5, was not discussed with the opposition in the weeks leading up to today's debate. It is an amendment which has been brought to us, on my understanding, only today, as we have seen these amendments. Again I ask the minister if he can give any indication of whether the government will bring in this clause at a later date.

Hon. J. M. MADDEN (Minister for Planning) — To give some detail in relation to clause 5, it also deals

with the extension of the gaming operator's licence. It includes a mechanism for the Minister for Gaming, subject to appropriate payment, to extend the term of the Tatts Group's current gaming operator's licence, which expires on 14 April 2012, for a period of up to five months to allow the expiry date of that licence to be brought into line with the expiry date of the current gaming licence held by Tabcorp.

The amendment to the Gambling Regulation Amendment (Licensing) Bill removes the clause from the bill. As stated during discussion on the amendment to clause 1, this amendment has been added following consultation with minor parties. I am happy to seek advice.

The DEPUTY PRESIDENT — Order! I think what is at issue here is that in the course of debate — in fact I think it was in the second-reading speech — the government indicated there were further legislative proposals in regard to gaming, and I think Mr Guy's question is: is the proposal associated with clause 5 likely to come back as part of future legislation?

Mr GUY (Northern Metropolitan) — Maybe I was not as clear as I could have been for the minister. I just ask him whether or not the government would rule out bringing in clause 5 or something similar at a later date.

Hon. J. M. MADDEN (Minister for Planning) — I am informed it has not been considered at this time.

The DEPUTY PRESIDENT — Order! The first amendment moved by the minister will test his second amendment, which affects clause 5.

Committee divided on amendment:

Ayes, 22

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

Noes, 16

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

Pair

Lenders, Mr	Kronberg, Mrs

Amendment agreed to; amended clause agreed to; clauses 2 to 4 agreed to.

Clause 5

The DEPUTY PRESIDENT — Order! By way of his circulated amendments Minister Madden is proposing that clause 5 be omitted from the bill. He is inviting the committee to vote against the proposal I am about to put. The question is:

That clause 5 stand part of the bill.

Clause negatived.

Clauses 6 to 8 agreed to.

Clause 9

The DEPUTY PRESIDENT — Order! I call on the minister to move amendment 3, which I regard as a test for his amendments 4 to 15.

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

3. Clause 9, page 9, line 7, after "registrant" insert "and a registration of interest".

Amendment agreed to.

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

4. Clause 9, page 9, after line 9 insert —

"(d) requirements for a registrant or an applicant to have protocols or procedures to prevent an interested person from improperly interfering with the preparation or making of a recommendation or report under this Act in relation to a registration of interest or an application for a wagering and betting licence; and

(e) reporting requirements for a registrant, an applicant or an associate of a registrant or of an applicant in relation to the protocols or procedures specified under paragraph (d); and

(f) any other requirements specified by the Minister in relation to registrants or registrations of interest; and".

5. Clause 9, page 9, line 10, omit "(d)" and insert "(g)".

6. Clause 9, page 9, after line 12, insert —

"(3) The notice published under subsection (1) may require any matter in, or in relation to, the registration of interest to be verified by statutory

declaration by a registrant, an applicant or an associate of a registrant or of an applicant.".

7. Clause 9, page 9, line 13, omit "(3)" and insert "(4)".

8. Clause 9, page 9, line 25, omit "(4)" and insert "(5)".

9. Clause 9, page 9, line 31, omit "(5)" and insert "(6)".

10. Clause 9, page 10, line 3, omit "(6)" and insert "(7)".

11. Clause 9, page 10, line 15, omit "(7)" and insert "(8)".

12. Clause 9, page 10, after line 15 insert —

"***applicant*** means applicant for a wagering and betting licence;

interested person means —

(a) a registrant or an applicant; or

(b) an associate of a registrant or of an applicant; or

(c) an officer, servant, agent or contractor of —

(i) a registrant or an applicant; or

(ii) an associate of a registrant or of an applicant;".

13. Clause 9, page 10, line 28, omit "member." and insert "member;".

14. Clause 9, page 10, after line 28 insert —

"***registrant*** means a person who registers interest in the grant of a wagering and betting licence.".

15. Clause 9, page 11, line 9, omit "(6)" and insert "(7)".

Amendments agreed to.

The DEPUTY PRESIDENT — Order! I call on the minister to move amendment 16 standing in his name, which I advise the committee I regard as a test for amendments 17 to 23.

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

16. Clause 9, page 11, omit lines 10 and 11 and insert —

"a wagering and betting licence —

(a) may apply to the Minister for the licence; and

(b) if the person applies for the licence, must comply with —

(i) requirements specified by the Minister for an applicant to have protocols or procedures to prevent an interested person from improperly interfering with the preparation or making of a recommendation or report under this Act in relation to an application for a wagering and betting licence; and

(ii) reporting requirements specified by the Minister for an applicant or an associate of an applicant in relation to the protocols or procedures specified under subparagraph (i); and

(iii) any other requirements specified by the Minister in relation to applicants or applications for a licence.".

Amendment agreed to.

The DEPUTY PRESIDENT — Order! I call on the minister to move amendments 17 to 23, which I regard as having been linked to the previous amendment.

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

17. Clause 9, page 11, after line 22 insert —

"(4) The Minister may require any matter in, or in relation to, the application to be verified by statutory declaration by an applicant or an associate of an applicant.".

18. Clause 9, page 11, line 23, omit "(4)" and insert "(5)".

19. Clause 9, page 11, line 26, omit "(5) If a requirement made by" and insert "(6) If a requirement made by or specified under".

20. Clause 9, page 11, line 28, after "consider" insert "or further consider".

21. Clause 9, page 11, after line 29 insert —

"(7) In this section —

interested person has the same meaning as in section 4.3A.3.".

22. Clause 9, page 12, after line 9 insert —

"(b) stating whether or not, in the Secretary's opinion, the requirements made by or specified under section 4.3A.5 have been complied with; and".

23. Clause 9, page 12, line 10, omit "(b)" and insert "(c)".

Amendments agreed to.

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

24. Clause 9, page 15, after line 20, insert —

"**4.3A.7A Prohibition on improper interference**

(1) An interested person in relation to a registration of interest or an application for a wagering and betting licence must not improperly interfere with the preparation or making of a recommendation or report under this Act in relation to the registration of interest or application.

(2) If an interested person in relation to a registration of interest or an application for a wagering and betting licence improperly interferes with the preparation or making of a recommendation or report under this Act in relation to the registration of interest or application, the Minister may refuse to consider, or consider further, the registration of interest or application.

(3) In this section —

interested person has the same meaning as in section 4.3A.3.".

Amendment agreed to; amended clause agreed to; clauses 10 to 17 agreed to.

Clause 18

The DEPUTY PRESIDENT — Order! Minister Madden has proposed amendment 25. I am of the view that that is a test for his further amendments 26 to 34.

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

25. Clause 18, page 69, line 17, after "registrant" insert "and a registration of interest".

Amendment agreed to.

The DEPUTY PRESIDENT — Order! I call on the minister to move his amendments 26 to 34, as I am of the view that they are a follow on from amendment 25 and have been tested.

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

26. Clause 18, page 69, after line 19, insert —

"(d) requirements for a registrant or an applicant to have protocols or procedures to prevent an interested person from improperly interfering with the preparation or making of a recommendation or report under this Act in relation to a registration of interest or an application for a keno licence; and

(e) reporting requirements for a registrant or an applicant or an associate of a registrant or of an applicant in relation to the protocols or procedures specified under paragraph (d); and

(f) any other requirements specified by the Minister in relation to registrants or registrations of interest; and".

27. Clause 18, page 69, line 20, omit "(d)" and insert "(g)".

28. Clause 18, page 69, after line 22, insert —

"(3) The notice published under subsection (1) may require any matter in, or in relation to, the registration of interest to be verified by statutory declaration by a registrant or an applicant or an associate of a registrant or of an applicant.".

29. Clause 18, page 69, line 23, omit "(3)" and insert "(4)".

30. Clause 18, page 70, line 4, omit "(4)" and insert "(5)".

31. Clause 18, page 70, line 10, omit "(5)" and insert "(6)".

32. Clause 18, page 70, line 15, omit "(6)" and insert "(7)".

33. Clause 18, page 70, after line 24 insert —

"(8) In this section —

"***applicant*** means applicant for a keno licence;

interested person means —

(a) a registrant or an applicant; or

(b) an associate of a registrant or of an applicant; or

(c) an officer, servant, agent or contractor of —

(i) a registrant or an applicant; or

(ii) an associate of a registrant or of an applicant;

registrant means a person who registers interest in the grant of a keno licence.".

34. Clause 18, page 71, line 3, omit "(6)" and insert "(7)".

Amendments agreed to.

The DEPUTY PRESIDENT — Order! I call on the minister to move his amendment 35 and indicate that I regard that amendment as a test for amendments 36 to 42.

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

35. Clause 18, page 71, omit lines 4 and 5 and insert —

"a keno licence —

(a) may apply to the Minister for the licence; and

(b) if the person applies for the licence, must comply with —

(i) requirements specified by the Minister for an applicant to have protocols or procedures to prevent an interested person from improperly interfering with the preparation or making of a recommendation or report under this Act in relation to an application for a keno licence; and

(ii) reporting requirements specified by the Minister for an applicant or an associate of an applicant in relation to the protocols or

procedures specified under subparagraph (i); and

(iii) any other requirements specified by the Minister in relation to applicants or applications for a licence.".

Amendment agreed to.

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

36. Clause 18, page 71, after line 16 insert —

"(4) The Minister may require any matter in, or in relation to, the application to be verified by statutory declaration by an applicant or an associate of an applicant.".

37. Clause 18, page 71, line 17, omit "(4)" and insert "(5)".

38. Clause 18, page 71, line 20, omit "(5) If a requirement made by" and insert "(6) If a requirement made by or specified under".

39. Clause 18, page 71, line 22, after "consider" insert "or further consider".

40. Clause 18, page 71, after line 23 insert —

"(7) In this section —

interested person has the same meaning as in section 6A.3.3.".

41. Clause 18, page 72, after line 2 insert —

"(b) stating whether or not, in the Secretary's opinion, the requirements made by or specified under section 6A.3.5 have been complied with; and".

42. Clause 18, page 72, line 3, omit "(b)" and insert "(c)".

Amendments agreed to.

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

43. Clause 18, page 73, after line 30 insert —

"**6A.3.7A Prohibition on improper interference**

(1) An interested person in relation to a registration of interest or an application for a keno licence must not improperly interfere with the preparation or making of a recommendation or report under this Act in relation to the registration of interest or application.

(2) If an interested person in relation to a registration of interest or an application for a keno licence improperly interferes with the preparation or making of a recommendation or report under this Act in relation to the registration of interest or application, the Minister may refuse to consider, or consider further, the registration of interest or application.

(3) In this section —

interested person has the same meaning as in section 6A.3.3.".

Amendment agreed to; amended clause agreed to; clauses 19 to 23 agreed to.

Clause 24

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

44. Clause 24, page 114, line 9, omit "Secretary" and insert "Commission".

Amendment agreed to; amended clause agreed to; clauses 25 to 35 agreed to.

Reported to house with amendments.

Report adopted.

Third reading

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

That the bill be now read a third time.

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

Motion agreed to.

Read third time.

BUILDING AMENDMENT BILL

Introduction and first reading

Received from Assembly.

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

Statement of compatibility

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

In accordance with section 28 of the Charter of Human Rights and Responsibilities, I make this statement of compatibility with respect to the Building Amendment Bill 2008.

In my opinion, the Building 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 Building Act 1993 to increase the consumer protection provided by the act by improving the capacity of the Building Practitioners Board (BPB) and the Plumbing Industry Commission (PIC) to discipline registered building practitioners and registered or licensed plumbers who do not comply with the act and the regulations made under the act as well as other related legislation.

The bill will also make amendments to the act to improve the operation of the regulatory scheme provided for by the act.

Finally the bill will take the opportunity to clarify terminology used in part 12A of the act.

Human rights issues

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

Section 13: privacy and reputation

Section 13 of the charter recognises a person's right not to have his or her privacy, family, home or correspondence unlawfully or arbitrarily interfered with. The right to privacy extends to the disclosure of personal information about the person.

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.

Clause 5, clause 6 and clause 19 interfere with the right to privacy, however, the interference is not unlawful or arbitrary for the following reasons:

Clause 5 and clause 6 (application for registration and beyond)

The proposed measure requires an applicant for registration as a building practitioner to provide the BPB with information demonstrating their 'good character'. A non-exhaustive list of factors going to good character will be provided. The proposed measure changes a system of regular disclosure of personal information, and creates a new requirement for its collection by the BPB.

The information is required to assess the good character of applicants before registration, and to provide a means to continually assess registrants' good character. The interference is reasonable because building practitioners deal directly with the public and the potential for conflict and dispute is high. They enter into contracts involving large sums of money and are often required to have unsupervised access to homes and property. It is vital that the industry consists of honest practitioners who are able to act appropriately in all situations.

The legislation will specify the precise circumstances in which the interference with privacy will occur and does not give the BPB a broad discretion to interfere with a person's privacy.

Clause 19 (use of photographs)

This proposal gives the Plumbing Industry Commission (PIC) power to endorse the licence or registration cards of plumbing practitioners with their photographs. It supports the PIC's current power to require applicants for licensing or registration to supply their photographs.

The power will only be used to endorse applicants' photographs on registration and licence cards and for internal use by the PIC in its computerised registration/licence system. It will assist consumers to confirm a practitioner's identity, the currency of their licence and/or registration, and the classes of plumbing work they are entitled to perform.

The interferences are mitigated by the existing protection of section 259A of the act, which prevents a member or former member of the PIC or anyone employed or connected with the PIC to make improper use of any information provided to the PIC.

For all of the above reasons, there is no limitation on the right to privacy.

Section 25(1): right to be presumed innocent

Section 25(1) of the charter recognises an individual's right to be presumed innocent until proved guilty according to law.

Clause 10 (section 179B — conduct of company or partnership to be conduct of building practitioner director or partner)

This proposal deems the director of a company to be responsible for the professional conduct of the company for the purposes of inquiry by the BPB, where they are a registered building practitioner, nominated as the registered building practitioner on the building permit. The BPB is a professional disciplinary body. The right to be presumed innocent is not engaged because the measure relates only to inquiry by the BPB, and does not involve any criminal offence or infringement or hearing by a court.

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

Section 26 of the charter recognises a person's right not to 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.

Clause 9 (disciplinary action — building practitioners)

This proposal provides a new ground for the BPB to inquire into the professional conduct of a building practitioner for failure to comply with a requirement of the Domestic Building Contracts Act 1995 (DBCA). Inquiries into the professional conduct of practitioners are carried out by the BPB under sections 178 and 179 of the Building Act. The BPB is a professional disciplinary body which inquires only into building practitioners conduct. The right not to be tried or punished more than once is not engaged, as the proposal relates only to inquiry by the BPB, and does not involve any criminal offence or hearing by a court.

Section 24: fair hearing

Section 24(1) of the charter recognises an individual's right to have a proceeding determined by a competent, independent and impartial court or tribunal after a fair and public hearing.

Currently the BPB may suspend a practitioner's registration pending an inquiry if it is considered to be in the interests and the safety of the public. The word 'safety' is generally limited to the 'physical' safety of a person.

Clause 8 (section 178(3) — inquiry into conduct of registered building practitioner)

This proposal extends the BPB's existing discretion to immediately suspend a practitioner's registration pending (i.e. before) inquiry, to circumstances where the public interest is at risk. For example, this is where a practitioner's repeated misconduct exposes current or future consumers to unacceptable risks, such as economic loss or where registration was gained using fraud or misrepresentation.

As a consequential measure clause 4 includes section 178 in the provisions of section 146(2) of the act, which excludes certain decisions from being stayed. This means that these decisions have immediate effect unless the Building Appeals Board directs otherwise.

These measures limit the right to a fair hearing but the limit is reasonable and can be demonstrably justified under section 7 of the charter.

(a) the nature of the right being limited

Fair hearing is an important right which is central to our justice system. The purpose of the right is to ensure the proper administration of justice. It is concerned with procedural fairness and the requirement that a court or tribunal be unbiased, independent and impartial.

(b) the importance of the purpose of the limitation

The limitation is for an important purpose: to protect the public where harm could be caused by the continued conduct of a building practitioner.

(c) the nature and extent of the limitation

The right is only limited to the extent that a person's registration is suspended until there is a full hearing at the inquiry. Further, the measures will only be used where a high threshold is satisfied and where the BPB has determined through its preliminary assessment power that it will hold an inquiry. Additionally, a person's appeal rights are preserved because any decision by the BPB, including the decision to suspend registration pending inquiry, is subject to appeal to the Building Appeals Board.

