PARLIAMENT OF VICTORIA

PARLIAMENTARY DEBATES (HANSARD)

LEGISLATIVE COUNCIL

FIFTY-SIXTH PARLIAMENT

FIRST SESSION

Thursday, 6 May 2010

(Extract from book 6)

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

By authority of the Victorian Government Printer

The Governor

Professor DAVID de KRETSER, AC

The Lieutenant-Governor

The Honourable Justice MARILYN WARREN, AC

The ministry

Premier, Minister for Veterans' Affairs and Minister for Multicultural Affairs	The Hon. J. M. Brumby, MP
Deputy Premier, Attorney-General and Minister for Racing	The Hon. R. J. Hulls, MP
Treasurer, Minister for Information and Communication Technology, and Minister for Financial Services	The Hon. J. Lenders, MLC
Minister for Regional and Rural Development, and Minister for Industry and Trade	The Hon. J. M. Allan, MP
Minister for Health	The Hon. D. M. Andrews, MP
Minister for Energy and Resources, and Minister for the Arts	The Hon. P. Batchelor, MP
Minister for Police and Emergency Services, and Minister for Corrections	The Hon. R. G. Cameron, MP
Minister for Community Development	The Hon. L. D'Ambrosio, MP
Minister for Agriculture and Minister for Small Business	The Hon. J. Helper, MP
Minister for Finance, WorkCover and the Transport Accident Commission, Minister for Water and Minister for Tourism and Major Events	The Hon. T. J. Holding, MP
Minister for Environment and Climate Change, and Minister for Innovation	The Hon. G. W. Jennings, MLC
Minister for Planning and Minister for the Respect Agenda	The Hon. J. M. Madden, MLC
Minister for Sport, Recreation and Youth Affairs, and Minister Assisting the Premier on Multicultural Affairs	The Hon. J. A. Merlino, MP
Minister for Children and Early Childhood Development and Minister for Women's Affairs	The Hon. M. V. Morand, MP
Minister for Mental Health, Minister for Community Services and Minister for Senior Victorians	The Hon. L. M. Neville, MP
Minister for Public Transport and Minister for Industrial Relations	The Hon. M. P. Pakula, MLC
Minister for Roads and Ports, and Minister for Major Projects	The Hon. T. H. Pallas, MP
Minister for Education and Minister for Skills and Workforce Participation	The Hon. B. J. Pike, MP
Minister for Gaming, Minister for Consumer Affairs and Minister Assisting the Premier on Veterans' Affairs	The Hon. A. G. Robinson, MP
Minister for 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 Train Services — Mr Atkinson, Mr Barber, Mr Drum, Ms Huppert, Mr Leane, Mr O'Donohue and Mr Viney.

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 D. Davis, Mr Hall, Mr Lenders, Ms Pennicuik and Mr Viney.

Joint committees

Dispute Resolution Committee — (*Council*): Mr D. Davis, Mr Hall, Mr Jennings, Mr Lenders and Ms Pennicuik. (*Assembly*): Mr Batchelor, Mr Cameron, Mr Clark, Mr Holding, Mr Lupton, Mr McIntosh 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. Davis and Mr Tee. (*Assembly*): Ms Campbell, Mr Crisp, Mr Lim and Ms Thomson.

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*): Mr Murphy and Mrs Petrovich. (*Assembly*): Ms Duncan, Mrs Fyffe, Mr Ingram, Ms Lobato, Mr Pandazopoulos and Mr Walsh.

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

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 and Mr Scheffer. (*Assembly*): Mr Brooks, Mr Clark, Mr Donnellan, Mr Foley and Mrs Victoria.

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

Public Accounts and Estimates Committee — (*Council*): Mr Dalla-Riva, Ms Huppert, Ms Pennicuik and Mr Rich-Phillips. (*Assembly*): Ms Graley, 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 Tilley, Mr Trezise and Mr Weller.

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

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

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: Mr P. Lochert

MEMBERS OF THE LEGISLATIVE COUNCIL

FIFTY-SIXTH PARLIAMENT — FIRST SESSION

President: The Hon. R. F. SMITH

Deputy President: Mr BRUCE ATKINSON

Acting Presidents: Mr Eideh, Mr Elasmar, Mr Finn, Ms Huppert, Mr Leane, Ms Pennicuik, Mrs Peulich, Ms Pulford, Mr Somyurek and Mr Vogels