(d) the relationship between the limitation and its purpose

There is a direct relationship between the limitation and the purpose of protection of the public.

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

There are no less restrictive means reasonably available to achieve the purpose of the limitation.

Conclusion

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

JUSTIN MADDEN, MLC
Minister for Planning

Second reading

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

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

That the bill be now read a second time.

Incorporated speech as follows:

The Brumby Labor government's investment in making Victoria the best place to live, work and raise a family is attracting more people to Melbourne and Victoria faster than predicted.

Victoria's population is booming because people value our state's livability. Population growth is good for our economy, it creates jobs and it strengthens communities. All this activity is generating a major growth in building services.

ABS statistics show that building approvals in Victoria jumped 48 per cent in January of this year, which provided a record value for that month of $2.64 billion. This growth is well ahead of the national growth of 15.7 per cent. The figures show confidence in the Victorian economy as more people are investing in new buildings and thereby creating new jobs.

In its report *Housing Regulation in Victoria — Building Better Outcomes*, released by the Treasurer on 17 April 2006, the Victorian Competition and Efficiency Commission stated that, 'Practitioner registration and licensing are intended to help achieve good building outcomes and to strengthen consumer confidence in the industry'. It further stated that, 'The building permit and registration system must be enforced to be effective'.

The Building Practitioners Board (BPB) is critical for ensuring that issues relating to the conduct and ability to practise of registered building practitioners are dealt with effectively and appropriately. A review of the provisions of the act relating to the board has found that additional powers are needed to address gaps in its effectiveness.

This bill responds to that need. The proposed amendments will enable Victoria's building regulation system to deal more effectively with consumer complaints.

The bill will:

improve consumer protection and enhance the standards of building and plumbing practitioners; and

improve the operation of regulatory schemes established under the Building Act 1993.

Many different types of building practitioners are covered by this legislation including builders, building surveyors, building inspectors, quantity surveyors, engineers and draftspersons.

The Building Act 1993 established the Building Practitioners Board, which registers building practitioners and undertakes inquiries into the activities of those registered building practitioners. The board is the front line in ensuring the quality of people in the industry.

This bill enhances and strengthens the suite of disciplinary powers available to the board under section 179 of the act, where an inquiry finds that a registered practitioner has breached the act or regulations. The amendments will provide the board with a range of penalties that better reflect the nature of the breach.

Overview of disciplinary powers

The current powers of the board to impose sanctions for breaches of the act are not sufficiently flexible and do not provide for a proportional response to the range of breaches which the board hears.

Where it identifies a knowledge or practice 'gap', the board lacks the power to require a registered practitioner to undertake a course or training. Additionally, the power to cancel registration is of limited value, as currently a practitioner whose registration has been cancelled can simply reapply for registration and the board must register the practitioner if the requirements of section 169 of the act have been fulfilled, unless the board can demonstrate that the applicant is not of good character.

There is no intermediate sanction between the lowest level — i.e. a reprimand — and the highest levels — i.e. cancellation or suspension of registration for up to three years. The maximum penalty of 50 penalty units has limited leeway to provide an effective response to the nature of the breach.

The bill provides the board with a new range of powers from reprimand, to suspension, cancellation, disqualification, increased fines, and requiring a person to complete training or instruction.

The amendments will provide a new power to disqualify a person from being registered for up to three years. This can be added to the power to cancel registration to ensure that a practitioner cannot turn around the next day after registration has been cancelled and apply for new registration.

They increase the maximum available fine to 100 penalty units for each inquiry. This brings the fine to the limit available under the act. To provide for consistency, the level to which the Plumbing Industry Commission can issue a penalty will also be raised to 100 penalty units.

They also extend the grounds for suspension of registration prior to holding an inquiry, where it is in the interests of the public to do so. This will be used only where the practitioner's conduct poses a significant risk to the public or it has been demonstrated that they are not a fit and proper person to operate as a registered building practitioner.

These new and improved powers will assist the board to effectively discipline or remove practitioners who do not comply with the requirements of the act and regulations, and improve the standing of the industry.

The bill also provides a new power to determine the good character of an applicant as part of its decision making on whether to register the person. In addition, practitioners will be required to advise the board of any change to the 'good character' information provided in their application. This will enable the board to inquire into any impact that change of information should have on the practitioner's registration.

Company directors deemed responsible

The amendment will also clarify and strengthen the link between the conduct of a building company and the registered building practitioner nominated on the building permit so that the director is responsible for the work and conduct of the company.

A significant proportion of domestic building work in Victoria is carried out by companies. Such companies are required to have at least one director who is a registered building practitioner. However, the actual building work may be carried out by an unregistered building practitioner.

Where breaches of the act or regulations are alleged, it can be difficult for the board to bring an inquiry against a registered building practitioner. In this circumstance the consumer may have no redress against the registered building practitioner who is responsible for the conduct of the company and the board may be unable to impose any disciplinary sanction in respect of breaches of the act.

The amendment 'deems' the director of a company, or partner, to be responsible for the conduct of the company.

Building surveyors

The bill contains two provisions affecting building surveyors. The first clarifies the role of municipal building surveyors working outside municipal districts. The second will implement a two-tiered building surveyor system as part of national reforms.

Victoria introduced a competitive environment for the issuing of building and occupancy permits in 1993, through a privatised system that allowed for 'private' building surveyors to issue building and occupancy permits anywhere in the state.

Under the current act it is uncertain whether a municipal building surveyor or other council-employed building surveyor can act outside the municipal district with the full powers of a municipal building surveyor or with the more limited powers of a private building surveyor.

The bill clarifies that a municipal building surveyor working outside the municipal district will have the same role and powers of a private building surveyor while still retaining the title municipal building surveyor. This clarification will not impact on current arrangements under sections 191, 192, 214 to 216 and 221 of the act.

The second of the amendments will enable adoption of the COAG national accreditation framework. Victoria is signatory to an agreement of the Australian Building Codes Board to implement a national two-tiered building surveyor/certifier system.

The bill will recognise that there are two types of building surveyors. One will be a building surveyor (unlimited) who is unrestricted in the scope of work and the other will be a

building surveyor (limited) whose scope of work will be limited to practising in respect of buildings up to three storeys in height and a maximum floor area of 2000 square metres.

With a shortage of building surveyors currently in the system this amendment will increase the number of building surveyors available to issue building permits while still maintaining protection of the consumer.

A person who is currently registered as a building surveyor will be grandfathered into the unlimited category. The required qualifications will be set under regulations in the same manner as for other building practitioners.

Plumbers

The Building Act also regulates plumbing work under part 12A of the act, and this bill provides amendments that specifically address limitations of the current plumbing regulations under that part.

The Plumbing Industry Commission has the power to suspend a plumber where a plumber is found in breach of the act and regulations. In some cases there are mitigating circumstances that may have impacted on the plumber's actions and behaviours.

The proposed amendment will enable the Plumbing Industry Commission to have the flexibility to allow it to respond to mitigating circumstances argued during the inquiry and, where appropriate, enable a practitioner to continue working in his or her trade while carrying out the requirements of the order, which could include conditions to be complied with.

In the event that the plumber has breached the act and/or regulations during the period that the suspension has been suspended or has failed to comply with the conditions imposed, the Plumbing Industry Commission will have the power to reinstate the suspension following an inquiry.

The bill will also amend the definition of completed work for the purpose of the issue of a compliance certificate for plumbing work. Currently a compliance certificate is issued when the plumbing work is completed. 'Completed' currently means when it is used or capable of being used.

This definition does not reflect the changing nature of the plumbing industry where plumbers are being contracted to undertake aspects of plumbing work. In this case a plumber would not be required to issue a compliance certificate for the work that they have completed. This places a responsibility on the final plumber along the chain, as they would have to certify work which they did not complete or supervise.

As part of this proposal, the bill provides a mechanism for obtaining a compliance certificate where a plumber has walked off the job before completing the plumbing work and does not intend to return.

The bill also clarifies some terminology used in the act and makes other machinery amendments. One such amendment is making it an offence to use the title of plumbing practitioner when not registered or licensed as a plumber.

Conclusion

This bill updates the powers of the Building Practitioners Board, providing more flexibility and greater powers to better reflect the realities of the breaches occurring in the industry. It provides a mechanism to reinforce the responsibility of a registered builder who is a director of a building company for work carried out by the company. It also implements national reforms to address the shortage of surveyors and clarifies the powers of municipal building surveyors, and provides a better regulatory framework for the plumbing industry.

This bill will strengthen consumer protection and increase consumer confidence in domestic building, and result in a more reputable building and plumbing profession in Victoria.

I commend the bill to the house.

Debate adjourned on motion of Mr GUY (Northern Metropolitan).

Debate adjourned until Thursday, 7 August.

SUMMARY OFFENCES AMENDMENT (TATTOOING AND BODY PIERCING) 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 Summary Offences Amendment (Tattooing and Body Piercing) Bill 2008.

In my opinion, the Summary Offences Amendment (Tattooing and Body Piercing) Bill 2008 (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 promote the health and wellbeing of young people by appropriately regulating the conduct of body piercing, tattooing and like processes. Specifically, the bill will amend the Summary Offences Act 1966 by:

(a) increasing the maximum penalty for the existing offence of tattooing or performing a 'like process' on a person aged under 18 years from 5 penalty units to 60 penalty units

(b) defining 'like process' as including scarification, tongue splitting, branding and beading

(c) making it an offence for a body piercer to perform a non-intimate body piercing on a person aged

under 16 years unless consent is provided by a parent or guardian

(d) making it an offence for a body piercer to perform an intimate body piercing on a person aged under 18 years

(e) making it an offence for a body piercer to employ, direct or allow a person aged under 16 years to perform illegal piercings on young people (the body piercing offences only apply to persons aged 16 or more).

The new body piercing offences, like the existing offence of tattooing or performing a like process on a child, will not apply to health professionals acting in good faith. Furthermore, it will be a defence to a body piercing offence for the accused to prove that he or she had seen an evidence-of-age document indicating that the young person in question had attained the relevant age of consent.

Human rights issues

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

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 equal protection of the law without discrimination within the meaning of, and on the basis of an attribute set out in, the Equal Opportunity Act 1995.

Clauses 3 and 4 of the bill engage and prima facie limit this right by restricting the availability of certain body piercing and other body modification procedures on the basis of age. Specifically, clause 4 restricts the availability of non-intimate body piercing of persons aged under 16 to situations where that person's parent or guardian has consented to the procedure, and provides that intimate body piercing cannot be performed on a person aged under 18 years. Clause 3 provides that scarification, tongue splitting, branding and beading cannot be performed on a person aged under 18 years.

However, this right is not absolute, but is subject to reasonable limitations pursuant to section 7 of the charter, as discussed in part 2 below.

Section 15: freedom of expression

Section 15(2) of the charter provides that every person has the right to freedom of expression, which includes the freedom to seek, receive and impart information and ideas of all kinds, including by way of art.

Section 15(3) provides that special duties and responsibilities attach to the right of freedom of expression and the right may be subject to lawful restrictions reasonably necessary, amongst other things, to respect the rights of other persons, or for the protection of public order, public health or public morality.

Clauses 3 and 4 of the bill interfere with young people's right to freedom of expression by restricting access, on the basis of age, to certain types of body art.

However, the interference is reasonably necessary to protect public health and public morality, and thus constitutes a lawful restriction within the ambit of section 15(3).

Section 17: protection of families and children

Section 17(2) of the charter provides that every child has the right, without discrimination, to such protection as is in his or her best interests and is needed by him or her by reason of being a child.

The bill engages, though does not limit, this right, because it seeks to protect children from risks to their health and wellbeing associated with body piercing.

Section 19: cultural rights

Section 19 of the charter provides that all persons with a particular cultural, religious, racial or linguistic background must not be denied the right, in community with persons of that background, to enjoy his or her culture.

Clauses 3 and 4 of the bill may interfere with cultural rights by restricting access, on the basis of age, to certain types of body art that may have cultural motivations (e.g. body piercing or scarification may have cultural significance in some cultures).

However, this right is not absolute, but is subject to reasonable limitations pursuant to section 7 of the charter, as discussed in part 2 below.

Section 25(1): right to be presumed innocent

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.

Clause 4 of the bill engages, and prima facie limits the right to be presumed innocent, because the two body piercing offences contained therein include a defence of the accused person proving that he or she has seen an evidence-of-age document indicating that the young person had attained the relevant age of consent.

However, this right is not absolute, but is subject to reasonable limitations pursuant to section 7 of the charter, as discussed in part 2 below.

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

Section 8 of the charter: recognition and equality before the law and clauses 3 and 4 of the bill; and

Section 19 of the charter: cultural rights and clauses 3 and 4 of the bill; and

Section 25(1) of the charter: right to be presumed innocent and clause 4 of the bill.

(a) the nature of the right being limited

The prohibition on discrimination is of fundamental importance to the protection of human rights, as reflected in the preamble to the charter.

The protection of cultural rights is also of great importance in a vibrant, multicultural community like Victoria.

The right to be presumed innocent is a well-recognised civil and political right and a fundamental principle of the common law.

However, none of these rights is absolute, but may be subject to reasonable limitations in accordance with section 7 of the charter.

(b) the importance of the purpose of the limitation

The limitation on the equality right, cultural rights and the right to be presumed innocent is for the same purpose, which is a purpose of great importance, being the protection of health and wellbeing of young people, the protection of young people from inappropriate contact by adults, and the protection of the best interests of the child which is protected in section 17 of the charter.

(c) the nature and extent of the limitation

The nature of the limitation in clauses 3 and 4 of the bill is to restrict young people's access to certain body piercing and other body-modification procedures on the basis of age. This may also limit cultural rights where the procedure is a cultural practice.

Clause 4 limits the right of an accused person to be presumed innocent, in that a person charged with a body piercing offence bears the legal onus of establishing the defence that he or she had seen an evidence-of-age document at the time of the offence indicating that the young person had attained the relevant age of consent.

(d) the relationship between the limitation and its purpose

There is a close, rational and proportionate relationship between the limitation and its purpose.

The purpose of clauses 3 and 4 of the bill is to protect the health and wellbeing of young people.

Clause 4 deals with body piercing. Health risks associated with body piercing are well documented and include the transmission of blood-borne viruses (e.g. hepatitis C), infection, scarring, nerve damage (e.g. eyebrow piercings) and interference with speaking or chewing and irritation or trauma to teeth and gums (e.g. tongue piercings).

Furthermore, these health risks materialise with some regularity. Between July 2007 and April 2008 approximately 40 people were admitted to Victorian hospitals suffering injuries or illnesses caused by body piercing. Research conducted in 2003 found that between July 2000 and July 2002, at least 100 mostly young people presented to Victorian hospital emergency departments with complaints associated with body piercing. Furthermore, South Australian research published in 2006 supports anecdotal evidence that a significant number of patients present to general practitioners with complaints associated with body piercing.

As such, the decision to undergo a non-intimate body piercing procedure may have significant, enduring consequences, and should not be undertaken lightly. Indeed sound, informed choices require the capacity to maturely, intelligently and responsibly identify, consider and manage health risks associated with body piercing. Generally speaking, 16-year-olds possess these capacities. However, persons aged under 16 years require, and will benefit from, the involvement of a parent or guardian in the decision-making process. Clause 4 of the bill will thereby encourage informed choices (including selecting the type of piercing and a reputable service provider), a reduction in impulse piercings, appropriate aftercare and prompt identification and treatment of complications, and thus improve the health and wellbeing of young people.

Clause 4 of the bill also prohibits intimate body piercing from being conducted on a person aged under 18 years. Victorian law places great importance on protecting children and young people from inappropriate, sexual contact from adults, and deterring indecent and obscene behaviour (e.g. sex offences in the Crimes Act 1958; obscene behaviour and other public order offences in the Summary Offences Act 1966). Clause 4 is in keeping with this general protection provided to children.

Clause 4 of the bill will also have a small and justifiable limitation on cultural practices. The bill was released as an exposure draft for public comment during January to March 2008. Consultation with multicultural groups confirmed that any impact would be minimal, given that persons aged under 16 years can continue to obtain non-intimate piercings with parental consent, which is likely to be forthcoming if the procedure has cultural resonance.

Finally, clause 4 of the bill will impose a justifiable limit on the right to be presumed innocent. The defendant bears the legal burden of establishing the defence of having sighted an evidence-of-age document indicating that the young person had attained the relevant age of consent at the time of the offence. This information is uniquely within the knowledge of the defendant, and could not be reasonably ascertained by the prosecution. As such, without this limitation, the body piercing offences would be unenforceable. This is also the approach taken in similar offences, such as those relating to the supply of alcohol and tobacco to young people.

Clause 3 of the bill prohibits scarification, tongue splitting, branding and beading on persons aged under 18 years.

Scarification, tongue splitting, branding and beading are more severe and more difficult to reverse than body piercing, and carry similar health risks. Given these potentially significant and enduring consequences, such procedures should only be available to adults, consistent with the existing approach to tattooing.

Whilst scarification may have a cultural basis in some communities, the consultation process on the exposure draft bill did not reveal evidence of this practice occurring in Victoria. Furthermore, the intrusive and permanent nature of scarification warrants a more restrictive approach to protect the health and wellbeing of young people. This accords with the current approach to tattooing.

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

Some submissions on the exposure draft bill noted that young people aged under 16 can consent to medical procedures if they have capacity, i.e. they possess the maturity and intelligence to fully understand what is proposed, and suggested that this approach be adopted in relation to body piercing.

However, a 'capacity to consent' approach would not achieve the purpose of the bill. This approach is appropriate for medical procedures, where practitioners can draw upon extensive training, experience and support services when assessing a young person's capacity to consent. Furthermore, if consent is given, the resulting procedure takes place in a clinical environment, and practitioners are subject to strong accountability mechanisms. This is a vastly different

environment to the body piercing industry, which cannot be expected to deliver this type of individualised, accountable assessments of capacity.

(f) any other relevant factors

The limitations in the bill accord with standard industry practice across reputable body piercing operators, and were supported by the majority of individuals and organisations that provided feedback to the government when the bill was released for comment as an exposure draft during January to March 2008. This is further evidence that the limitations are rational, proportionate and reasonable.

The limitations in the bill also accord with other age-based restrictions on access to goods and services, such as tobacco, liquor, gaming, films and literature.

Conclusion

The bill protects the health and wellbeing of young people. To achieve its purpose, the bill interferes with rights to equality before the law, freedom of expression and culture and the presumption of innocence, which are protected by the charter. For the reasons outlined above, I consider that such interference is necessary, justifiable and proportionate, and that the bill is compatible with the charter.

Justin Madden, MP
Minister for Planning

Second reading

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

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

That the bill be now read a second time.

Incorporated speech as follows:

This bill delivers on the government's commitment to reform the law relating to tattooing and body piercing to protect the health and wellbeing of young people.

Body piercing, tattooing and related forms of body art, whilst having ancient origins, have become increasingly popular in Victoria and other Western societies in recent years, particularly amongst young people. Eyebrows, tongue, navel, neck, nipple and genitals have joined the traditional earlobe as preferred piercing sites, whilst beading, branding and scarification are emerging forms of body decoration.

The health risks associated with body piercing, tattooing and like processes are well documented and include the transmission of blood-borne viruses (for example, Hepatitis C), infections, nerve damage and scarring. These risks materialise with some regularity. From July 2007 to April 2008 around 40 people were admitted to Victorian hospitals with complaints associated with body piercing. Furthermore, Victorian and interstate research indicates that significant numbers of patients present to hospital emergency departments and medical practitioners with complications from body piercing.

In this context the government is obliged to ensure that laws mitigate the risks associated with body piercing, tattooing and like processes, and protect the health and welfare of Victorians, particularly our young people. With this in mind, the government introduced new health regulations in 2004 requiring body piercers to provide information on health risks to prospective customers, and also produced guidelines to assist body piercers in complying with health standards.

The age of consent requirements included in this bill build upon those earlier reforms by promoting the health and welfare of young people. However, the government was also mindful that body art raises complex and often emotive civil liberty and cultural issues, and that community attitudes and expectations on this topic may change over time. Consequently, the government released an exposure draft bill and discussion paper and sought broad community input on the proposed reforms. Around 130 individuals and organisations took the opportunity to provide comments on the exposure draft bill. Whilst a range of views were expressed, the majority of submissions supported the key features of the exposure draft bill.

And it is to those key features that I shall now turn.

This bill makes it an offence for a body piercer to conduct a non-intimate body piercing on a person aged under 16 years without consent from a parent or guardian. Non-intimate body piercing is any piercing except of the genitalia, nipples, anal region or perineum, which are treated as 'intimate' piercings. The bill encourages young people to discuss body piercing with their parents or guardians. This will assist in the proper identification, consideration and management of health risks associated with body piercing, the selection of reputable body piercing operators, the administration of appropriate aftercare and the prompt identification of complications. The bill therefore equips young people to make informed choices and to manage the consequences of those choices. This will have a positive impact on the health and welfare of young people.

The bill also makes it an offence for a body piercer to perform an intimate body piercing on a person aged under 18 years. This more restrictive approach accords with the protection that the law generally affords young people from inappropriate, indecent or sexual contact by adults, and reflects community attitudes and expectations.

The bill also makes two sets of changes to the existing offence of performing a tattoo or like process on a person aged under 18 years.

Firstly, the bill increases the maximum penalty for that offence from 5 penalty units to 60 penalty units. The new maximum penalty better reflects the gravity of the offence, and provides a more realistic and effective deterrent.

Secondly, the bill defines 'like process' to include scarification, tongue splitting, branding and beading. These procedures are more severe, intrusive forms of body art, and can be difficult to reverse. As such, they should only be available to adults, consistent with the current approach to tattooing.

The measures introduced by the bill improve the regulation of the body piercing industry by providing clear age-of-consent rules for various procedures. The bill represents an appropriate balance between the rights of parents and

guardians, young people's freedom of expression, and the protection of their health and wellbeing.

I commend the bill to the house

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

Debate adjourned until Thursday, 7 August.

EVIDENCE 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 Evidence 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 purpose of the bill is to promote and maintain uniformity and harmonisation of evidence laws across Australian jurisdictions. The bill clarifies evidence laws by 'codifying' complex common law rules, rewriting current statutory rules of evidence in a clear and concise manner and organising these rules in a logical order.

The policy behind the bill is that all relevant and reliable evidence that is of an appropriate probative value should be admissible in court proceedings, unless such evidence would cause unfair prejudice to a party to those proceedings.

The bill contains overarching provisions giving broad judicial discretions to exclude evidence or limit its use in certain circumstances. These judicial discretions operate as safeguards that protect and balance the rights of parties to proceedings (civil and criminal), the rights of witnesses and the importance of the court hearing all relevant, reliable and probative evidence. They are consistent with and give effect to the rights under the charter, particularly the right to a fair hearing under section 24(1). The overarching judicial discretions and safeguards operate together with other specific safeguards in the bill.

The primary purpose of the bill is to set out the rules of evidence that apply to all proceedings in a relevant court with the aim of ensuring a fair hearing for persons appearing before the courts.

Human rights issues

The following analysis contains a discussion of each of the charter rights raised by the bill.

Section 8(3): equal protection by 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. Discrimination means discrimination within the meaning of the Equal Opportunity Act 1985 (EO Act) on the basis of an attribute set out in section 6 of that act. This right is engaged on a number of occasions by the bill where, prima facie, there appears to be discrimination on the basis of one or more of the attributes under the EO Act. However, under the charter, the right to be free from discrimination in section 8(3) is qualified by section 8(4), which provides that measures taken for the purpose of assisting or advancing a person or groups of persons disadvantaged because of discrimination do not constitute discrimination under the charter. This recognises that substantive equality is not necessarily achieved by treating everyone equally, and that affirmative action or positive discrimination may be necessary to achieve equality for some groups in the community.

The following provisions engage the right to equal protection before the law but the right is not limited because of the qualifying provision contained in section 8(4) of the charter:

Clause 30 — Interpreters

Clause 31 — Deaf and mute witnesses

Clause 41 — Improper questions

Clause 42 — Leading questions

Clause 61 — Exceptions to the hearsay rule dependent on competency

Clause 72 — Exception — Aboriginal and Torres Strait Islander traditional laws and customs (exception to the hearsay rule)

Clause 78A — Exception — Aboriginal and Torres Strait Islander traditional laws and customs (exception to the opinion rule)

Clause 85 — Criminal proceedings — reliability of admissions by defendants

Clause 165A — Warnings in relation to children's evidence

Clause 13

Clause 13 changes the existing test for determining the competence of a witness. The test for competence is not based upon existence of a disability. Rather, it is focused on the capacity of the individual witness to understand and answer questions put to them. Although the clause includes persons who, by reason of a disability, do not have the capacity to understand a question about a fact or give an answer, the clause is not limited to such persons. Incapacity can be 'for any reason'. Further, the test is only met where the incapacity cannot be overcome and clause 13(2) ensures that a finding that a person is incapable of understanding and answering questions in relation to one fact does not preclude the person from giving evidence in relation to other facts. The test for competence under clause 13 is considerably more inclusive than the existing test. By focusing on the capacity of the individual to understand and answer questions, rather than the existence of a disability, clause 13 gives effect to the rights of

persons with disabilities to recognition and equality before the law.

Clause 165

Clause 165 requires a warning to be given to a jury, if a party so requests, regarding the unreliability of certain kinds of evidence, including for reasons of age, ill health, injury or the like. This limits the right of persons with disabilities or of advanced age to be equal before the law.

However, the limit upon the right is reasonable and justifiable in a free and democratic society for the purposes of section 7(2) of the charter having regard to the following factors:

(a) the nature of the right being limited

Freedom from discrimination and the right of all people to be treated equally by the law regardless of any disability or impairment.

(b) the importance of the purpose of the limitation

The purpose of this limitation is to give effect to an accused person's right to a fair trial by ensuring that warnings can be given to a jury regarding unreliable evidence.

(c) the nature and extent of the limitation

The court has a discretion to give a warning to the jury regarding evidence the reliability of which may be affected by age or disability. It is only where reliability of evidence is affected that the warning can be given. There is no automatic assumption that persons of advancing age or with disabilities will give unreliable evidence. A judge will need to be satisfied that the evidence may be unreliable in the individual circumstances of each case.

(d) the relationship between the limitation and its purpose

The ability to give a warning is directly and rationally connected with the purpose of ensuring a fair trial as it is limited to circumstances in which the reliability of the evidence may be affected by age or disability.

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

There are no less restrictive means of achieving this purpose.

(f) other relevant factors

It is also important to note the safeguard in clause 165(3) that enables the judge to refuse to give a warning if there are good reasons for not doing so.

(g) conclusion

This is a reasonable limitation of the right to recognition and equality before the law because the primary aim of ensuring that an accused person has a fair trial is furthered by the capacity to warn a jury that evidence may be unreliable because of factors affecting a witness.

Section 12: freedom of movement

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

The following provisions engage and limit the right to freedom of movement because they provide for a person to be required to come before the court to give evidence or empower the court to take further action if a witness fails to attend proceedings, such as issuing a warrant or a fine. To the extent that a person is required to attend the court under these provisions then the person's freedom of movement is limited:

Clause 12 — Competence and compellability

Clause 36 — Person may be examined without subpoena or other process

Clause 46 — Leave to recall witness

Clause 169 — Failure or refusal to comply with requests

Clause 194 — Witnesses failing to attend proceedings

However, the limit upon the right is clearly reasonable and justifiable in a free and democratic society for the purposes of section 7(2) of the charter having regard to the following factors:

(a) the nature of the right being limited

The right to move freely within Victoria encompasses a right not to be forced to move to, or from, a particular location and includes freedom from physical barriers and procedural impediments.

(b) the importance of the purpose of the limitation

The limitation is important because it enables a court to examine relevant, competent and compellable witnesses who may hold relevant evidence and/or information which may bring to light the truth of disputed facts and evidence. The ability to secure the presence of such witnesses is essential to the effective administration of the justice system and the right to a fair hearing.

(c) the nature and extent of the limitation

Clauses 12, 46 and 169 limit the person's freedom of movement to the extent that a person may be compelled to be physically present at the court or another location for a limited time for the purpose of giving evidence.

Clause 36 limits a person's freedom of movement to the extent that the person cannot leave the court until excused by the court from giving evidence.

Clause 194 limits a person's freedom of movement to the extent that a person who has failed to attend proceedings may be apprehended and brought before a court.

(d) the relationship between the limitation and its purpose

The limitation on the free movement of a person by requiring the presence of the person at court to give evidence is directly and rationally connected to the purpose of ensuring the effective administration of the justice system and the right to a fair hearing.

(e) less restrictive means reasonably available to achieve the purpose

There are no less restrictive means of achieving this purpose.

(f) other relevant factors

It is also important to note the practice of courts to allow witnesses to leave the court temporarily if their evidence is not required immediately, and to release witnesses once they have given evidence. In addition, the court's ability to issue warrants, fines or make other enforcement orders under clause 194 is a discretionary one.

(g) conclusion

These are reasonable limitations of the right to freedom of movement because the justice system would not be able to function if the courts did not have the power to compel persons to attend before them and give evidence.

Section 13(a): right to privacy and reputation

Section 13(a) of the charter requires that a public authority must not unlawfully or arbitrarily interfere with a person's family or home. 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 limit the right if the interference is neither arbitrary nor unlawful. Arbitrariness will not arise if the restrictions on privacy accord with the objectives of the charter and are reasonable given the circumstances. An interference will not be unlawful if the law, which authorises the interference, is precise and circumscribed and determined on a case-by-case basis.

The right to privacy under section 13(a) of the charter is engaged by the following provisions of the bill because a witness may be required to divulge personal information including visual identification evidence, or privileged information. In each circumstance, the right to privacy is not limited because the interference is provided for in law and will occur in circumscribed and precise circumstances subject to the court's discretion on a case-by-case basis:

Clause 12 — Competence and compellability

Clause 29 — Manner and form of questioning witnesses and their responses

Clause 48 — Proof of contents of documents

Clause 114 — Exclusion of visual identification evidence

Clause 118 — Legal advice

Clause 119 — Litigation

Clause 120 — Unrepresented parties

Clause 121 — Loss of client legal privilege — generally

Clause 122 — Loss of client legal privilege — consent and related matters

Clause 123 — Loss of client legal privilege — defendants

Clause 125 — Loss of client legal privilege — misconduct

Clause 126 — Loss of client legal privilege — related communications and documents

Clause 127 — Religious confessions

Clause 131 — Exclusion of evidence of settlement

Clause 133 — Court may inspect etc. documents

Clause 169 — Failure or refusal to comply with requests

Clause 178 — Convictions, acquittals and other judicial proceedings

Clause 179 — Proof of identity of convicted persons — affidavits by members of state or territory police forces

Clause 180 — Proof of identity of convicted persons — affidavits by members of Australian Federal Police

Section 15: freedom of expression

Section 15(2) of the charter provides that every person has the right to freedom of expression — this includes the right not to express. This right is engaged by a number of provisions of the bill, which would compel a person to answer certain questions or express certain information to the court. Section 15(3) of the charter provides that special duties and responsibilities attach to this right and it may therefore be subject to lawful restrictions reasonably necessary to respect the rights and reputation of other persons or for the protection of national security, public order, public health or public morality. Public order can be defined as the sum of rules that ensure the peaceful and effective functioning of society. The bill clarifies evidence laws with the aim of ensuring that all relevant and reliable evidence that is of an appropriate probative value should be admissible unless such evidence would cause unfair prejudice to a party to a court proceeding. This is a key element of public order.

The following clauses of the bill constitute lawful restrictions on the freedom of expression under section 15(3) of the charter:

Clause 10 — Parliamentary privilege preserved

Clause 12 — Competence and compellability

Clause 15 — Compellability — Sovereign and others

Clause 16 — Competence and compellability — judges and jurors

Clause 29 — Manner and form of questioning witnesses and their responses

Clause 37 — Leading questions

Clause 38 — Unfavourable witnesses

Clause 39 — Limits on re-examination

Clause 41 — Improper questions

Clause 101 — Further restrictions on tendency evidence and coincidence evidence adduced by prosecution

Clause 103 — Exception — re-establishing credibility

Clause 121 — Loss of client legal privilege — generally

Clause 122 — Loss of client legal privilege — consent and related matters

Clause 123 — Loss of client legal privilege — defendants

Clause 125 — Loss of client legal privilege — misconduct

Clause 126 — Loss of client legal privilege — related communications and documents

Clause 127 — Religious confessions

Clause 131 — Exclusion of evidence of settlement negotiations

Clause 145 — Certain Crown certificates

Clause 169 — Failure or refusal to comply with requests

Clause 194 — Witnesses failing to attend proceedings

Clause 195 — Prohibited question not to be published

Section 19: cultural rights

Section 19(2) provides that Aboriginal persons hold distinct cultural rights and must not be denied cultural rights, including the right to maintain their kinship ties with other members of their community.

Kinship ties play an important role in Aboriginal communities. The notion of kinship ties is closely linked to other cultural and religious practices.

Clause 18 of the bill provides that the court may exercise its discretion to excuse a person from the requirement to give evidence against a spouse, de facto partner, parent or child, where there is a likelihood that harm would or might be caused (whether directly or indirectly) to the person or to the relationship between the person and the defendant, and the nature and extent of that harm outweighs the desirability of having the evidence given. The persons who may be excused from giving evidence under this provision are only the spouses, de facto partners, parents and children of the defendant.