Leader of the Government:
Mr JOHN LENDERS

Deputy Leader of the Government:
Mr GAVIN JENNINGS

Leader of the Opposition:
Mr DAVID DAVIS

Deputy Leader of the Opposition:
Ms WENDY LOVELL

Leader of The Nationals:
Mr PETER HALL

Deputy Leader of The Nationals:
Mr DAMIAN DRUM

Member	Region	Party	Member	Region	Party
Atkinson, Mr Bruce Norman	Eastern Metropolitan	LP	Lenders, Mr John	Southern Metropolitan	ALP
Barber, Mr Gregory John	Northern Metropolitan	Greens	Lovell, Ms Wendy Ann	Northern Victoria	LP
Broad, Ms Candy Celeste	Northern Victoria	ALP	Madden, Hon. Justin Mark	Western Metropolitan	ALP
Coote, Mrs Andrea	Southern Metropolitan	LP	Mikakos, Ms Jenny	Northern Metropolitan	ALP
Dalla-Riva, Mr Richard Alex Gordon	Eastern Metropolitan	LP	Murphy, Mr Nathan[2]	Northern Metropolitan	ALP
Darveniza, Ms Kaye Mary	Northern Victoria	ALP	O'Donohue, Mr Edward John	Eastern Victoria	LP
Davis, Mr David McLean	Southern Metropolitan	LP	Pakula, Hon. Martin Philip	Western Metropolitan	ALP
Davis, Mr Philip Rivers	Eastern Victoria	LP	Pennicuik, Ms Susan Margaret	Southern Metropolitan	Greens
Drum, Mr Damian Kevin	Northern Victoria	Nats	Petrovich, Mrs Donna-Lee	Northern Victoria	LP
Eideh, Mr Khalil M.	Western Metropolitan	ALP	Peulich, Mrs Inga	South Eastern Metropolitan	LP
Elasmar, Mr Nazih	Northern Metropolitan	ALP	Pulford, Ms Jaala Lee	Western Victoria	ALP
Finn, Mr Bernard Thomas C.	Western Metropolitan	LP	Rich-Phillips, Mr Gordon Kenneth	South Eastern Metropolitan	LP
Guy, Mr Matthew Jason	Northern Metropolitan	LP	Scheffer, Mr Johan Emiel	Eastern Victoria	ALP
Hall, Mr Peter Ronald	Eastern Victoria	Nats	Smith, Hon. Robert Frederick	South Eastern Metropolitan	ALP
Hartland, Ms Colleen Mildred	Western Metropolitan	Greens	Somyurek, Mr Adem	South Eastern Metropolitan	ALP
Huppert, Ms Jennifer Sue[1]	Southern Metropolitan	ALP	Tee, Mr Brian Lennox	Eastern Metropolitan	ALP
Jennings, Mr Gavin Wayne	South Eastern Metropolitan	ALP	Theophanous, Hon. Theo Charles[3]	Northern Metropolitan	ALP
Kavanagh, Mr Peter Damian	Western Victoria	DLP	Thornley, Mr Evan William[4]	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

[1] Appointed 3 February 2009
[2] Appointed 9 March 2010
[3] Resigned 1 March 2010
[4] Resigned 9 January 2009

CONTENTS

THURSDAY, 6 MAY 2010

CONTENTS

Thursday, 6 May 2010

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

PETITIONS

Following petitions presented to house:

Romsey: secondary school

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 growing population of the Romsey-Lancefield townships and the lack of public secondary education facilities available within 25 kilometres.

Your petitioners therefore request that the state government build a secondary school (years 7–12) in Romsey to meet the current and future demands of this community.

By Mrs PETROVICH (Northern Victoria) (98 signatures).

Laid on table.

Police: Neighbourhood Watch

To the members of the Legislative Council:

The petition of certain citizens of the state of Victoria brings to the attention of the Legislative Council our opposition to the misguided state government changes to the accessibility of crime statistics for Neighbourhood Watch.

The petitioners believe that availability of local crime statistics on a street-by-street basis is an essential component of the Neighbourhood Watch program.

Local crime statistics on a street-by-street basis foster ownership of the Neighbourhood Watch program by local communities and enable vigilance and support of community safety activities. We oppose the proposed change to crime statistics only being available on a postcode basis.

The petitioners therefore call on the Legislative Council to urge Premier John Brumby, the minister for police, Bob Cameron, and all local Labor MPs to reverse their decision which ends vital access of Neighbourhood Watch to street-by-street crime statistics, undermining the Neighbourhood Watch program and the ability of the community to support this important and respected program and community safety.

By Mr DRUM (Northern Victoria) (9 signatures).

Laid on table.

INQUIRY INTO CONVICTION OF MR FARAH ABDULKADIR JAMA

Report

Mr TEE (Eastern Metropolitan), by leave, presented report.

Laid on table.

PUBLIC ACCOUNTS AND ESTIMATES COMMITTEE

Victorian Auditor-General's Office: financial and performance audits

Ms HUPPERT (Southern Metropolitan) presented report, including appendices.

Laid on table.

Ordered that report be printed.

Ms HUPPERT (Southern Metropolitan) — I move:

That the Council take note of the report.

I wish to comment on the important role the Auditor-General plays in ensuring the continued transparency and accountability of government in Victoria. As important as that role and the Auditor-General's status as an independent officer of the Parliament reviewing both the financial status and performance of government departments and agencies are, it is also important that the Auditor-General and the Victorian Auditor-General's Office themselves are subject to both financial and performance audits.

This report summarises the processes that have been undertaken in relation to the appointment of persons to conduct the financial and performance audits and contains two recommendations. The first is that Mr Peter Sexton of WHK Horwath Melbourne be appointed to conduct a financial audit of the Victorian Auditor-General's Office and the second is that Mr Tom Fazio of PKF, chartered accountants, be appointed to conduct a performance audit of the Auditor-General and the Victorian Auditor-General's Office.

In presenting this report I would like to thank the subcommittee that had the difficult job of assessing and reviewing the tenders and making these recommendations. I also say that we look forward to seeing the output of these audits and the continuing work and enhanced role of both the Auditor-General

and the Victorian Auditor-General's Office in continuing to ensure the transparency and accountability of government in Victoria.

Mr RICH-PHILLIPS (South Eastern Metropolitan) — I wish to speak briefly in support of the report tabled by Ms Huppert. The role of engaging a financial auditor and a performance auditor to audit the office of the Auditor-General is an unusual function of the Public Accounts and Estimates Committee. It was done through an expression-of-interest process request for tenders from suitably qualified auditors to undertake the two audits. As the committee went through the process, one of the challenges that was highlighted in getting suitably qualified auditors to undertake the work was the narrowness of the club of auditors that are suitably qualified.

Obviously the committee is required to engage auditors to undertake these audits in compliance with the statutory framework, but that also raises questions as to appropriate time frames for the audits to be undertaken, particularly the performance audit. The financial audit needs to be done on an annual basis, but the Parliament might like to look at the appropriate structure and time frames for engaging performance auditors for the office of the Auditor-General going forward. With that comment, I commend the report to the house and recommend that in due course the house support the motion for the appointment of these two auditors.