The judicial discretion to excuse a person from giving evidence does not extend to all persons who have a relationship with the defendant, for example, siblings, aunts or uncles. Where a person has kinship ties with the defendant, other than as a spouse, de facto partner, parent or child, they may be compelled to give evidence against the defendant. While this will not necessarily result in a severance of the kinship ties it has the potential to cause harm to the kinship relationship, and the right in section 19(2) may therefore be limited.

However, to the extent that the right may be limited, it is reasonable and justifiable in a free and democratic society for the purposes of section 7(2) of the charter having regard to the following factors:

(a) the nature of the right being limited

The right of an individual to maintain their kinship ties is an important Aboriginal cultural right.

(b) the importance of the purpose of the limitation

The purpose of the limitation is to ensure that all relevant and reliable evidence that is of an appropriate probative value is admissible.

(c) the nature and extent of the limitation

The right to maintain kinship ties is limited only as far as the kinship relationship does not fall within the definition of spouse, de facto partner, parent or child. These relationships are defined broadly in the bill and extend the group of persons who may be subject to the judicial discretion under the current law to include persons in a same-sex de facto relationship, adoptive parents and children, and persons with whom a child is living as if the child were a member of the person's family (even where there is no biological relationship). Aboriginal cultural practices whereby a child lives with a person with whom they have kinship ties as if they were a member of the person's family are therefore accommodated because such persons are included in the class of persons who may object to giving evidence. The right is limited to the extent that a person shares kinship ties with the defendant but falls outside the class of persons covered by clause 18.

(d) the relationship between the limitation and its purpose

The extent of the limitation is directly and rationally connected to the desirability of ensuring that all relevant and reliable evidence that is of an appropriate probative value is admissible. It would be undesirable to extend the operation of clause 18 to all persons who share kinship ties with a defendant, as this is potentially a very broad class of people and would undermine the ability to ensure that important evidence can be obtained. The definition of spouse, de facto partner, parent or child will include a broad class of persons who share kinship ties with the defendant, and the provision provides an appropriate balance between the preservation and maintenance of close relationships and the need to maximise the ability to adduce relevant, probative evidence.

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

Less restrictive means of achieving this result are not available. On balance, the limitation is reasonable and appropriate to its objective.

(f) other relevant factors

There are no other relevant factors.

(g) conclusion

The extent of the limitation is proportionate to the desirability of ensuring that all relevant and reliable evidence that is of an appropriate probative value should be admissible.

Section 20: property rights

Section 20 of the charter provides that a person must not be deprived of their property except in accordance with law. A deprivation of property is in accordance with law where the deprivation occurs under powers conferred by legislation pursuant to a law, which is formulated precisely and not arbitrarily. The following clauses of the bill engage the right because they provide for a person to be required to produce documents or for the impounding of documents. In each instance, the deprivation of property is in accordance with law and there is no limitation on the right:

Clause 35 — Effect of calling for production of documents

Clause 36 — Person may be examined without subpoena or other process

Clause 131A — Application of division to preliminary proceedings of courts

Clause 133 — Court may inspect etc. documents

Clause 169 — Failure or refusal to comply with requests

Clause 188 — Impounding documents

Section 21: right to liberty and security of person

Section 21(3) of the charter provides that every person has the right to liberty and security, that a person must not be subjected to arbitrary arrest or detention and that a person must not be deprived of his or her liberty except on grounds, and in accordance with procedures, established by law.

Clause 194 of the bill concerns witnesses who fail to attend proceedings. Once certain matters are established, the court may issue a warrant to apprehend the witness and bring the

witness before the court. The provision empowers a court to exercise a discretion to issue a warrant to apprehend the witness, as one of a number of actions a court may take to compel a person to attend proceedings. The court will assess the need to issue a warrant on a case-by-case basis, and any resultant arrest will therefore not be arbitrary but will occur when it is reasonable in all the circumstances for the purpose of compelling a person to attend proceedings. The provision also provides that the court may direct that a person be released immediately on bail. The right is not limited as the deprivation of liberty will be on grounds and in accordance with procedures established by law.

Section 24: right to a fair hearing

Section 24 of the charter guarantees the right to a fair and public hearing. Almost every provision of the bill engages the right.

The right is afforded to persons charged with a criminal offence and parties to civil proceedings. However, what amounts to a 'fair' hearing takes account of all relevant interests including those of the accused, the victim, witnesses and society. For example, it may be in the interests of the accused to know the name of a police informant. However, the right to a fair hearing is not breached by the privilege in respect of public interest immunity in clause 130, which enables that information to be withheld from the accused where those interests are outweighed by the public interest in preserving secrecy or confidentiality.

The balancing of rights required by the charter has essentially been undertaken by both the Australian Law Reform Commission and the Victorian Law Reform Commission on whose reports this bill is based. In addition, in most cases the courts are given a broad discretion, which will ensure that the provisions are applied to ensure a fair hearing in the individual circumstances of the case. Further, clause 11 of the bill expressly preserves the powers of a court with respect to abuse of process.

For these reasons, I have not included in this statement of compatibility a detailed analysis of the application of the balancing exercise in respect of each of the provisions of the bill.

It is, however, appropriate to discuss the power to exclude improperly or illegally obtained evidence pursuant to clause 138 of the bill. Improperly obtained evidence could include evidence obtained in breach of a charter right. Such evidence is not automatically excluded. Rather clause 138 requires that a balancing exercise be undertaken to determine whether the desirability of admitting the evidence outweighs the undesirability of admitting evidence that has been obtained improperly or illegally. A non-exhaustive list of factors to be taken into account is set out in clause 138(3). In some cases, this will result in the evidence being excluded. In others, it may be admissible.

As already stated, the right to a fair hearing involves a balancing of all relevant interests. The balancing approach undertaken pursuant to clause 138 is similar to that developed by the New Zealand courts in respect of the right to a fair trial under the New Zealand Bill of Rights Act. As the New Zealand courts have recognised, a prima facie exclusionary rule does not give sufficient weight to the interests of the community or the victim; namely, that persons who are guilty of serious offences should not go unpunished: *R. v. Shaheed* [2002] 2 NZLR 377.

I have concluded that the approach to the exclusion of evidence under clause 138 is compatible with the right to a fair hearing in section 24 of the charter.

Conclusion

I consider that the bill is compatible with the human rights charter because, even though it does limit human rights, the limitations are reasonable and proportionate.

JUSTIN MADDEN, MLC
Minister for Planning

Second reading

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

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

That the bill be now read a second time.

Incorporated speech as follows:

This bill is the first of two bills to bring into effect the Uniform Evidence Act (UEA) in Victoria. A further bill repealing most of the Evidence Act 1958 the subject matter of which is dealt with in this bill, and integrating the new legislation into the statute book will be introduced early next year.

The laws of evidence lie at the heart of the conduct of both criminal and civil court proceedings. Victoria has laboured under outdated and complex evidence laws, which are poorly organised, and difficult to locate and follow. In the justice statement in 2004, the government committed to improving the accessibility and consistency of legislation. A significant part of this commitment was to introduce the UEA in Victoria. This bill is an important step towards delivering on that promise.

The UEA arose out of a comprehensive review of evidence laws by the Australian Law Reform Commission (ALRC) in the 1980s. In its 1987 report, the ALRC observed:

… the law of evidence is badly in need of reform in all areas. The present law is the product of unsystematic statutory and judicial developments. It is a highly complex body of law which is arcane even to most legal practitioners. It contains traps and pitfalls which are likely to leave the unrepresented litigant baffled, frustrated and defeated.

The ALRC produced a model bill to provide a modernised, structured and reasoned approach to the laws of evidence.

The commonwealth, New South Wales and Tasmanian parliaments have enacted legislation based substantially on the ALRC's model bill.

As far back as 1996, the Scrutiny of Acts and Regulations Committee expressed the view that the UEA would be a significant improvement on the existing common law and statutory provisions in Victoria.

More recently, the Australian, New South Wales and Victorian Law Reform Commissions completed a joint review of the operation of the UEA. The commissions found that the UEA was working well, but required some finetuning. The bill I am introducing contains a range of amendments to improve the UEA based largely on the commissions recommendations. To maintain uniformity, the Standing Committee of Attorneys-General has endorsed those amendments.

While these amendments make some important improvements to the UEA, they do not alter the guiding principles underpinning the UEA, which govern the reforms contained in the Evidence Bill 2008. I will briefly discuss three of these principles.

Firstly, the primary role of the laws of evidence is to facilitate the fact finding task of the courts by enabling parties to produce the most probative evidence available to them.

Secondly, the different nature and objectives of civil and criminal trials require a more stringent approach to be taken in criminal trials to the admission of evidence against an accused person. The balance between the prosecution and defence has been kept in mind at all times. A less detailed and more flexible approach should be taken to the admissibility of evidence in civil proceedings. Generally, subject to considerations of fairness and costs, the rules should permit a party to tender all of the relevant evidence it has.

Thirdly, the parties must be given, and feel they have had, a fair hearing. To enhance predictability, the rules should be clear to enable preparation for, and conduct of, trials and tend to minimise judicial discretion, particularly in the rules governing the admissibility of evidence.

In reframing the law of evidence in Victoria, the bill imposes organisation on a miscellaneous collection of rules that have been developed on a case-by-case basis by the courts. It is structured so that the provisions follow the order in which issues ordinarily arise in trials. Whilst the bill codifies many aspects of the law of evidence, it is not intended to operate as an exhaustive code. In this regard, the bill expressly preserves the operation of other acts which make specific provision on evidentiary matters. It also preserves the principles and rules of common law and equity on evidence, except in so far as the contrary intention appears in the bill. However, because the bill is comprehensive, the scope for operation of these principles and rules will be extremely limited.

Major changes to Victorian law implemented by this bill

Unfavourable witnesses

The common law currently requires that a witness be declared hostile before they can be cross-examined by the party who called them. The test for determining whether a witness is to be declared hostile requires the party to show that the witness is deliberately withholding material evidence.

The bill allows for a party who called a witness to question that witness as though they were cross-examining them, with the leave of the court, where the witness has given evidence unfavourable to that party. This will, for example, make it easier for prosecutors to cross-examine uncooperative witnesses who may not meet the higher common law test. In combination with other sections, it will also allow them to lead evidence of the witness' original statement to police, and for those statements to be available to the jury as evidence of what happened.

Hearsay

The hearsay rule prevents the admission of evidence of a previous representation of a person for the purposes of proving the existence of a fact asserted by that person in the representation.

There is a miscellany of exceptions to this rule at common law. The bill provides a more liberal and structured approach to hearsay evidence. It contains a set of carefully constructed exceptions which allow hearsay evidence to be admitted where it may be the best available account of what occurred. There are stricter requirements imposed in relation to criminal proceedings.

The main departure from the common law is contained in clause 60 of the bill, which allows evidence admitted for a purpose other than as proof of the facts asserted to also be used as evidence of the facts asserted. For example, a prior inconsistent statement of a witness may be admitted as evidence relevant to the credibility of that witness. In that instance, the evidence may also be used as evidence of the facts asserted in the prior statement.

The provision avoids the need to give complex, and at times nonsensical, directions to juries about the use to be made of the evidence. The exceptions are subject to other protections in the act, such as directions about the relative reliability of hearsay evidence. The hearsay rule is also made inapplicable in relation to evidence of admissions, which has its own set of exceptions.

Admissions

Admissions by a party against their interests are an exception to the hearsay rule. Both the common law and the UEA have rules restricting the admissibility of evidence of an admission where circumstances may have compromised the integrity of the evidence. At common law, the requirement is that the admission was voluntary, and that the person's will was not overborne at the time the admission was made.

Clause 84 of the bill excludes evidence of admission if it was influenced by violent, oppressive or inhumane conduct or threats of such conduct. Clause 85 applies in criminal proceedings in addition to clause 84 and provides that evidence of admissions made by a defendant to an investigating official are not admissible unless the circumstances in which the admissions were made make it unlikely that the truth of the admission was adversely affected.

The privilege against self-incrimination

Currently, in Victoria, if a witness can establish that there is a real risk that in answering a question their evidence would thus incriminate them in an offence, the court cannot require them to give the evidence.

The UEA takes a different approach. The court can require such evidence to be given if the interests of justice require it. The witness is then issued with a certificate preventing the use of that evidence, or derived evidence, from being used against the witness in subsequent proceedings against them.

This enables the court to receive relevant evidence, while protecting the witness from any adverse consequences of giving self-incriminating evidence.

In response to the High Court decision in *Cornwell v. The Queen* [2007] HCA 12, the clause provides that where a certificate is given, it has effect even if the granting of the certificate is subsequently called into question.

Warnings

There are a multitude of warnings which a judge is required to give a jury in relation to evaluating evidence. Failure to give these warnings or giving inadequate warnings is a frequent ground of appeal in criminal cases.

While common law warning requirements will remain applicable, the bill makes it clear that in most cases a party is to request a warning before it must be given. This places a certain onus on counsel to make a forensic decision to request a warning and reduces the likelihood that the failure to give a warning may constitute a valid ground of appeal. However, there is still an overriding obligation upon the judge to prevent a miscarriage of justice. As a result, if the judge was of the view that the requirements for a warning were met and counsel had failed to apply for the warning, the judge would be bound to ask counsel (in the absence of the jury) whether such a warning was requested.

Overview of the Evidence Bill 2008

The bill is divided into the following five chapters —

chapter 1 deals with the application of the act;

chapter 2 deals with adducing evidence;

chapter 3 deals with admissibility of evidence;

chapter 4 deals with matters of proof; and

chapter 5 deals with miscellaneous issues and the dictionary.

As mentioned, the bill is structured in the order in which the issues would normally arise in a typical trial.

I will now summarise some additional key features of the bill.

Chapter 2 deals with adducing evidence. It is divided into three parts, relating to witnesses, documents and other evidence.

Clauses 12 and 13 of the bill provide that every person is presumed competent to give evidence unless the contrary is proved. There are some exceptions including heads of state, judges and jurors in certain circumstances. The competency provisions have been drafted with the intent that as many people as possible should be competent witnesses, with the particular difficulties faced by children and people with intellectual disabilities firmly in mind.

The bill replicates the substance of recent amendments to the Evidence Act 1958 provisions dealing with children's evidence, but importantly extends those provisions to any witness who is incapable of understanding that in giving evidence he or she is under an obligation to give truthful evidence. The competency provisions of the bill represent a significant advance on the present requirement that an adult witness understand the nature and consequences of an oath.

Clause 18 of the bill makes it clear that members of families of a defendant in a criminal proceeding are competent and compellable witnesses. However, such persons may object to giving evidence as a witness for the prosecution and, in certain circumstances, will not be required to give evidence. In this regard, members of a family include spouses, de facto partners (including same-sex partners), parents, natural and adoptive children and children living in the household of a de facto as though they are the children of the defendant. This provision seeks to strike a balance between maintaining and protecting families and facilitating the administration of justice.

Clause 41 differs from the model uniform evidence legislation, which imposes a mandatory obligation to prohibit 'disallowable' questions from being put to any witness. Instead, this bill provides for a 'two-tiered' approach. It gives the court a discretion to disallow improper questions put to any witness and imposes a duty to disallow improper questions put to vulnerable witnesses. Children and people with a cognitive impairment or intellectual disability are vulnerable witnesses. The court may also consider other witnesses to be vulnerable depending upon their individual characteristics or the circumstances of the proceeding.

One area in which the bill makes extensive changes is in relation to documentary evidence. Part 2.2 sets out the way in which documents can be proved. It abolishes the original document rule under common law, which requires that the contents of documents be proved by production of the original document. It permits parties to use originals, copies, transcripts, computer printouts, business extracts and official printed copies of public documents. Safeguards are provided in relation to the testing of documents and the means by which documents have been produced or kept. In addition, clause 147 facilitates the proof of documents produced in the course of business. The presumption is drafted sufficiently widely to cover reports based on a query of a database or a printout from a document imaging system.

These significant reforms bring evidence law up to date with record-keeping technology. The abolition of the original document rule will remove the requirement for retention of hard copy documents and files by businesses and not-for-profit organisations for evidentiary purposes, and the requirement for the storage of hard copy documents and records. This will result in a substantial reduction in administrative burden for business and not-for-profit organisations and savings in the millions of dollars per year.

In 2006 this government introduced the reducing the regulatory burden initiative (RRBI) to reduce the administrative burden on business through the review of and changes to regulation. Funding has been approved through this initiative to implement the Evidence Bill.

The funding obtained from the RRBI will support some key activities including training programs for justice system agencies, dissemination of information such as changes to the original document rule to peak industry bodies and businesses, updating operating procedures, manuals and handbooks, and revising IT systems content.