Mr DALLA-RIVA (Eastern Metropolitan) — I am also very pleased to make some comments on the *Report on the Appointment of Persons to Conduct the Financial Audit of the Victorian Auditor-General's Office and the Performance Audit of the Victorian Auditor-General and the Victorian Auditor-General's Office*. As Mr Rich-Phillips and Ms Huppert said, the fact is this is a unique position where a committee makes a recommendation to the Council and the Assembly about the appointment of an auditor, and that somebody has to be an individual and not a company and they then conduct the financial audit of the Victorian Auditor-General's Office for a period into the current financial year and the two years subsequent. We also then have to go through that process of setting the fixed fee levels of remuneration, which are put on the public record.

The other recommendation is that we, both in this chamber and in the other place, have to appoint another individual to conduct the performance audit of the Auditor-General. The performance audit of departments is undertaken by the Auditor-General, and now there will be oversight by somebody who is independent and separate and appointed by the Public Accounts and Estimates Committee to then review the performance of the Auditor-General and in particular his office.

There is a remuneration component in the recommendations. For the purposes of openness and accountability in the true sense of the word — not what we often get from the government — it is important to understand there will be a reporting mechanism in place so we are able to undertake a review. Unlike some of the operations that now occur in committees under this government, particularly relating to the way the government has dealt with certain legislative issues that have occurred recently, it appears to be on the notice paper today. Anyway, I will leave that for another time.

Again I give thanks to the secretariat. Its members are doing a wonderful job. There has been a lot of work, and the next two weeks will be even more intensive with the public hearings that are upon us.

Motion agreed to.

Financial and performance outcomes 2008–09

Ms PENNICUIK (Southern Metropolitan) presented report, including appendices.

Laid on table.

Ordered that report be printed.

Ms PENNICUIK (Southern Metropolitan) — I move:

That the Council take note of the report.

This is a large report: it consists of some 520 pages. As the Public Accounts and Estimates Committee (PAEC) chair says in his foreword to the report, it is the culmination of the committee's inquiry into the financial and performance outcomes achieved by departments and various other government agencies in 2008–09, so it is looking back over two years. It is the third and final report of the present Public Accounts and Estimates Committee since its formation in 2007 under the 56th Parliament.

The committee has made a number of reforms to this inquiry over the previous three years, which it believes will contribute to accountable and transparent government. It has made some contribution, but it certainly has not meant that the transparency and accountability is up to where it should be. In this Parliament, particularly in this house, members are forever chasing up documents and information that should be readily available and not have to be chased up in this way.

However, the report covers a wide range of issues. It examines performance outcomes and financial outcomes, which has been a theme of the committee's inquiry — that is, looking at performance as well financial outcomes in greater detail and examining a range of government agencies as well as departments.

This report contains 67 recommendations. Recommendation 1, at page xix, is interesting; it says:

> The Department of Treasury and Finance incorporate within the annual financial report for the coming financial years a special purpose statement disclosing estimated and actual commonwealth funding under relevant categories and the actual spending for each category, together with the explanations of major variances.

This comes about because another theme of the committee's inquiry into the financial and performance outcomes was the role played by commonwealth funding in expenditure in the state of Victoria.

The report links both the department and agencies reporting to both the budget processes and to government policy documents, including the *Growing Victoria Together* document, and you could say the report pretty well mirrors that document and reports on department and agency performance against that document and the annual statement of government intentions. Mainly the report focuses on the *Growing Victoria Together* document.

As I mentioned yesterday in comments on another report from the Public Accounts and Estimates Committee, it is an ongoing struggle for me as the Greens member on this committee — I remind members that it is a government-controlled committee; the government has a majority on the committee — and for other members of the committee to prevent this from being just a document that sings the praises of the government and says how well the government is doing in every area, to the point where it becomes almost meaningless.

An ongoing issue for the PAEC is that the committee is dominated by government members, so it is an ongoing struggle to keep any document objective rather than subjective, which is not good for accountability and transparency in the state of Victoria. Even though I would say there is valuable information in this report for all members of Parliament and for members of the public, it is an ongoing struggle to prevent PAEC documents from just singing the praises of the government of the day.

Mr RICH-PHILLIPS (South Eastern Metropolitan) — I am pleased to lend my support to the report tabled by Ms Pennicuik this morning. In doing so I would like to start by thanking the committee's executive officer, Valerie Cheong, and her staff for all their hard work in putting together this report.

Reporting in the form of an outcome report at the end of the financial year was an initiative of the Public Accounts and Estimates Committee during, I think, the 54th Parliament. The standard of report is not yet at a level consistent with the work the committee does on the estimates, in which we hold hearings, to varying effect, with all ministers following the introduction of the budget. This process is done without the benefit of hearings, and I think that is a shortcoming. It would be better to do the outcome report with a series of hearings, most probably involving departmental secretaries, so that we could more closely examine reported outcomes for the previous financial year.

Nonetheless, this report produces some additional useful information for members of the house. In fact the committee through its staff has been able to collect a range of data that is not elsewhere made public through the government structure, and it is a useful compendium on top of the annual financial report released by the Treasury.

As Ms Pennicuik indicated, the report is structured with a number of themes in the first half which have been identified by the committee as worth investigating on an occasional basis. This year those initial chapters cover not only matters such as the financial outcomes but also staffing, procurement, the impact of fiscal stimulus packages for 2008–09, state debt and the bushfire recovery before moving on to particular portfolio outcomes and then themes based on the government's Growing Victoria Together framework.

It may or may not be of value to members to have the report structured that way, but given that the government likes to report on the themes under that GVT framework, the committee has elected to also report on that framework. While the report does not have the benefit of public hearings to underpin it — and that is a shortcoming — it nonetheless provides some valuable additional information, and I commend it to the house.

Ms HUPPERT (Southern Metropolitan) — I also would like to make a few brief comments about the Public Accounts and Estimates Committee *Report on the 2008–09 Financial and Performance Outcomes*. I add my appreciation to the work of the secretariat, led by the executive officer Valerie Cheong, in putting together what is a substantial piece of work, and also to my colleagues on the Public Accounts and Estimates Committee, admirably led by the chair, Bob Stensholt,

the member for Burwood in the other house, all of whom have put in a large number of hours to produce this report.

I take note of the comments made by Ms Pennicuik on this report, but I would point out that there was a lengthy debate on quite a number of the pieces of information that went into it — —

Ms Pennicuik — Which supports what I am saying.

Ms HUPPERT — It is always good to have debate on issues and take on board comments that have been made, and I think Ms Pennicuik will find that this report incorporates input from all members of the committee. It provides a valuable resource for both members of this Parliament and officers of the government.

The report points out in the brief summary of the duties of the Public Accounts and Estimates Committee that the committee carries out investigations and reports to Parliament on matters associated with the financial management of the state. Indeed, this report does that, making 67 recommendations which are based on improving and increasing accountability and transparency. Some of those recommendations deal with the way in which the reporting of information can be improved, and some of them relate to additional reporting which could be provided by government departments. This is valuable, and I look forward to receiving the government response to the recommendations that have been made. I commend the report to the house.

Mr DALLA-RIVA (Eastern Metropolitan) — I am also pleased to make a very brief contribution on the Public Accounts and Estimates Committee *Report on the 2008–09 Financial and Performance Outcomes* as tabled today. It is important to understand the amount of work that has gone into its compilation and the amount of detail provided by the departments.

One thing that is probably not evident in the report is the amount of work that goes on behind the scenes by the secretariat in pursuing the information from the departments. From my experience, through FOI applications and other experiences, it is not always easy to get blood from a stone, but the secretariat seems to do that on the odd occasion. Whilst there are many pages to the report — and I agree with Mr Rich-Phillips that, in a sense, we are not able to test them in a public forum — the facts are that there is a substantial amount of information which gives a cross-portfolio review of expenditure on various issues.

One thing that stood out was the issue of performance and performance bonuses. A couple of issues were highlighted, and members and perhaps others ought to look at how they are assessed, given the recent global financial crisis that everybody tells us about. Despite the significant commitment by companies and individuals to reign in their expenditure and to limit the amount of financial rewards in a time when there should have been some restraint, the payment of performance bonuses in selected agencies raises broad concerns for all members and others outside.

For example, there was a proportion of 95.3 per cent awarded for performance in some of the departments, generating a substantial additional sum of money to the government's expenditure base. Again it is not that we do not agree that that should be rewarded, but what concerned the committee — and I speak for myself, but I generally got the feeling from other members — was that from a bonus perspective, performance had to be measured against something other than just turning up to work and getting paid.

It seems that recommendation 9 on page 125 is relevant. It is:

> The Secretary of the Department of Premier and Cabinet with the assistance of the State Services Authority conduct a comprehensive review of the system of awarding performance bonuses. The conclusions from this review should lead to change including, where necessary, by appropriate regulation or legislation.

That is quite a strong recommendation from an all-party committee that is dominated by government members. Recommendation 10, which follows, talks about the remuneration for executives in the broader public sector. It says:

> … explicitly prohibit the awarding of performance bonuses to executives where performance is assessed as not meeting expectations.

It seems, from the report tabled today, there is a clear payment proportion awarded in various areas of organisations. A range of organisations are listed on page 127 of the report, but I will not read them out. You would question whether their performance bonuses would be fully awarded, but 100 per cent of their executives received a performance bonus, to the point where the additional expenditure on wages of some of those agencies topped the millions of dollars.

Fundamentally we have a significant issue about how performance capacity is measured; this has really come to the fore through the review process, and the review of this issue is something that should be encouraged and supported.

Overarching all that, the work of the secretariat is amazing. This week we have submitted three reports from this one committee. Next week the Public Accounts and Estimates Committee will follow that work with its budget estimates hearings, which involves a lot of detail and work, and then there will be the follow-up work by the secretariat to get the report published in a timely manner for review of the budget. Compared to other committees, PAEC's workload is enormous. I have been on other committees; there is no doubt that this one is doing far in excess of others, and probably, with all due respect, deserves a performance bonus.

Motion agreed to.

PAPERS

Laid on table by Clerk:

Melbourne City Link Act 1995 — Notice pursuant to clause 2.4(d) varying the agreement for the Melbourne City Link.

National Parks Act 1975 — Advice of National Parks Advisory Council to Minister on several proposed excisions from existing parks.

MEMBERS STATEMENTS

Wild dogs: control

Mr P. DAVIS (Eastern Victoria) — I raise a matter that is of concern to many of my constituents in eastern Victoria, particularly in the highlands and in areas adjacent to national parks, state forests and public land generally. It concerns a matter I have raised in this house a number of times before that was also a glaring omission from the budget brought down by the Treasurer this week — that is, a failure to recognise the alarming increase in the number and persistently aggressive behaviour of wild dogs, which are causing increasing havoc. Repeated representations are being made to me about the threat this problem is imposing on rural communities and the social welfare implications for the people who are under constant threat from the increasingly aggressive nature of the wild dog population.

There is clearly an endemic problem. The Minister for Agriculture, who has portfolio responsibility for this matter, has failed to address it and, worse still, has failed to even acknowledge that he has any culpability in the matter by asserting that wild dogs are not government dogs but community dogs. I suspect that the minister has no concept of what goes on in rural Victoria, and I would like to see some urgency — —

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

Taiwan: Asia Pacific Greens Network congress

Ms PENNICUIK (Southern Metropolitan) — On the weekend of 30 April–2 May I attended the second ever Asia Pacific Greens Network congress, hosted by the Green Party Taiwan in the Shilin district in the north of Taipei. The first APGN conference was in Kyoto in 2005. The theme of this conference was Fair Share. APGN is part of the wider Global Green Network.