Chapter 3 of the bill contains comprehensive rules to control the admissibility of evidence. The primary evidentiary rule is that if evidence is relevant in a proceeding, it is admissible unless it is excluded under one of the exclusionary rules set out in the bill. Evidence that is not relevant is not admissible.

The exclusionary rules in the bill build upon, but rationalise and reform, the existing law. They include general discretions to exclude evidence where its probative value is substantially outweighed by the danger that the evidence might be unfairly prejudicial to a party or misleading or a waste of time.

As noted, the bill retains a rule excluding hearsay evidence. A significant change created by this rule is that an unintended implied assertion is not hearsay. For example, a child saying, when answering the phone, 'Hello, Daddy', is not hearsay if it is led to prove it was the child's father who was the other party to the telephone conversation.

The exceptions to the rule are divided into provisions relating to firsthand hearsay — that is, evidence given by a person who heard or saw the representation made by a person who had personal knowledge of the fact in question — and more remote hearsay.

Clause 193 includes a power for courts to develop rules, consistent with the provisions of the bill, relating to the pretrial discovery and exchange of documents, with the power to exclude evidence offered in violation of those rules.

Evidence that falls into specified categories of more remote hearsay can be admitted on the basis of reliability and/or necessity. The categories include government and commercial records, reputation as to family relationships and public rights, certain telecommunications, commercial labels and tags, and evidence in interlocutory proceedings.

Clause 72 provides a specific exception to the hearsay rule in relation to evidence of a representation about the existence or content of traditional laws and customs of an Aboriginal or Torres Strait Islander group. This is specifically designed to overcome the difficulties that have arisen in relation to the assessment of Aboriginal oral history evidence.

Clause 76 sets out the general rule that opinion evidence is not admissible to prove a fact asserted by the opinion. However, the opinion rule does not apply to evidence of an opinion based on what a person saw, heard or otherwise noticed about a matter or event that is an account of the person's perception.

Clause 78A provides a specific exception to the opinion rule for evidence of an opinion expressed by a member of an Aboriginal or Torres Strait Islander group about the existence or otherwise of the traditional laws and customs of that group.

Also, a person with specialised knowledge based on training, study or experience may give evidence of his or her opinion if it is wholly or substantially based on that specialist knowledge.

I have previously referred to the operation of clauses 84 and 85 in relation to the admissibility of admissions against interest.

Clause 86 makes inadmissible any document (excluding sound recording or transcripts) purporting to be a 'record of interview' by an investigating official unless signed or otherwise acknowledged by marking by the defendant. The clause will not affect current procedures including tape recording interviews or in relation to summary offences in other acts, which will continue to operate and to the extent of any inconsistency will override this provision.

Clause 90 gives the court discretion to refuse to admit prosecution evidence of an admission if it would be unfair to the accused, having regard to the circumstances in which the admission was made.

Part 3.6 provides for the admissibility of evidence relating to the conduct, reputation, character and tendency of parties and witnesses, which is relevant to a fact in issue. For example, evidence may be admitted to prove that a person has or had a tendency to act in a particular way if notice has been given and the evidence has significant probative value. Tendency and coincidence evidence is not admissible, however, in criminal proceedings unless the probative value of such evidence substantially outweighs any prejudicial effect that it may have on the defendant.

Clause 102 provides that evidence that is relevant only to the credibility of a witness is not admissible, subject to a number of exceptions relating to cross-examination and expert witnesses. Protections are also provided for accused persons in criminal trials. Clause 110 permits in criminal proceedings a defendant to adduce evidence about his or her own good character. Where such evidence is adduced by a defendant, the prosecution is then permitted to adduce evidence that the defendant is not a person of good character.

Part 3.10 deals with privileges. The client-lawyer privilege is continued broadly along traditional lines. It protects communications made in the context of a professional relationship between a lawyer and client or between a client's lawyers involving the provision of independent legal advice. In addition, protection is given to communications between a lawyer or a client and third parties which are made for the dominant purpose of obtaining legal advice or assistance related to pending or anticipated litigation.

The bill differs from the model uniform evidence legislation in that it does not include the professional confidential relationships privilege. This privilege is subject to further consideration given the different provisions adopted by New South Wales and the commonwealth. When introducing its Evidence Amendment Bill 2008 recently, the commonwealth government indicated its intention to further consider this privilege as part of the development of its response to the Australian Law Reform Commission's report *Privilege in Perspective*. This provides a valuable opportunity for further work to promote uniformity in relation to this important privilege, prior to Victoria including such provisions within its evidence laws.

Clause 127 protects clergy from being required to divulge religious confessions in circumstances where there is a ritual of confessing one's sins to a member of the clergy.

In their review of the UEA, the commissions recommended that the privilege provisions also apply to preliminary proceedings of courts and non-curial settings. Clause 131A implements this recommendation in part. It provides that for the extension of the privileges to pretrial court proceedings, but not to non-curial settings.

Chapter 4 deals with matters of proof. Part 4.3 facilitates the proof of evidence produced by machines, documents produced in the course of business, documents attested by a justice of the peace, a lawyer or a public notary, the execution of documents, seals, documents more than 20 years old, and matters of official record. It also establishes certain rebuttable presumptions about the postage and receipt of postal articles

et cetera. Clause 161 provides for presumptions in relation to the sending and receipt of electronic communications. Clause 164 abolishes any rules requiring some classes of evidence to be corroborated.

Clause 165 provides for judges to warn the jury about the unreliability of certain kinds of evidence, including hearsay evidence, evidence of admissions and evidence affected by the age or ill-health of the witness.

Clause 165A limits the capacity of judges to warn a jury about the evidence of a child and largely replicates the current law in Victoria. Clause 165B regulates warnings which are given to juries in criminal proceedings where there has been a delay resulting in significant forensic disadvantage to the accused. It is consistent with, and will replace, the current provisions in the Crimes Act 1958.

Part 4.6 provides for certain procedural matters, such as requests to produce documents or call witnesses, proof by affidavits, proof of foreign law and certificates of expert opinions et cetera.

Chapter 5 of the bill deals with miscellaneous matters, including the rights of parties to waive the rules of evidence and to make agreements as to facts. The dictionary is also included in chapter 5 and provides the definitions of words and expressions in the bill. The definition of de facto partner rightly includes same-sex couples and couples who have registered their relationship under the Relationships Act 2008. It has been drafted to ensure maximum consistency with relevant definitions in existing state and territory legislation across Australia.

Victoria has waited a long time for the reform of its evidence laws. The introduction of this bill is part of a much larger overhaul of Victoria's justice legislation set out in the justice statement 2004. It brings Victoria's evidence law into the current century and enhances the operation of our legal system through increased efficiency brought about, in part, through harmonisation with other state, territory and commonwealth legislation.

I commend the bill to the house.

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

Debate adjourned until Thursday, 7 August.

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 Superannuation Legislation Amendment Bill 2008.

In my opinion, the 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

A primary purpose of the bill is to amend the Emergency Services Superannuation Act 1986 and related legislation in order to provide members of the former State Superannuation Fund and their spouses with access to ESSSuper's accumulation products.

The State Superannuation Fund and the Emergency Services Superannuation Scheme were integrated in December 2005. The new integrated entity is known as ESSSuper.

To date, former State Superannuation Fund members have not been able to access ESSSuper's range of accumulation products which include allocated pensions, a lump-sum rollover product (called the beneficiary account), spouse accounts and the top-up account.

This bill will allow all members of the former State Superannuation Fund, including active members, deferred beneficiaries and pension recipients to access the ESSSuper accumulation products. Spouses of members of the former State Superannuation Fund will also be permitted to access these products.

The bill will put members of the former State Superannuation Fund and their spouses on an equal footing with other members of ESSSuper. In particular, it will allow them to make additional pre-tax and post-tax contributions to an accumulation scheme and will allow them to roll over or transfer amounts from other superannuation funds into ESSSuper accumulation products.

Human rights issues

Section 8(3) of the charter provides for the right to equal protection of the law without discrimination and to equal and effective protection against discrimination. Section 8(3) operates to prohibit discrimination in law or in fact in any field regulated by public authorities and requires that the content of any legislation enacted by Parliament not be directly or indirectly discriminatory. Discrimination under the charter means direct or indirect discrimination as defined in the Equal Opportunity Act 1995 (Vic) on the basis of an attribute set out in section 6 of that act, which includes the discrimination on the basis of 'sexual orientation'.

The bill amends the Emergency Services Superannuation Act 1986 (Vic) by adopting a definition of 'eligible spouse' from the Superannuation Industry (Supervision) Act 1993 (Cth) ('the commonwealth act'). This definition is currently restricted to married or heterosexual partners who live together on a genuine domestic basis as husband or wife, and therefore does not include same-sex partners. This will directly discriminate against same-sex partners of former State Superannuation Fund members who live with an ESSSuper member on a genuine domestic basis, on the attribute of sexual orientation. This discrimination currently occurs for those ESSSuper members who are already eligible to access ESSSuper's accumulation products. The effect of the bill is that access to ESSSuper's accumulation products, which the bill will extend to heterosexual spouses of members of the former State Superannuation Fund, will be denied to

the same-sex partners of members of the former State Superannuation Fund.

A similar issue of discrimination against same-sex couples arose in relation to the Superannuation Legislation Amendment (Contribution Splitting and Other Matters Bill) 2007. In relation to the statement of compatibility for that bill, I characterised the critical importance of achieving consistency with the commonwealth as a reasonable limitation on the equality right, in accordance with section 7(2) of the charter.

At the same time, I wrote to the former federal Treasurer (and in January 2008 to the current federal Treasurer) urging the commonwealth to recognise same-sex couples in relation to superannuation arrangements because the Victorian government regarded its position as discriminatory.

The Scrutiny of Acts and Regulations Committee and the Victorian Equal Opportunity and Human Rights Commission were of the view that the limitation should have been characterised as incompatible with section 8(3) of the charter. The commission nonetheless acknowledged that it was impossible to extend access to contribution splitting to same-sex couples (given the federal framework in Australia).

I remain of the view that the limitation on the equality right is reasonable in order to achieve consistency with the commonwealth, for the reasons explained below. However, I note that the Victorian government has deliberately tied the definition of 'spouse' in the bill to a definition of 'spouse' in a particular commonwealth act which the federal government is seeking to amend (to include same-sex partners) in a commonwealth bill which is currently before federal Parliament, as part of the federal government's reforms to end same-sex discrimination in a wide range of commonwealth laws.

(a) The nature of the right

The right to equality is a fundamental human right.

(b) The importance of the purpose of the limitation

The purpose of adopting the definition of spouse in commonwealth legislation is to ensure that the ESSSuper is a 'complying superannuation fund' under the commonwealth act which allows members of the scheme to enjoy various concessional tax benefits. Pursuant to a heads of government agreement with the commonwealth government signed in 1996, state and territory governments undertook to ensure conformity to the commonwealth's retirement incomes policy. In return, public sector superannuation schemes are exempt from the commonwealth act but are nevertheless considered complying superannuation funds and enjoy concessional tax treatment. If the bill were to adopt a definition of 'spouse' which did not conform with the definition in the commonwealth act, this could result in dire financial consequences for both the scheme and its members through the loss of valuable tax concessions.

Further, non-compliance with the definition of spouse in the commonwealth act would create significant uncertainty. This bill aims to provide members of the former State Superannuation Fund and their spouses with access to ESSSuper's range of accumulation products, including spouse accounts. These benefits are already available to pre-existing members of ESSSuper and their heterosexual spouses. If the bill adopted a definition of 'spouse' which included same-sex partners in relation to former State Superannuation Fund members, this would mean that former State Superannuation Fund members would be provided with access to products not available to existing ESSSuper members' same-sex partners.

(c) The nature and extent of the limitation

The federal government has recently introduced the Same-Sex Relationships (Equal Treatment in Commonwealth Laws — Superannuation) Bill 2008 which amends the definition of spouse in the commonwealth act from 1 July 2008 to include same-sex partners. Therefore, once the commonwealth changes take effect, the definition of spouse which is relied upon in the Emergency Services Superannuation Act 1986 (Vic) will cease to discriminate against same-sex partners. The extent of the limitation in the bill is therefore confined because the discriminatory effect of the bill will be short lived.

(d) The relationship between the limitation and its purpose

There is a rational and proportionate relationship between the limitation on the right to equality and avoiding the consequences of non-compliance with the commonwealth act.

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

There is no less restrictive means reasonably available to achieve the purpose of conforming with the commonwealth act.

Accordingly, in my opinion, the Superannuation Legislation Amendment Bill 2008, as introduced to the Legislative Council is compatible with section 8(3) of the charter.

JOHN LENDERS MP
Treasurer

Second reading

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

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

That the bill be now read a second time.

Incorporated speech as follows:

The primary purposes of the bill are to amend the Emergency Services Superannuation Act 1986 and related legislation in order to:

provide members of the former State Superannuation Fund and their spouses with access to ESSSuper's accumulation products;

empower the Emergency Services Superannuation Board to enter into a contract with an external party to provide financial advice to members;

permit the Emergency Services Superannuation Board to provide members of its accumulation products with the ability to make a binding death nomination; and

facilitate the new flexible work practices which were introduced in the Victoria Police Workplace Agreement 2007.

The State Superannuation Fund and the Emergency Services Superannuation Scheme were integrated in December 2005. The new integrated entity is known as ESSSuper.

To date, members of the former State Superannuation Fund have not been able to access ESSSuper's range of accumulation products which include allocated pensions, a lump-sum rollover product (called the beneficiary account), spouse accounts and a top-up account.

This bill will allow all members of the former State Superannuation Fund, including active members, deferred beneficiaries and pensioners, to access the ESSSuper accumulation products. Spouses of members of the former State Superannuation Fund will also be permitted to access these products.

It is important to note that the bill adopts a definition of 'spouse' that is linked to the definition contained in the commonwealth's Superannuation Industry (Supervision) Act 1993. At present, that definition is restricted to heterosexual couples who live together on a genuine domestic basis. However, the Same-Sex Relationships (Equal Treatment in Commonwealth Laws — Superannuation) Bill 2008 which is currently before federal parliament will amend the definition of 'spouse' to include same-sex partners. Once the commonwealth's bill comes into operation, the expanded definition of 'spouse' will also apply in respect of ESSSuper members. It is intended that the commonwealth amendments will come into operation from 1 July 2008.

Honourable members may recall that this issue arose last year in relation to the Superannuation Legislation (Contribution Splitting and Other Matters) Act 2007.

The Victorian government strongly believes that current commonwealth superannuation laws are unfair and discriminatory. The Victorian government has previously written to the federal Treasurer, the Honourable Wayne Swan, MP, and his predecessor, urging the federal government to amend its superannuation law to remove legislative provisions which discriminate against those in same-sex relationships.

On that basis, the Victorian government supports the commonwealth bill to amend discriminatory provisions. However, until the commonwealth bill is approved the Victorian government is constrained from extending equal treatment to same-sex couples in its public sector superannuation schemes due to its obligations under the 1996 heads of government agreement. That agreement requires states to conform with the commonwealth's retirement incomes policy as well as prevailing commonwealth legislation. In return for that commitment, state public sector schemes, and their members, receive extremely valuable concessional tax treatment.

As noted earlier, it is intended that the commonwealth bill will commence on 1 July 2008 and the Victorian government sincerely trusts that there will be no undue delay in the passage of that bill.

In relation to Victoria's charter of human rights, while this bill will limit the right to equal protection of the law without discrimination this limitation is reasonable in order to maintain consistency with commonwealth law. More importantly, this bill is being used as a vehicle to facilitate access for same-sex spouses pursuant to the aforementioned changes at the commonwealth level. A fuller examination of this issue is set out in the statement of compatibility that I have provided to the house in accordance with section 28 of the Charter of Human Rights and Responsibilities Act 2006.

The bill will put members of the former State Superannuation Fund and their spouses on an equal footing with other members of ESSSuper. In particular, it will allow them to make additional pre-tax and post-tax contributions to the accumulation scheme and will allow them to rollover or transfer amounts from other superannuation funds into ESSSuper accumulation products.

It is important to note that the ESSSuper accumulation products will not be available to all and sundry. ESSSuper will only be permitted to accept contributions in respect of members who have established a relationship with the scheme as employer-sponsored members, or members belonging to a prescribed class, who continue to be members of the scheme.

This means that once a person has become an employer-sponsored member of ESSSuper, or a person belongs to a prescribed class (usually a spouse or former spouse of an existing member), then that person can continue to make contributions even when they no longer have a relationship with an employer-sponsor.

The bill will also empower the Emergency Services Superannuation Board to enter into a contract with an external party for the provision of financial advice to members. Given the wide range of superannuation options that now confront an individual upon retirement, it is important that members have access to expert independent financial advice.

The financial advice will be provided by a third party, and will be available to new, existing and retiring members of the scheme. Members will pay for this service directly or from their ESSSuper accumulation accounts.

It is important to note that the board will not be responsible for any advice or enter into a contractual relationship with members regarding the provision of such advice. The board's role will be to identify an appropriate provider, which members may choose to utilise at their discretion. The provider is free to recommend a range of products to a member, including those provided by ESSSuper or an alternative scheme.

The benefit of the arrangement is that the board has an opportunity to seek discounted advice for members and the provider will be able to develop a deep understanding of the scheme and its complexities.

The bill will also allow the board to provide accumulation scheme members with the ability to make a binding death benefit nomination.

Binding death nominations are sanctioned under the commonwealth superannuation industry supervision regulations. The board has advised that members of the scheme have shown a strong interest in such nominations as they provide more certainty for members. Only 'dependants'

can be nominated and the nomination must be renewed every three years.

The board has advised that binding death benefit nominations are an important tool for estate planning purposes and are often recommended by legal advisers in the case of broken or blended families to reduce the potential for disputes. The bill provides that such nominations can be introduced at the board's discretion in respect of accumulation products.

The bill also addresses an existing oversight by codifying that, in carrying out its duties, the board must have regard to the interests of contributing employers as well as the interests of scheme members. While this might seem an obvious reality for the trustee of any defined benefit scheme, the current legislation does not explicitly require this.

The bill also contains amendments to facilitate new flexible work practices that were introduced in the 2007 Victoria Police enterprise agreement. In particular, the amendments cater for those officers who retire from the force and later return on a fixed-term contract. The amendments ensure that those returning in an operational capacity will be provided with the same level of death and disability cover as ongoing employees who remain in the defined benefit scheme. The bill also contains an amendment to allow members to continue making contributions beyond the age of 65.

Finally, the bill also includes a minor amendment to the Victorian Managed Insurance Authority Act 1996 to permit directions pursuant to section 25A of that act to be made for a period up to five years, as opposed to the current limit of one year. This amendment better reflects the insurance market cycle and the existence of specific project or event insurance arrangements which are scheduled to proceed for set periods in excess of one year.

This amendment to the Victorian Managed Insurance Authority Act 1996 has been included in this bill due to portfolio alignment and as a related financial risk management matter.

I commend the bill to the house.

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

Debate adjourned until Thursday, 7 August.

NATIONAL PARKS AND CROWN LAND (RESERVES) ACTS 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 National Parks and Crown Land (Reserves) Acts Amendment Bill 2008.

In my opinion, the National Parks and Crown Land (Reserves) Acts Amendment Bill 2008, as introduced to the Legislative Council, is compatible with the human rights protected by the charter. I base my opinion on the reasons outlined in this statement.

Overview of bill

The bill:

creates Cobboboonee National Park and Cobboboonee Forest Park in far south-west Victoria;

adds approximately 300 hectares to seven existing national, state and other parks and makes some minor excisions from existing parks;

specifies Cobboboonee and Otway forest parks as 'restricted Crown land' under the Mineral Resources (Sustainable Development) Act 1990;

provides for the control and management of water-related infrastructure in two natural features reserves by Melbourne Water Corporation; and

repeals several spent provisions and makes some consequential and other amendments to the National Parks Act 1975, Crown Land (Reserves) Act 1978 and the Forests Act 1958.

Human rights issues

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

Section 12 — freedom of movement

Section 12 of the charter provides for the right for every person to move freely within Victoria and to enter and leave it and to have the freedom to choose where to live. It includes the freedom from physical barriers and procedural impediments.

It may be perceived that the creation of new park areas may limit the ability of a person to move freely within those areas. However, the bill does not create any restrictions on a person moving freely within the parks or within Victoria.

It may also be perceived that, because new section 75 of the National Parks Act 1975 (inserted by clause 8) and new section 66(e) of the Crown Land (Reserves) Act 1978 (inserted by clause 19) cease several roads, those provisions may limit access and the ability to move freely. However, those provisions simply change the status of the Crown land when it is included in particular parks. They do not create any restriction on persons moving freely in those areas of public land.

Therefore, the bill does not interfere with the right.

Section 19 — cultural rights

Section 19 provides for the right for Aboriginal persons to maintain their distinctive spiritual, material and economic relationship with the land and waters and other resources with which they have a connection under traditional laws and customs.

The proposed Cobboboonee National Park and Cobboboonee Forest Park are subject to a Federal Court determination that

non-exclusive native title rights and interests exist. The area is also subject to an indigenous land use agreement ('ILUA') made between the state of Victoria and the Gunditjmara people under the Native Title Act 1993 (Cth).

The bill does not deprive any Aboriginal person of a relationship with the subject land and does not affect existing native title rights and interests nor the ILUA. Therefore, there is no limitation on the cultural rights of Aboriginal persons.

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.

New section 66(c) of the Crown Land (Reserves) Act 1978 (inserted by clause 19) provides, in relation to Cobboboonee Forest Park, that when the park is created, the land forming the park is deemed to be unalienated land of the Crown, freed and discharged from all trusts, limitations, reservations, restrictions, encumbrances, estates and interests.

However, there are no proprietary interests in the affected land and therefore this clause does not deprive any person of property. To the extent (if any) that licences, permits and other authorities constitute some form of property right, new section 66(d) of the Crown Land (Reserves) Act 1978 (inserted by clause 19) provides for all licences, permits and other authorities to be continued.

Similarly, in relation to Cobboboonee National Park, to the extent (if any) that a drainage licence, firewood licence, apiary licence or tour operator licence constitutes some form of property right, the bill provides for these to be saved. In particular, new section 32R of the National Parks Act 1975 (inserted by clause 6) continues an existing agreement in relation to a drain in the park until its expiry; new section 71 of the National Parks Act 1975 (inserted by clause 8) continues firewood licences pre-existing the park until their expiry; new section 72 of the National Parks Act 1975 (inserted by clause 8) continues any tour operator licence pre-existing the park until its expiry; and new section 73 of the National Parks Act 1975 (inserted by clause 8) continues apiary rights pre-existing the park until their expiry.

It is noted that new section 71(1) provides that any existing firewood licences are to continue in force until the earlier of their expiry or 30 June 2010. There are no existing licences which expire after 30 June 2010. Accordingly, this section will not result in the early termination of any existing firewood licences.

Therefore, there is no limitation on the right protected under section 20.

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

Because the bill does not limit human rights, it is not necessary to consider section 7(2) of the charter.

Conclusion

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

GAVIN JENNINGS MLC
Minister for Environment and Climate Change

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:

Victoria's parks and reserves system is one of the state's great assets. It is the cornerstone of biodiversity conservation as well as the source of significant enjoyment for many people.

The National Parks and Crown Land (Reserves) Acts Amendment Bill 2008 enhances the parks and reserves system. Of particular note, it creates the Cobboboonee National Park and Cobboboonee Forest Park to protect the valuable Cobboboonee forest in far south-west Victoria.

The bill also alters the boundaries of several existing parks, designates two forest parks as restricted Crown land, provides for Melbourne Water's control and management of certain structures in two natural features reserves and makes some minor, miscellaneous amendments to several acts.

Cobboboonee parks

I wish to acknowledge the Gunditjmara people as the traditional owners and native title holders of the Cobboboonee forest and the strong attachment and commitment they have to the area. The government looks forward to their involvement as partners in the future management of the forest.

The Cobboboonee forest is a significant area of lowland forest near Portland and Heywood in far south-west Victoria. It includes the headwaters of the Fitzroy and Surry rivers and several tributaries of the Glenelg River. The forest also contains endangered and vulnerable vegetation types, including many wetlands, together with threatened plant and animal species, several of which are endangered.

The forest is popular for various recreation activities, including walking part of the Great South West Walk, horseriding (including on long-distance trails), camping, picnicking, vehicle touring, car rallies and motorcycling. It also supplies some minor forest produce, including firewood, posts and poles, and honey.

The new Cobboboonee National Park and Cobboboonee Forest Park will, together, give increased and permanent protection to the forest. The parks will ensure that the forest is managed for the best mix of conservation and recreational uses, and also to protect cultural values. Activities currently permitted will continue to be permitted in either or both of the new parks.

The boundaries of the parks were determined after a comprehensive process of community consultation. This included establishing a community reference group, holding workshops locally and in Melbourne, considering many public submissions and reporting back to the community. On behalf of the government, I would like to thank all those who

participated in that process and to acknowledge their long-term commitment to the future of the forest.

Cobboboonee National Park, with its primary emphasis on nature conservation, will be established under the National Parks Act 1975. It will abut Lower Glenelg National Park and cover about 18 500 hectares, including the majority of the Surry River corridor and the headwaters of the Fitzroy River. The national park, with its high conservation values, will give additional protection to endangered and vulnerable vegetation types as well as threatened species, including large forest owls, small marsupials and a skink. It will also provide for a range of recreation activities.

Cobboboonee Forest Park will cover about 8700 hectares. In addition to protecting natural and catchment values and offering diverse recreation opportunities, the park will provide for the sustainable harvesting of minor forest produce, such as firewood and some posts and poles.

Similar to Otway Forest Park, Cobboboonee Forest Park will be permanently reserved under the Crown Land (Reserves) Act 1978 but will be managed under specified provisions of the Forests Act 1958. This approach emphasises the permanent protection of the area for public purposes, ensures that the granting of sawlog and pulpwood licences over the area is prohibited but allows for the granting of licences for the harvesting of minor forest produce by the community.

The bill, as necessary, saves existing licences and permits and other authorities in the two parks and inserts a new power in the National Parks Act 1975 to enable the granting of a licence in respect of an existing drain in the national park at the expiry of the current agreement. The ability to obtain permission under the Water Act 1989 for works on existing drains in the national park is not affected.

As a transitional measure, the bill enables firewood to be harvested, until 30 June 2010, from existing logging residue within designated areas of the national park. No new felling of trees will be permitted. Firewood will continue to be able to be collected under permit in the forest park. More broadly, a firewood strategy will be developed, taking into account the needs of the local community.

Amendments to existing parks

The bill adds approximately 300 hectares to Great Otway, Kinglake and Lower Glenelg national parks, Holey Plains, Langi Ghiran and Warrandyte state parks and Castlemaine Diggings National Heritage Park. The additions are mostly areas that have been purchased or otherwise acquired for their inclusion in those parks, as well as some unused or redundant roads.

In more detail, the additions include:

to Great Otway National Park — a small area at the Johanna camping ground west of Cape Otway;

to Kinglake National Park — undisturbed bushland generously donated by the late Mrs Edna Yarwood through the Trust for Nature, and an area purchased with the assistance of a generous donation by Ms Karma Hastwell;

to Lower Glenelg National Park — three small areas of residual Crown land abutting the park;

to Holey Plains State Park — Ben Winch Swamp, a significant wetland containing a nationally endangered plant species;

to Langi Ghiran State Park — an area containing threatened woodland and forest vegetation types;

to Warrandyte State Park — several small blocks at Pound Bend, which will help consolidate that part of the park;

to Castlemaine Diggings National Heritage Park — part of the historically significant Welsh Village, one of the state's most outstanding examples of a late 19th century quartz gold mine and its associated village, and some small allotments.

The bill also excises two roads and an access track from Great Otway and Yarra Ranges national parks and makes some corrections to the plans of Great Otway, Kinglake and Yarra Ranges national parks. The excisions are minor and have minimal, if any, impact on the parks. The National Parks Advisory Council was consulted under section 11 of the National Parks Act 1975 and it has provided advice for tabling in Parliament that it supports the excisions and plan corrections. The bill also excises an area from the Otway Forest Park as part of establishing a cycling trail along the Old Beechy railway line, and deems that an area of freehold land was never part of the park.

Restricted Crown land

The bill amends the Mineral Resources (Sustainable Development) Act 1990 to specify both the Otway and Cobboboonee forest parks as 'restricted Crown land'. This recognises the status of those areas and means that any mineral, petroleum or geothermal exploration operations, and any subsequent operations, require the consent of the minister responsible for the land.

Other amendments

The bill also amends the Crown Land (Reserves) Act 1978 to provide a clear statutory basis for the control and management by Melbourne Water Corporation of existing water-related structures and installations (such as dam walls) in Devilbend and Frankston natural features reserves.

Finally, the bill repeals several spent provisions in the National Parks Act 1975 and the Crown Land (Reserves) Act 1978 and makes some other, miscellaneous amendments.

Conclusion

In conclusion, the bill will enhance Victoria's magnificent parks and reserves system. Permanently protected, the two Cobboboonee parks and the additions to several existing parks will contribute to the long-term conservation of our natural and cultural heritage, as well as to the public's enjoyment of those special areas.

I commend the bill to the house.

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

Debate adjourned until Thursday, 7 August.

LAND (REVOCATION OF RESERVATIONS) (CONVENTION CENTRE LAND) 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 Land (Revocation of Reservations) (Convention Centre Land) Bill 2008.

In my opinion, the Land (Revocation of Reservations) (Convention Centre Land) 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

This bill revokes the permanent reservations of land in the Yarra River Wharf and Polly Woodside areas.

Human rights issues

Section 20 of the charter, which protects against deprivation of property other than according to law, may appear to be relevant to this bill. This is because clause 6 provides that, on removal of reservations, land is deemed to be unalienated land of the Crown, freed and discharged from all trusts, limitations, reservations, restrictions, encumbrances, estates and interests. However, no individuals have any proprietary interest in the affected land.

As this bill will not deprive any person of property rights, I consider that it does not limit the right protected under section 20.

I consider that section 12 of the charter, which protects the right to freedom of movement, is not limited by the bill. This is because public access to the land affected by the revocation of reservations will not be restricted any more than it is currently. Part of the land has been closed to public access since 2006 while the area is being developed and it is expected that access will improve in future as these developments are completed.

Conclusion

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

GAVIN JENNINGS MLC
Minister for Environment and Climate Change

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 purpose of this bill is to change the status of two portions of land which are permanently reserved under the Crown Land (Reserves) Act 1978.

Bills of this nature are often needed to provide changes in land status to support government or community projects. The status of Crown land that is permanently reserved under the Crown Land (Reserves) Act 1978 can in most cases only be changed by legislation. The Minister for Environment and Climate Change in the other place is responsible for that act and regularly brings these revocation bills to Parliament.

The land included in this bill is located at the Polly Woodside and Yarra River Wharf areas, which are near the site for the new Melbourne Convention Centre that is currently being constructed.

Removing the permanent reservations over this land will contribute to the successful completion of the Melbourne Convention Centre Development Project, which includes creating a lively maritime precinct on the banks of the Yarra River.

The land in the Yarra River Wharf area is currently reserved for public purposes — specifically, wharf and associated tourist facilities. The other portion of land included in this bill is in the maritime precinct and, most notably, is the home of the historic *Polly Woodside*. This area is appropriately reserved for the 'conservation of an area of historic interest'.

The improvements planned for both areas of land are consistent with these purposes. However, the permanent reservations under the Crown Land (Reserves) Act 1978 need to be removed before leases can be executed to allow the new public facilities to become fully operational.

The public interest in these two parcels of land will be protected by temporary reservations which will be placed over these parcels of land in approximately the same locations, once the commercial leases have been executed. Drafting for these temporary reservations is already in hand.

The riverfront promenade and the maritime precinct will be accessible to the public at all times once the developments are complete and will form part of the wider public realm of the Melbourne Convention Centre precinct. The area will be completely revitalised by maintenance works to the wharves and docks, improved amenities and additional public attractions.

The maritime precinct, which houses the *Polly Woodside*, will undergo significant improvements as part of the development project. This will provide much-needed maintenance facilities for the *Polly Woodside*. It will also create a suitable historical significance of the area for the public to experience. In particular, works to the Pump House and new informative displays will promote public understanding of its historical significance. The National Trust is the current committee of management for this land and naturally supports the proposed improvements.

The works to the precinct will improve public access through upgrades to the wharves and docks and provide a much-needed link between Docklands and Southbank through the construction of a new bridge across the Yarra River.

Additionally, the works will revitalise previously underutilised parcels of land on the banks of the Yarra River, enhance public amenities, rejuvenate the maritime precinct and help preserve an area of historical significance. Generally the extensive landscaping works proposed will improve the public realm.

The Melbourne Convention Centre is a project focused on driving Victorian tourism. It has demonstrated benefits for the state as can be seen by the 23 international conventions already booked for the centre delivering an estimated $327 million to the Victorian economy.

The works facilitated by this bill are a part of making Melbourne a better tourist destination by improving our already popular riverfront promenade and making it easier for people to get around and enjoy our great city.

The Melbourne Convention Centre development is an important and exciting project for Melbourne and Victoria. This bill makes a small, but necessary, contribution to its successful completion so the public can start enjoying the revitalised wharf area as soon as it is completed.

I commend the bill to the house.