The conference was brilliantly run on a shoestring, supported by 200 enthusiastic young Taiwanese volunteers. It was attended by delegates from 24 countries including Australia, China, Egypt, the Federated States of Micronesia, Fiji, Germany, Hong Kong, India, Indonesia, Japan, Korea, Mongolia, Nepal, New Zealand, Pakistan, Papua New Guinea, the Philippines, Sri Lanka, Switzerland, Taiwan, Tuvalu, Tibet, the UK and the USA.

The second day of the conference was dedicated to climate change, an issue of great importance to the Asia-Pacific region. The opening discussion was led by Senator Bob Brown and the key speakers were Apisai Ielemia, the Prime Minister of Tuvalu, a country that is already seriously impacted upon by climate change, and Dr Vandana Shiva, a renowned environmental activist and author.

The conference adopted the Fair Share declaration, calling for a fair share for all in the current generation and for future generations, to address the systemic disadvantages caused by injustices of past generations and for all the other species with whom we share this planet. The conference also adopted 17 resolutions, including the Taipei accord on climate change and biodiversity, an Asia-Pacific peace day and the establishment of an Antarctic whale sanctuary.

La Trobe University: Speak Out on Refugees event

Mr MURPHY (Northern Metropolitan) — On Wednesday, 21 April, I attended the La Trobe University SRC (Student Representative Council) Speak Out on Refugees event. The Speak Out was held in the La Trobe University Agora Theatre, the epicentre for many a student gathering over the years. The public forum was designed to raise awareness of the issues

facing individuals and families seeking asylum in our community. It gave the broader student population an opportunity to express their views on issues concerning refugees and was accepted with significant interest and acclamation by students listening in the Agora.

For me, participating in and listening to the Speak Out highlighted two important issues that I would like to share with the house. The first is that young people in our community are very supportive of individuals and families seeking refuge here. Over the years I have attended many student rallies and public forums on campus, but very few have captured the imagination of the broader student populace as this event did. The second is that it highlighted the important role that student organisations play in providing a voice and a platform through which young people in our community can express themselves freely.

Student organisations add a much-needed vibrancy to campus life, challenging the mainstream and offering support to students from all backgrounds. Unfortunately, the Howard government introduced a policy that ripped apart student life and culture by introducing the draconian voluntary student unionism (VSU) legislation. The introduction of VSU has prevented student organisations on campus from providing invaluable services, such as child care, sporting facilities, legal assistance, dental care subsidies and student advocacy, for free or at minimal cost.

I applaud the efforts of the student organisations such as the La Trobe University student representative council in continuing to support students on campus and for providing services that assist students from all walks of life to continue with their studies, albeit with very limited resources.

Activate Church, Ringwood: community centre

Mrs KRONBERG (Eastern Metropolitan) — I rise to congratulate the visionary, hardworking, devoted members of the recently established Activate Church on the opening of the Vault community drop-in centre in Ringwood. This hub, centrally located between Ringwood station and Eastland shopping centre, offers the area's disadvantaged individuals and those in crisis a safe place to access community meals, counselling services, mentoring and life skills training. So many folk in the area have real needs for such a supportive environment and a place to receive a hand up.

The Activate Church's Pastor Corey Turner, Lisa Wynne and Kate Johnson, and their team are providing a much-needed place of respite and solace. Known for their humility, this committed team seeks nothing for themselves, but they are certainly to be applauded for this initiative which is the result of two years of very hard work.

Members: residential addresses

Mrs KRONBERG — On a different matter, it is worth noting that the two Labor members in the Eastern Metropolitan Region were not to be seen at the opening of the Vault. I imagine that it was far too remote a proposition for them to attend on a Saturday morning — far too far for them to travel. I understand Shaun Leane lives 40 kilometres outside the electorate and Brian Tee lives 5 kilometres from his constituents. The Eastern Metropolitan Region is a vast place, stretching from Greensborough in the north to Scoresby in the south, with every form of housing stock you could imagine. Nothing moves these two.

Housing: affordability

Mr KAVANAGH (Western Victoria) — On 25 March I asked the Minister for Planning, Mr Madden, about the issue of wealthy non-resident Chinese people pricing local Australians out of the housing market. He answered that he knew nothing about it. The *Herald Sun* published an article about my question and Mr Madden's answer. The issue was then picked up by talkback radio around Australia. Even though my contribution was not acknowledged, the result was that on 24 April the Prime Minister announced a U-turn in the federal government's policy. I am proud to have made this contribution to reserving Australian residential property for people who live in Australia.

Mr Murphy: comments

Mr KAVANAGH — I would also like to comment on a 90-second statement made by Mr Murphy during the last sitting week. In common with all those on the extreme left, Mr Murphy expressed irrational hatred for Australia. In his statement Mr Murphy falsely alleged that Australia takes a tiny number of refugees compared with other countries. In fact Australia takes more than 13 000 refugees a year, which is the third highest per capita rate in the world. Mr Murphy also asserted falsely that no refugees arriving by boat have been security risks. In fact the Australian Security Intelligence Organisation recently warned the federal government that four of the arrivals that it has allowed into mainland Australia are terrorists. Mr Murphy also asserted that the only ships to have arrived in Australia illegally were the boats that arrived in Botany Bay in 1788.

Mr Viney — On a point of order, President, I think Mr Kavanagh has made a comment about another member in the chamber that really should only be able to be made by substantive motion. He made a comment in regard to a member making false allegations.

The PRESIDENT — Order! Mr Viney's point is correct, and the allegations made by the member are not appropriate for a 90-second statement. The member has a capacity to make the allegations via a substantive motion. On that basis, I ask the member to withdraw.

Mr KAVANAGH — I withdraw.

No doubt Mr Murphy's hatred for Australia, for this Parliament and for most of the Australian people, including those he represents here, is deep-seated and genuine, but surely members should be bound to tell the truth and not bring up falsehoods in support of a patently false conclusion.