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

Debate adjourned until Thursday, 7 August.

HERITAGE 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 Heritage Amendment Bill 2008.

In my opinion, the Heritage 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 provides for a number of changes to the operation of the Heritage Act 1995. In particular:

the Heritage Council's heritage registration processes are being amended to ensure only a single hearing is required on whether or not a place should be included in the heritage register;

the Historic Shipwrecks Advisory Committee is to be abolished;

a new infringeable offence of not complying with a heritage permit and its conditions is created;

a provision is amended to clarify that financial security can be used to ensure compliance with a condition on a heritage permit; and

the certificate section of the heritage register is amended to include reference to world heritage environs areas.

Human rights issues

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

The relevant right under the charter which the bill engages is:

Section 20: A person must not be deprived of his or her property other than in accordance with law.

Clauses 5, 6, 7 and 8 of the bill amend the existing procedures of the Heritage Council in relation to the entry of places or objects in the Victorian Heritage Register. In particular, these clauses provide for a single hearing to take place with regard to whether or not a place should be entered in the heritage register. However, the provisions impose no new requirements on owners. The single-hearing process will reduce delays, uncertainty and costs to the owner of a property.

When a place or object is entered in the heritage register an owner has to seek a heritage approval prior to undertaking any works or alterations to the place or object. The entry of a place in the heritage register does not deprive a person of their property, but does impose some limitations on the unfettered use of a property, in that works and alteration can only be undertaken with a heritage permit issued under the act. However, extensive negotiations occur between Heritage Victoria and the owner or custodian of a nominated place or object. Any restrictions on the use of owners' property are in accordance with law and accord with the purpose of the act, which is to maintain and protect Victoria's historic cultural heritage.

Accordingly, it is considered that these clauses, while engaging the right to property protected by section 20 of the charter, do not limit that right.

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

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

Conclusion

I consider that the bill is compatible with the Charter of Human Rights and Responsibilities, because while it engages a human right it does not limit that right.

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 provisions of the Heritage Act 1995 protect and conserve Victoria's unique cultural heritage places and objects, ranging from grand mansions and homesteads to the humble miners cottage; cathedrals to chapels; corner shops to the Royal Exhibition Building; domestic and botanic gardens; avenues of honour; shipwrecks; objects such as the Eureka flag and documents such as the miners right and the monster suffrage petition.

The act has served the Victorian community well, but as with any legislation, there is always scope for improvements, to make it more efficient and effective. This is the basis of the bill.

The principal amendment relates to the heritage registration procedures of the Heritage Council to remove the provisional determination provision. This amendment was requested by the Heritage Council of Victoria which is concerned that the provision, which can result in two hearings before the Heritage Council, has resulted in confusion, delays and costs to all parties involved, which may include the owner, nominator, local government, or the National Trust.

Currently the executive director, following an assessment of a nomination of a place or object to the heritage register, can recommend to the Heritage Council that the place or object not be included. This recommendation is given public notice for 60 days to allow written submissions. If written submissions are received, and the National Trust or a person with a real and substantial interest requests it, a hearing must be held before the Heritage Council's registrations committee on the recommendation not to include.

Following the hearing the Heritage Council's registrations committee can determine that the place or object not be entered in the heritage register or that the place or object may be of cultural heritage significance and provisionally determine to include the place or object in the heritage register.

As the Heritage Council's recommendation to include the place or object is different from the executive director's original recommendation, notification including a public notice has to be given and 60 days allowed for written submissions. If submissions are received, and the National Trust or a person with a real and substantial interest requests it, a hearing must be held before the Heritage Council's registrations committee on the recommendation to include. In these cases two hearings are required to be held before the issue of whether or not a place or object should be included in the heritage register is resolved.

Since 2000 there have been 11 cases determined where the Heritage Council's registrations committee has been required to consider the matter twice before the issue of registration has been resolved. The average period from the executive director's recommendation to final decision has averaged 13 months.

An example was a group of pine trees at Shoreham, which the executive director recommended not be included in the heritage register. This recommendation was the subject of a hearing which resulted in the Heritage Council's registrations committee determining that the place may be of cultural heritage significance and provisionally including the place in the heritage register. This recommendation was itself subject to objections and a second hearing of the Heritage Council's registrations committee, which determined that the place should be included in the heritage register. This process took 13 months and resulted in confusion, particularly in the local community, delays and costs to all parties involved.

The bill will provide for a single hearing by the Heritage Council's registrations committee at which the issue of whether or not a place or object should be included in the heritage register is considered and resolved. This proposal has broad support as it will reduce delays, costs and community confusion.

In 2004 the Royal Exhibition Building and the Carlton Gardens were inscribed in the World Heritage List. Amendments to the Heritage Act in 2004 gave recognition to this and made provision for the Minister for Planning to declare a world heritage environs area for the site. The 2004 amendment, however, did not include reference to the world heritage environs area in the section of the act for issuing a certificate as to whether or not a place is affected by the act. The bill corrects this oversight.

The executive director issues approximately 300 heritage permits each year for a wide range of works and alteration to places and objects on the heritage register. As provided for under the act, conditions are imposed on permits to ensure the approved works are carried out appropriately. These may require that heritage-registered trees and important fabric is protected during construction; that a range of conservation works are undertaken as part of the development; that an archival record is undertaken of the place prior to the works commencing; or an interpretation plan is implemented as part of the development.

The majority of owners and developers comply with conditions on heritage permits. Failure to comply with a condition on a permit can, however, compromise a successful conservation outcome. Whilst it is an offence under the Heritage Act to carry out works to a heritage-registered place without a permit, unlike the Planning and Environment Act 1987, the current provisions of the Heritage Act do not have a specific offence of not complying with a heritage permit, including conditions.

This creates an anomaly where if a place is covered by a heritage overlay in the planning scheme the responsible authority can enforce breaches of conditions on a permit by a penalty infringement notice or a summary offence, but if the place is on the state heritage register, the executive director cannot. The only option would be to pursue an indictable offence, which in most cases would be disproportionate to the level of the offence.

The lack of this specific offence is considered to be a weakness in the current enforcement provisions and accordingly, the bill introduces a new offence of non-compliance with a heritage permit. This will be made a prescribed offence for the purpose of a penalty infringement notice, with 5 penalty units for a person and 10 penalty units for a body corporate. It is also a summary offence with a maximum of 120 penalty units for a person and 600 penalty units for a body corporate.

In approving a heritage permit the executive director can require financial security to ensure the satisfactory completion of works approved under the permit. This normally relates to the completion of an agreed range of conservation works to a building, following which the financial security is returned. The level of financial security is based on the scope of the works involved and is usually agreed with the applicant. In some instances the executive director approves temporary works, such as display banners or installing a relocatable building, with a condition that they be removed by a specified date. Financial security to ensure compliance with this condition has been discussed with applicants, but the act does not provide for these circumstances. The bill provides that financial security can be required to ensure compliance with the condition of a heritage permit.

The Historic Shipwrecks Advisory Committee was established under the Historic Shipwrecks Act 1981. The provisions for its establishment, which are very prescriptive, and its roles were included in the Heritage Act. Since 1995 the Heritage Council has appointed a range of other advisory committees to provide it with policy advice on archaeology, industrial engineering heritage, landscapes, religious places, collections, and technical issues. These committees comprise a broad range of experts from across a wide field.

While the Historic Shipwrecks Advisory Committee has served the Heritage Council and Victorian community well, the prescriptive process for appointment and its roles are not consistent with other advisory committees. The bill removes reference to the Historic Shipwrecks Advisory Committee. This would not impact on the work of the committee which would be reconstituted by the Heritage Council under the committee provisions of the act with a broader remit to advise on all maritime heritage issues.

To enable matters commenced under the provisions of the current act to be concluded, the bill includes transitional provisions.

I commend the bill to the house.

Debate adjourned on motion of Mr GUY (Northern Metropolitan).

Debate adjourned until Thursday, 7 August.

BUSINESS OF THE HOUSE

Adjournment

Mr LENDERS (Treasurer) — I move:

That the Council, at its rising, adjourn until Tuesday, 19 August 2008.

Motion agreed to.

ADJOURNMENT

Mr LENDERS (Treasurer) — I move:

That the house do now adjourn.

Water: Geelong

Mr KOCH (Western Victoria) — I raise a matter for the Minister for Water concerning water reclamation and reuse in the Geelong region. Barwon Water wants to increase water recycling to at least 25 per cent by 2015 and to reduce reliance on potable water for other purposes by 15 per cent in the next 20 years. There are nine water reclamation plants supplying 3000 megalitres of class C recycled water annually for irrigation and industrial use. The main plant at Black Rock is 15 kilometres south of Geelong and is currently able to treat 55 megalitres, or 55 million litres, of sewage daily.

Once the proposed new multimillion dollar Black Rock recycling plant is operational, it will be able to provide class A water and have the capacity to service a third-pipe scheme into the new residential development at Armstrong Creek, which is expected to house 55 000 residents within 15 years. Incorporating a third pipe to carry recycled water for non-potable domestic and external use will reduce the consumption of potable water by 75 per cent in this development. Armstrong Creek offers a unique opportunity to pilot a range of water-saving initiatives that can make this housing development the most water efficient in the state.

Barwon Water is also planning to build a major water recycling plant on industrial land beside the Shell refinery, which will be operational in 2012. This plant will recycle waste water from homes and industry across Geelong's northern suburbs. It will have the capacity to save the equivalent volume of potable water as that used in 10 000 homes each year, or about 5 per cent of Geelong's total annual consumption.

The extra drinking water made available through the increased use of class A recycled water for non-drinking purposes should result in a significant surplus of supply, as preliminary investigations indicate that the northern water plant will add 5 gigalitres and, at Black Rock, 15 gigalitres annually. Further treatment of recycled water may also support the recharging of the Anglesea bore field and add another 7 gigalitres of water each year.

Barwon Water's recycling and water-saving initiatives may well make the costly Melbourne interconnector pipe unnecessary, saving Geelong residents millions of dollars a year in increased water bills. The burden of constructing the interconnector should not be forced on the Geelong community just to pay for the desalination plant at Wonthaggi.

My request is for the minister to support Barwon Water by seeking additional funding from the federal government to explore more recycling initiatives before committing Geelong residents to the costly Melbourne interconnector pipeline.

Rail: Yarraville level crossing

Ms HARTLAND (Western Metropolitan) — My adjournment matter tonight is for the Minister for Public Transport. It relates to a Yarraville rail crossing. I refer to a report released by the Cross Safe at Yarraville group, which shows that eight pedestrians are crossing illegally every hour at the railway crossing in Anderson Street, Yarraville. The survey was conducted by volunteers — I was one of them — and I would like to commend the group for organising the survey, putting together such a professional report and having the courage to take action.

The report contains not only shocking data about people crossing unsafely and illegally at the crossing but also gives the strong impression that the crossing represents an accident waiting to happen. The observations included two people attempting to cross illegally then turning back when they saw an express train; kids of all ages, one with headphones on and other kids with adults, including one in a pram; drunken younger people; old men shuffling along; and professionally suited women. We are not talking about a couple of ratbags. A common factor was people rushing to catch a train, which is incredibly dangerous as they might get hit by a second train.

We have to accept human nature and recognise that this is going on and build safety into the system. The situation at the Yarraville crossing has got beyond the stage where it could be fixed by an awareness campaign or better signage. By all means signage and awareness should be included as part of a broader solution, but what we need is a disability-compliant pedestrian underpass. Unfortunately as far as we can understand the government has not even examined the feasibility of an underpass. It is blaming disability compliance, saying it is too difficult to engineer, yet in the next breath government members talk about building a road tunnel from Footscray to Caulfield. My request of the Minister for Public Transport is to act on the Cross Safe at Yarraville report by commissioning experts to examine the feasibility of an underpass for shoppers and commuters in Yarraville.

Western Melbourne Tourism: funding

Mr PAKULA (Western Metropolitan) — I raise a matter for the Minister for Tourism and Major Events in the other place, Mr Holding. In doing so I add my voice to the support provided by the member for Williamstown in the Assembly, Wade Noonan, and the member for Keilor in the Assembly, George Seitz, who have both made representations to the Minister for Tourism and Major Events in relation to Western Melbourne Tourism. I am informed that the members for Williamstown and Keilor wrote to the Minister for Tourism and Major Events in May, bringing to the minister's attention a call by Western Melbourne Tourism for support funding for an image campaign for Melbourne's western suburbs.

As members would know, the west has a lot to offer tourism, whether it be Scienceworks in Spotswood, Werribee mansion and the Werribee Open Range Zoo, the Royal Australian Air Force museum at Point Cook, the Williamstown heritage precinct, wineries like Shadowfax, the Maribyrnong River or the fantastic cafes, bars and restaurants that are not far from my own electorate office in Yarraville. Western Melbourne Tourism is proposing a marketing and advertising initiative involving support from local government and tourism operators in the west. It is a smart proposal which will be great for workers and families in Melbourne's west. I call on the minister to give serious consideration to the Western Melbourne Tourism proposal and to provide financial support for such a campaign.

Drought: government assistance

Ms LOVELL (Northern Victoria) — The matter I wish to raise is for the attention of the Premier in his role as chairman of the drought recovery task force. It concerns funding for drought counsellors that is due to expire in September. My request of the Premier is that he continue funding for drought counsellors beyond September and conduct an immediate review of drought support funding to address the issue of a lack of consistency and continuity in the delivery of state government drought support. Much of the electorate of Northern Victoria Region continues to struggle through the drought. The state government has contributed funding for drought support workers and programs throughout the drought affected areas. These include workers and programs, such as the drought recovery worker based at the Kyabram community and learning centre and the funding of the no bull therapy program being implemented by La Trobe University's Bouverie Centre.

The no bull therapy program in particular has been well received by counsellors and communities in northern Victoria. It enables state government-funded drought support workers to implement an up-front form of

counselling for rural people that is approachable and accessible. The no bull therapy program has provided valuable support for drought counsellors, who have in turn provided valuable support for their local communities. However, there is concern in these communities that these important drought support workers and programs will cease to be funded by the state government in September. Those living in rural and regional communities know the effects of the drought are far reaching and will remain for years. The state government must recognise that its stop-start approach to drought support funding creates issues with continuity and consistency within rural and regional communities.

It takes six months or more for state-funded drought counsellors to establish themselves within a community by building up contacts, networks and a rapport with those affected by drought. Much information and firsthand knowledge collected by those on the ground could be retained and utilised effectively by the government to improve programs and plan for the future. Instead what we are seeing is the threat of funding cuts to programs and workers that the community knows are vital now and will continue to be vital for the foreseeable future. I request that the Premier continue funding for drought counsellors beyond September and conduct an immediate review into drought support funding to address the issue of lack of consistency and continuity in the delivery of state government drought support.

Skills training: discussion paper

Ms PENNICUIK (Southern Metropolitan) — My adjournment matter today is for the Minister for Skills and Workforce Participation, Ms Allan. In April this year the minister released a discussion paper on skills reform entitled *Securing Our Future Economic Prosperity*. It clearly identified a major deficiency in our current levels of training within the VET (vocational education and training) sector. Behind the talk of skills shortages and the impact on businesses and economic growth, one cannot get past the most compelling statistic in this paper — that 1.4 million Victorians do not have any post-school qualifications. In assessing future skills needs in Victoria the paper forecasts that if we continue with current rates of training there will be a shortfall of 123 000 level 3 and 4 VET-trained workers by 2015. Therefore expansion of the VET sector is clearly needed.

I fully support the basic objective of ensuring that all Victorians can obtain at least one subsidised post-secondary qualification. However, it is difficult to see how that objective is to be achieved by a proposal to double course fees for subsidised places. Such a significant increase in course costs, even if paid via a higher education contribution scheme-type system, will place a significant economic burden on many low-income individuals and families and will be a disincentive to their participation in VET. I would like to know what the minister's justification is for this and what will happen to concessional fees for health care card holders. Concerns have also been raised with me about the proposition that private providers will be able to compete directly with TAFEs and community providers for publicly funded places. There are doubts about the scope and effectiveness of future government regulation of private providers and the overall impact on the viability of individual TAFEs.

Following the release of the discussion paper many submissions were made to the minister by stakeholders within the sector. These submissions were meant to be public documents but do not appear to be publicly available now. I understand that the minister has been considering these submissions before making her final recommendations to the government. However, I have heard from stakeholders that, apart from some initial meetings with TAFE colleges and the Australian Education Union and a recent round-table discussion to which not all stakeholders were invited, there has been little ongoing consultation. I have been told that questions and requests for clarification and information have not been answered. This is a critical area of government responsibility and significant reforms are being proposed for the VET sector. In the interests of transparency and to ensure that the very best outcomes are achieved it is important that key stakeholders are not shut out of the process and that dialogue is ongoing.

My request to the minister is that she publicly release the submissions to the discussion paper and any modelling done by or on behalf of her department into the likely effects of the reforms, and that she continue to consult with the TAFEs, community providers and relevant staff unions before any final recommendations are made to government.

VicForests: harvesting and haulage contracts

Mr P. DAVIS (Eastern Victoria) — I direct a matter for the attention of the Treasurer as the minister responsible for VicForests. The matter concerns a dire shortage of firewood — an issue I have raised previously and which is sheeted home to the mismanagement of VicForests. Not only has this situation not as yet been resolved, it is getting worse. The system for allocating timber supplies to firewood contractors has failed, and will remain unworkable as long as responsibility for firewood supplies continues to

be divided between VicForests and the Department of Sustainability and Environment.

To explain the core problems within this failed system, VicForests' supplies would be four times the price charged by the DSE. Contractors with DSE are permitted to get their wood directly from the forest coupes, while VicForests refuses access to coupes under its control and delivers the wood to pick-up depots in unsatisfactory quality and lengths, which may arguably be a restraint of trade. Information available to the contractors indicates that VicForests will sell only 300 tonnes of timber for firewood this year when firewood use in Victoria stands at 1.2 million tonnes. Only four of the 320 firewood merchants in the state will share this year's allocation of firewood timber. The rest will be forced to negotiate supplies with private landowners or go out of business.

I point out that the Treasurer commented in an email on 1 June to Newry contractors Jeff and Kristy Coster that recent discussions between VicForests, the Department of Sustainability and Environment and the Firewood Association of Australia (FAA) agreed that VicForests would continue to be responsible for the sale of commercial firewood in Victoria. How does that hold up against the very clear impression of the association's Alan McGreevy, who was at that meeting? In an email to Kristy Coster of 5 June Alan told her that at no time was the ongoing operation of VicForests discussed, and that it would have been totally inappropriate for the FAA to even comment on this aspect of government policy.

I therefore ask the Treasurer to intervene to resolve the present unworkable dual supply arrangement involving VicForests and DSE, and to introduce a new firewood supply system that provides both certainty and adequacy of supply for the contractors and customers and meets the state's demand for firewood.

Dental services: eastern suburbs

Mr LEANE (Eastern Metropolitan) — My matter tonight is for the attention of the Minister for Health, and it is concerning action to be taken in support of dental services in Melbourne's eastern suburbs. In saying that, I know that since it came to office the government has made a large investment of over $950 million in oral health, which has gone a long way towards reducing waiting times and increasing access for kindergarten children as well as primary school children to dental health checks, and that has been a fantastic thing.

Over the last couple of years there have been 7 new public dental clinics introduced into the system, which has brought the total number in the state to 69. In saying that, I appreciate the government recognises there is more to be done in this very important area of supporting dental services. Recently the Minister for Health announced a $100 000 grant to the Southern Health Care Network under the Dental Waiting Times Grants program. This funding will be used by the Southern Health service to improve its capacity to better manage its dental health demand levels.

I ask the Minister for Health to take action to ensure that funding is provided to health services in Melbourne's eastern suburbs to allow initiatives such as the Dental Waiting Times Grants program to take place.

Clearways: Stonnington and Port Phillip

Mrs COOTE (Southern Metropolitan) — My adjournment matter this evening is for the Premier, and it is to do with the clearways issue in Stonnington and Port Phillip. I was concerned to hear the Premier say on the Channel 9 evening news program on 30 July that he was prepared to 'tweak' the afternoon clearway times a little. As this chamber knows, today I presented a petition with over 22 000 signatures of people who are particularly concerned about this clearways issue. I will remind the house what the clearways issue is. The Premier has decided that outbound clearways within a 10-kilometre radius of the city will operate from 3 o'clock in the afternoon until 7 o'clock at night and clearways inbound to the central business district will operate from 6.00 a.m. until 10.00 a.m.

This will have a huge impact on retailers. It is also going to have a huge impact on residents, because people will be parking in the residents' streets, and indeed the residents' own amenities will be disturbed as well. These no-park zones mean no-purchase zones. This will be particularly difficult for all of the retailers. The protest petition represents the pleas of retailers and residents who are furious at the government for ignoring their concerns. The Brumby government is turning the city of Stonnington and the city of Port Phillip into freeway cities for passers-by while ignoring the pleas of retailers and residents.

Mr Lenders interjected.

Mrs COOTE — They are your residents and retailers as well, and I am sure you are just as concerned about them as I am, Mr Lenders.

It is affecting people's livelihoods. We have talked about what are some of the longer term scenarios for improving traffic conditions in this state. I do not believe making clearways is one of those.

My concern is about the word 'tweaking'. The action I am seeking is for the Premier as a matter of urgency to explain to the people of Stonnington and Port Phillip exactly what he meant when he said he was prepared to consider tweaking the proposed afternoon clearways in these cities.

Hospital: RSL visitors

Mrs PETROVICH (Northern Victoria) — My matter on the adjournment is for the Minister for Health. Most country Victorians know the wonderful work that RSL sub-branches do in their local communities, in particular looking after the welfare of returned soldiers and their families. One of the very successful programs they run is hospital visits, which for some older veterans and widows is often a godsend as they may not have any family or friends living nearby who can call in and say hello.

The benefits of hospital visitations are well recognised, and they can brighten the day of any patient. Certainly the welfare officers of the RSL see a positive effect on a daily basis, which they have informed me of. However, because of the Information Privacy Act 2000, RSL volunteers often have a problem finding out when an ex-service member or their widow has been admitted to hospital.

There are two solutions to this problem, which I am happy to share. The first solution is: if the veteran or widow is aware of the hospital visiting service, when admitted into hospital they can request that the local RSL sub-branch be notified so that visits can be organised. The other far more practical option is for the hospital to adopt the process recommended by the RSL, whereby the hospital asks the patient on their admittance form if they can pass their details on to the RSL sub-branch, which can then organise the hospital visits.

I ask the Minister for Health to institute a procedure which makes it standard practice in every hospital in Victoria that ex-service members and their widows are asked when they are completing their hospital admittance form if they would like a visit from the RSL.

Guide and Scout Water Activities Centre: rescue vessel

Mrs PEULICH (South Eastern Metropolitan) — Scouting celebrated 100 years in 2007, and the centenary of scouting in Australia is being celebrated in 2008. As part of the activities the City of Casey hosted a dinner last Friday to mark the 100 years of scouts in Casey. It was a very enjoyable dinner, at which I met a Mr Gordon Harris, who is the senior instructor for the operations committee of the Guide and Scout Water Activities Centre located on the foreshore in Sandringham.

Basically the water activities centre operates a joint venture for Guides Victoria and the Scout Association of Australia, Victorian branch, and is run by volunteer members of both associations. They provide water activities to members of the scout and guide associations both from Victoria and interstate — for example, various regattas and championships, the Pacific championships, the Paralympics and so forth in Frankston, Mordialloc and Sandringham and all around the bay.

Their focus is to provide safe water-based activities for which they need appropriate rescue craft. Unfortunately the craft is very aged and needs replacing. Obviously it is very expensive. They have prepared a submission, and I ask the Minister for Sport, Recreation and Youth Affairs to have his department advise the Guide and Scout Water Activities Centre as to a source of funding or grants for which application could be made in order that such a rescue craft could be purchased. Mr Gordon Harris understands the importance of water safety strategies. I have raised that particular issue in this place before. It is paramount that we get on to this at the earliest possible opportunity.

At that dinner a young woman, Jessica Krammer from the Narre Warren South Scouts, spoke about a century of good turns. She said that a scout good turn is one of their trademarks and is a feature of being a scout. She said:

> Scouting's founder, Robert Baden-Powell, said 'good turns' are a part of being a scout. They can be done by a small kindness or by just being polite to others. He said that all scouts should do at least one good turn every day and that for it to be a proper good turn it should not be talked about but kept to oneself. One hundred years later, it is one our of 'traditions'.

I invite the Minister for Sport, Recreation and Youth Affairs to do a good turn for this organisation, which provides many very important opportunities for water-based activities on the bay that are enjoyed by the community as well as by scouts and guides. As I said,

they include the national championships in Sandringham, world championships and preparations for the Olympics. I would encourage him to be a scout.

Frankston Freeway–Cranbourne Road, Frankston: upgrade

Mr RICH-PHILLIPS (South Eastern Metropolitan) — I wish to raise a matter for the attention of the Minister for Roads and Ports, and it relates to the rapid escalation of traffic congestion at the intersection of Frankston Freeway and Cranbourne Road in Frankston as a consequence of the opening of EastLink last month. Since EastLink opened we have seen that intersection become increasingly congested. It is now a major cause of concern particularly to Frankston residents. Obviously when you have a freeway terminating at traffic lights, as we now do, at the Frankston Freeway–Cranbourne Road intersection, it is going to cause congestion.

In the lead-up to the election in 2006 the then Minister for Transport, Peter Batchelor, committed the government to constructing a right-turn flyover from Cranbourne Road onto the Frankston Freeway in addition to making other changes to turning lanes at that intersection to relieve traffic congestion. The minister in his announcement of 30 October 2006 indicated that that $15 million flyover to connect right-turning traffic would be available to open coincident with the opening of EastLink. EastLink, as members know, opened a month ago, and no work has been undertaken on the construction of that right-turn flyover, as promised by the then Minister for Transport two years ago. Indeed none of the $15 million that was allocated to that project has been allocated in the two budgets since that commitment was made. What I now seek from the minister currently responsible, the Minister for Roads and Ports, is that he immediately undertake works to commence construction of the flyover, as was promised two years ago, so that it can be — —

Mr Lenders — Would you like it done by debt or raising taxes?

Mr RICH-PHILLIPS — I take up the Treasurer's interjection — —

The PRESIDENT — Order! We are not debating. This is the adjournment.

Mr RICH-PHILLIPS — I would assume, given this commitment was made by the government two years ago, that funding was arranged two years ago when the commitment was made, and I now seek that the Minister for Roads and Ports undertake this project as promised to the people of Frankston two years ago.

Human Services: Pakenham staff

Mr O'DONOHUE (Eastern Victoria) — My matter is for the attention of the Minister for Community Services. It arises from a distressing incident that occurred a little over two weeks ago in Pakenham. On the night in question a bail justice hearing was required at the Pakenham police station. Three young children were taken into custody by the police at the direction of the department at approximately 5.30 p.m. The three children in question were all under the age of 10. From 5.30 p.m. until approximately 10.00 p.m. the children were held in custody, and it was not until that time that a bail justice was called out. The bail justice hearing eventually took place at 12.20 a.m. and the children were not released from custody until after 1.00 a.m.

Consequently these three young children were held in custody for approximately 8 hours at a police station, all for a 5-minute bail justice hearing. It has been alleged that this event occurred because of the incompetence and failure of DHS (Department of Human Services) staff to arrange the appropriate paperwork, to liaise with the parents of the children, as they should have and did not, and to keep in proper contact with the police about their activities. This tied up police resources for a significant period of time.

It meant the calling out of two bail justices for significant periods, disturbing them late at night and causing them inconvenience. Perhaps most importantly and most distressingly, it meant that three young children were detained in custody for a full 8-hour period and they did not get to bed in an alternative location until well after 1.00 a.m. This situation and incident must have had a significant impact on the children in question. I understand from investigations that this is not an isolated incident, so I ask the minister not only to investigate the situation that I have raised this evening, and I can provide further particulars to the minister if requested, but to undertake an investigation of the way that DHS staff are trained and the procedures they need to follow, so that these sorts of situations do not occur again in the future.

Monash Freeway: noise barriers

Mr D. DAVIS (Southern Metropolitan) — My adjournment matter tonight is for the attention of the Minister for Environment and Climate Change. It concerns freeway noise relating to the expansion of the Monash Freeway. The expansion of the Monash Freeway is necessary and supported, I think, by most

parties in this chamber and in this Parliament and in the community. However, as part of that expansion it is important to ensure that local communities are not unfairly or unreasonably disadvantaged. The community in suburbs along the Monash Freeway, including Glen Iris, parts of Malvern, Malvern East, the other side of the freeway in Ashburton and areas around Oakleigh and parts of the city of Monash, faces a challenge as both the volume of the freeway traffic and the noise on the freeway increase, particularly on the section between Toorak Road and Warrigal Road, after CityLink has finished and before the wider section of the freeway begins. The community faces a particular challenge there.

The government proposes to increase the freeway size by one lane in each direction, and that is understandable and necessary, given the growth in Melbourne's population and truck traffic and so forth. We all understand that. At the same time, the government proposes as part of this project — and I have had a VicRoads briefing on this — to remove the noise barriers to widen the freeway and to re-erect the old, dilapidated noise barriers. In doing so it has not taken account of the growth in noise and the risk to communities.

There is another twist to this, and that is that the requirements placed on freeways are different depending on whether they are privately or publicly owned. CityLink and EastLink, as roads that are privately owned, are required to meet a 63-decibel standard. Government roads are only required to meet a 68-decibel standard. I hasten to add here that this is a logarithmic scale, so the increase in noise is in fact about 30 per cent greater. If, for instance, Mr Finn lived next to a government road he would have to live next to 30 per cent more noise than if he lived next to a privately owned freeway. There are real questions of equity about how this operates.

In this instance, particularly in the electorate of Burwood, the member for Burwood in the Assembly, Mr Stensholt, has been silent on the matter, and I would encourage him to speak up. What I would like the Minister for Environment and Climate Change to do, though, is investigate this matter and act to ensure that the Environment Protection Authority enforces fair standards that mean that no-one in the community is disadvantaged or suffers excessively.

Water: fluoridation

Mr KAVANAGH (Western Victoria) — My adjournment matter is for the Minister for Health and relates to compulsory fluoridation of Victoria's water supplies. In Castlemaine in June, 1076 citizens signed and had witnessed forms expressing their non-consent to treatment for dental decay where the treatment is fluoride added to their drinking water. This was done within a period of only 10 days, and 1076 people are obviously a high proportion of the population of Castlemaine.

The text of the signed and witnessed statements declares, inter alia:

> I assert my right to refuse 'treatment for dental decay'… as authorised by the Secretary, Department of Human Services Victoria.
>
> I assert that the purported benefits of such treatment are not sufficient to warrant my forced consumption of fluoride, or for any person or government to waive my right to refuse treatment.
>
> I assert that there is sufficient scientific evidence to inform the Department of Human Services Victoria that there are potential harms from fluoride consumption …

Promises were made and then later broken by many government candidates and members during and around the most recent state election — promises to consult with local communities and to only fluoridate with the approval of affected citizens. I ask the minister to cater for, address and treat with genuine respect the concerns of many people in the newly fluoridated parts of Victoria.

Responses

Mr LENDERS (Treasurer) — Firstly, I have written responses to the adjournment debate matters raised by 34 members between 12 March and 26 June 2008: to Mr Hall on 12 March, Mrs Petrovich on 12 March, Ms Tierney on 15 April, Mrs Coote on 16 April, Mr Vogels on 16 April, Ms Pennicuik on 7 May, Mr Drum on 7 May, Mrs Coote on 7 May, Mrs Petrovich on 7 May, Ms Hartland on 8 May, Mr Atkinson on 8 May, Ms Pennicuik on 27 May, Mr O'Donohue on 27 May, Mr Eideh on 28 May, Ms Hartland on 28 May, Mrs Coote on 28 May, Mr Guy on 28 May, Mr O'Donohue on 28 May, Mr Vogels on 28 May, Mr Vogels on 29 May, Mr Somyurek on 29 May, Ms Pulford on 10 June, Mrs Coote on 10 June, Mr Koch on 10 June, Mr D. M. Davis on 10 June, Ms Lovell on 11 June, Mr Guy on 11 June, Mrs Kronberg on 11 June, Mr O'Donohue on 11 June, Ms Hartland on 12 June, Mrs Coote on 12 June, Mr Koch on 12 June, Mr Guy on 25 June and Ms Broad on 26 June.

Fourteen members raised adjournment matters this evening. I will refer 13 of those matters directly to the ministers involved, with just the comment that

Mrs Coote wins the award for an action requested by asking for clarification of ‘tweaking’. Leaving that aside, I will pass those matters on to the ministers.

Mr Philip Davis raised an issue for me in my capacity as Treasurer regarding supply of firewood. He particularly raised issues regarding the role of the Department of Sustainability and Environment and VicForests — whether there was sufficient supply and whether there was suitable quantity. He also had some comment on meetings and correspondence between various individuals, and he asked me for ministerial intervention.

What I will undertake to do, because I am obviously not privy to those meetings and correspondence, is take his adjournment matter on board, as I would a normal adjournment matter raised for another minister, and give him a written reply.

The PRESIDENT — Order! The house now stands adjourned.

House adjourned 7.07 p.m. until Tuesday, 19 August.