Sandybeach Centre, Sandringham

Ms HUPPERT (Southern Metropolitan) — On 22 April I had the great pleasure of representing the Minister for Skills and Workforce Participation, Bronwyn Pike, at the launch of *The Changing Face of Community Business 2009* report at the Sandybeach Centre in Sandringham. The centre received a 2009 Adult Community Education Provider of the Year award.

The report, which draws on survey responses from adult and community education providers, shows that sustainable adult community education providers are delivering the skills and training for Victorians who are looking for help to find work and also play an important role in the community. These providers also provide learners and businesses with the choice of obtaining their skills and qualifications in a local setting and offer volunteering opportunities to thousands of people, which not only provides them with transferable work skills but in many cases connects people to their communities.

That was evident at the Sandybeach Centre, where I had the opportunity to visit classes offered by the centre, including an art class for people with a disability, a writing workshop and an information technology class. I was impressed by the dedication of the staff and volunteers.

World Jewish Youth Day

Ms HUPPERT — On 2 May, together with the members for Prahran and Caulfield in the other place, I attended a parade organised by Chabad Youth to celebrate World Jewish Youth Day, which coincided with the celebration of the festival of Lag B'Omer. The parade started from outside the Yeshiva Centre in Hotham Street, East St Kilda, and was attended by about 3000 people, including school-aged children in fancy dress, floats entered by a variety of Jewish community organisations and the motorcycle riders group Yids on Wheels. It was great to see so many people participating in a celebration of their culture and heritage.

Wallan-Kilmore bypass: construction

Mrs PETROVICH (Northern Victoria) — My matter today relates to yesterday's announcement by the Minister for Roads and Ports, Tim Pallas, and concerns a $36.5 million road intended to take the traffic away from the centre of the Kilmore township. My electorate office is situated in Sydney Street, which is in the town centre referred to in the minister's media release. I have spoken of this issue on many occasions since my election to this place.

There is a Wallan–Kilmore Bypass Group, which has actively campaigned for a bypass of the town. It has been noted that this 'is a longer term option'. Unfortunately, with growth in this area, the longer this issue is left unaddressed the more difficult the delivery of the bypass will become. This group and other community members have expressed their absolute dissatisfaction with the lack of community consultation before this announcement. The announcement notes that schools and councils are in agreement with this new proposal and that the safety of our children and community is of prime importance to all of us.

We welcome the long-overdue installation of traffic signals at the intersection of Union and Sydney streets but request that this bypass be brought forward from 2012 due to the urgency expressed about the safety aspect.

I ask that we receive full details of the plans without delay. Yesterday's announcement did not address the urgent need for a bypass for Kilmore and Wallan, and it was made in the absence of proper planning and community consultation. The treatment by VicRoads and the Brumby government of these communities has been autocratic rather than democratic.

I request that community members be brought to the table and properly consulted about the requirement for a proper bypass of the Kilmore township instead of a de facto arrangement which does not give a proper solution in the long term.

Northern Victoria Region: early childhood services

Ms BROAD (Northern Victoria) — The Brumby Labor government believes all Victorian children deserve the very best possible start in life, and last week I had great pleasure in visiting the Mildura Playalong Occasional Childcare Centre to congratulate it on the $100 000 grant it has received from the Brumby government to upgrade its existing facilities. It is one of 223 community-based kindergartens and child-care services, including 35 in Northern Victoria Region, sharing in $12.5 million for upgrades.

Since that investment the Minister for Children and Early Childhood Development, Maxine Morand, has announced a further $2.35 million to be invested by the Brumby Labor government in five integrated children's centres, including two centres in Northern Victoria Region: the Berrimba Child Care Centre in Echuca operated by the Njernda Aboriginal Corporation, and the new Bright multi-services centre to be situated in the grounds of the Bright P–12 College.

The budget announced yesterday provides an extra $82.6 million to meet the growing demands for early childhood services, and I welcome this further investment by the Brumby Labor government to ensure that Victorian families have access to the quality services they need.

South Eastern Metropolitan Region: mental health services

Mr RICH-PHILLIPS (South Eastern Metropolitan) — Yet again Labor has short-changed the residents of the South Eastern Metropolitan Region, this time by failing to deliver much-needed mental health facilities. In the lead-up to the 2006 election Labor promised to deliver a $69 million expansion of mental health facilities in Dandenong.

After the election nothing happened. Finally, in 2008 community pressure forced the Minister for Mental Health to promise to 'fund the expansion during the current four-year term of government' leading families to believe these much-needed beds would be available by 2010. Tuesday's budget revealed that that promise was worthless. The Dandenong mental health service upgrade will not be fully funded until 2014, a full eight years, or two election cycles, after the promise was made.

This promise was Labor's single largest mental health commitment prior to the 2006 election. Labor has failed to deliver for families who need mental health support in the south-east. Local families are entitled to be cynical about any pre-election commitments Labor makes, given its love of announcements and failure to deliver.

Western Victoria Region: men's sheds

Ms TIERNEY (Western Victoria) — I take this opportunity to congratulate those involved in the men's sheds at Camperdown, Winchelsea and Anglesea. Last Friday the Camperdown men's shed received $20 000 from the state Labor government for heating and cooling. I record my thanks to Len Wiseman, Alan Thompson and Graeme Fischer for all their hard work in ensuring that the building and the shed are now fully functioning.

On Monday this week the Winchelsea men's shed organisation received $40 000 for a new shed. Special thanks go to John Bader and his team, and Peter Bromley from the Shire of Surf Coast, who guided the group, as well as the Anglesea men's shed group, which received $50 000 last Monday for a new shed. Congratulations go to Paul Jacklin and his team.

What kept shining through on Friday and Monday was the pride and sense of satisfaction on the faces of all those involved, including the people in the partnership organisations such as the local council, the Camperdown Pastoral and Agricultural Society**,** the community house, the community garden, Victoria Police, bowls clubs, the community bank and schools. This is true community: fulfilling a local need and connecting people who want to contribute to making a better town in an organised and clear manner whilst having fun. One cannot help but be impressed by this Labor government initiative and all the people who are now totally engaged in this program.

Both Friday's and Monday's events again showed that when local communities, local government and the state Labor government work closely together, we can achieve so much.

Buses: Craigieburn

Mr EIDEH (Western Metropolitan) — I was very pleased last week to hear from the Minister for Public Transport, Martin Pakula, of the new bus service improvements for Craigieburn that will start later this month. The initiative will improve bus route 535 by providing a more complete link between Craigieburn railway station and Craigieburn north-west. This will provide residents of and visitors to Craigieburn with much-needed access to public transport for the first time. This means more than 400 extra bus trips each

week in Craigieburn, with wider coverage of the Craigieburn North area.

These new services are part of the Brumby Labor government's $500 million commitment to provide new bus services to residents in the outer growth areas, as well as to upgrade existing services with more suitable timetables for commuters in my electorate. More importantly, the Brumby Labor government's commitment to public transport services will ensure that our community's needs are catered for. These improvements are the outcome of community consultation as part of the Hume-Moreland bus service review, which was completed in 2008 and involved contributions from local residents, bus operators, and council representatives.

I commend the Brumby Labor government on once again taking action to provide Victorians with the best transport network in Australia and boosting public transport options, as well as Hume City Council and Broadmeadows Bus Service on their input in delivering these new improvements.

Disability services: Shepparton accommodation

Ms DARVENIZA (Northern Victoria) — I was pleased last week, along with Mr Bruce Giovanetti of GV Connect, to inspect the construction of works under way for a new home in Shepparton that will accommodate six young people living with disabilities, with an accent on age-appropriate values and surroundings.

Works began earlier this year and are scheduled to be completed in September. The house is close to shops, a train station and parks. It has been designed and built to maximise the residents' opportunities and independence while providing 24-hour care. What these young individuals need is their own space, which this new facility will provide. There will be much more privacy for residents and their visitors. These are much more appropriate surroundings for young people than an aged-care facility, which is where they are currently residing.

The Shepparton house will be run by GV Connect. The Brumby Labor government has provided $1 million in capital works in partnership with the commonwealth government, which committed $210 000 in establishment costs and is taking responsibility for recurrent funding for staffing support.

Merrigum Corner Park: upgrade

Ms DARVENIZA — On another matter, also last week I was very pleased to visit the recently upgraded Merrigum Corner Park. This is also a partnership project, this time between the City of Greater Shepparton and the Brumby Labor government. It has involved improved parking facilities, including disabled parking and, importantly, access — —

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

STATEMENTS ON REPORTS AND PAPERS

Budget papers, 2010–11

Mr P. DAVIS (Eastern Victoria) — I take this opportunity to make a statement on the budget papers. The budget, which was brought down on Tuesday by the government, is a masterpiece of strategy to win the state election at the end of this year, and I am sure that many members of this house will spend a lot of time unpicking the detail of the budget. I want to focus on some of its particular aspects — indeed, omissions — in regard to regional Victoria.

In February 2009 the Premier promised to provide a blueprint by the end of 2009 for the future of regional development. That blueprint was not delivered. It was promised again in the Premier's annual statement of government intentions to Parliament in February. Everyone got a big build-up in late April as budget day approached; it was a case of, 'Watch this space; the blueprint is on the way', but there was only a single mention of the mythical blueprint in the state budget this week; in effect, it has gone missing again. The budget contained a statement that the blueprint will be ready for public release by the end of June — we will see about that!

That timing means it will not be a government initiative but in fact will become an election policy. Whatever the regional blueprint might contain, however, it will be meaningless, because not $1 has been committed in the budget to supporting rural and regional development. All the advance hype, including the misleading pre-budget comments, point in only one direction — that is, to the three major regional cities, to supporting them in catering for population growth, and in areas such as transport, that will lock in their future role as Melbourne's outlying commuter centres.

Country Victorians, those more remote from Melbourne, have been left out again. There is nothing for them in the budget. The blueprint can do nothing meaningful for these areas. They have been hung out to dry and left to their own initiative. What the government fails to appreciate or act upon is their need

for support at a basic level for education, training and skills development, the diversification of local economies and the turning of social disadvantage into social development.

In particular I want to note that in respect of tourism, nothing has been delivered by way of major infrastructure or initiatives to fulfil the nature-based tourism strategy that was released some 18 months ago. The tourism budget boost of $44.7 million — and let us bear in mind this is a five-year allocation, as against the four-year term of government — is singularly lacking when you go to the detail. If you deduct $27 million to encourage people from the rest of Australia to visit Melbourne, then deduct $17.7 million for preparatory work to expand the Melbourne Exhibition Centre, not much is left. Outside a further, separate amount allocated to bushfire areas, what do we have left for renewed impetus for tourism in country Victoria? As I said, nothing.

Land management is another area which has been overlooked in this budget. To take just one aspect of land management, the budget has $1.6 million a year over four years — that is, a total $6.4 million — for control of weeds and pest animals on both public and private land. As I have alluded to in this place before, a major initiative is required to deal with the problem of wild dog management alone. So the problems with pest animals and pest plants have been getting worse over the last decade and are crying out for attention. There is a degree of cynicism amongst rural Victorians now, such that it is unlikely they believe this government can deliver anything useful. The problems are worsening and a pitiful contribution will do little to arrest their concerns.

Further I wanted to briefly touch on the issue of Snowy River flows, which is mentioned in budget paper 3, at page 402, in appendix B. The reference highlights the failure of the government to achieve its commitment in 2000 to deliver, by 2009, 15 per cent environmental flow to the Snowy River. We still are talking only about 4 per cent. Candy Broad, the former minister, knows full well that her work has been undermined — —

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

Auditor-General: *Making Public Transport More Accessible for People Who Face Mobility Challenges*

Mr MURPHY (Northern Metropolitan) — The Auditor-General's report *Making Public Transport More Accessible for People Who Face Mobility Challenges* examined whether the Department of Transport has been effective in making existing public transport services more accessible for people with a disability. The report notes that about 20 per cent of Victorians have some type of disability and about one-third of these people report that this affects their access to public transport. People with disabilities encounter barriers every day when they try to access community facilities, get an education or find work — everyday pursuits that many of us take for granted.

It can be reasonably suggested that disability results from the interaction between persons with impairments, conditions or illnesses and the environmental and attitudinal barriers they face. A definition of what qualifies as 'disabled' is difficult, as it is not always obvious upon first observation of an individual. Article 1 of the United Nations Comprehensive and Integral International Convention on the Protection and Promotion of the Rights and Dignity of Persons with Disabilities reads in part as follows:

> The purpose of the present convention is to promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities, and to promote respect for their inherent dignity.
>
> Persons with disabilities include those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others.

A definition of disability was not included under article 2, as it was difficult to find a consensus among member states.

The community is recognising more and more that the scope of what is regarded as a disability is increasing. However, if we take the view that all people should enjoy equal access to services and facilities that enables them to participate fully in all aspects of our community, we can formulate policies that address inequalities. The elimination of discrimination in our society ought be a principal concept that drives our policy formulation as public representatives. Eliminating discrimination in our society not only secures human rights, it also results in a more productive economy by increasing participation in the workforce.

The state budget brought down two days ago will go a long way towards helping to eliminate barriers met by people with a disability in our community, starting with the youngest members of our community. The 2010 state budget will deliver a $108.6 million boost to disability support services in early childhood and at school. A significant funding boost for early childhood intervention services and a brand-new Victorian deaf

education institute to train and support teachers are great news.

As a child I had multiple operations to improve my hearing capacity. While I do not consider the difficulties I faced with my hearing as being a particularly significant barrier to my participation in society, it was nevertheless an experience I would rather not have had. Difficulties with hearing as a child made it harder for me to participate in the classroom because not being able to hear correctly what was being taught meant I had difficulty with pronunciation. I can only now appreciate how I lacked confidence to interact in the classroom for fear of not understanding what was being said around me or failing to correctly pronounce words.

For a child to learn to the best of their capability and to fully participate in the community they need to feel confident in what they are doing. The increase in funding for early childhood intervention services includes provision for physiotherapy, speech therapy and special education. I am positive this will go a long way towards improving the lives of young children and school students with disabilities across Victoria.

One in five Victorians is living with a mental illness. The impact on individuals and the community of dealing with mental illness cannot be underestimated. Rates of employment for Australians with a serious mental illness are very low. A major study of 980 Australians with schizophrenia or bipolar disorder conducted in 1997–98 found that only 5.8 per cent of males and 6.1 per cent of females were in full-time employment. Rates for men and women receiving disability support pensions were 72 per cent and 62 per cent respectively.

In Tuesday's budget it was pleasing to see the Brumby government build on the $300 million invested in the nation-leading mental health reform strategy, Because Mental Health Matters, by announcing a major youth mental health package. Funding targeted towards rural youth, mental health teams and support programs to identify and target young Victorians at risk of self-harm, with a focus on gay, lesbian and young indigenous people, will help make a difference to Victorians living with a mental illness and their families.

Of course there is always more to be done, and I look forward to working towards continuing to improve the ability of people living with a disability to participate fully and effectively in our community.

Department of Human Services: report 2008–09

Mrs COOTE (Southern Metropolitan) — I wish to speak on the Department of Human Services annual report for 2008–09 and specifically discuss housing. This report is addressed by the secretary of the department to three ministers: Daniel Andrews, the Minister for Health; Lisa Neville, the Minister for Mental Health, the Minister for Senior Victorians and the Minister for Community Services; and Richard Wynne, the Minister for Housing.

I am disappointed in this report because so much more could have been said. That is my major concern in my contribution this morning. In fact I want to put on the record my personal feelings about what is now termed 'social housing'. I fully agree with social housing. I think it is really important that we help the people in our community who are most vulnerable to find accommodation that is appropriate and safe and adds to the housing stock in this state.

Before I speak about what is currently happening, I would like to talk about a development that Ann Henderson, a Minister for Housing in the Kennett government, established in my electorate in Fitzroy Street, St Kilda. As members know, Fitzroy Street is a very upmarket street with a lot of trendy people in it. She decided it was very important to make some land available. On the Fitzroy Street frontage she encouraged some developers to put up some very upmarket apartments which sold and continue to sell at very high rates. In the street behind, but totally adjoining the exclusive upmarket apartments at the front, she developed social housing, integrated housing — whatever we want to call it today; it was called public housing in the past. This was extremely successful.

At that stage, which was in the early 1990s, it was built for single men because in and around Fitzroy Street, St Kilda, and the city of Port Phillip there were a number of men, usually middle-aged, who had alcohol and drug problems, and that was an area that needed major support. A number of these housing facilities were put up, and they have been exceedingly successful.

I have some concerns about the stimulus package the federal government has put up, which is encouraging us as a state to have integrated public or social housing in Victoria with a view to it being completed in certain time frames so that it can meet the criteria the federal government has set down. I know the minister who is in the chamber, Minister Madden, is concerned about

social housing and doing the right thing, but I would have to say that I have some major concerns about developments in and around Moorabbin. It is not that we do not need social housing or community housing and it is not that we should not have it integrated with the community; my concern is about the type of housing that is being proposed and put up in the area.

Many members in this chamber obviously do not know my electorate as intimately as I do, so I will just paint a picture. One of these developments is behind the Kingston town hall. It abuts the very busy Moorabbin station and South Road. The social housing that is going to be there is apparently not going to cater for additional parking and there is some suggestion that the people who are going to live in this housing will not have cars or do not need cars. Based on what I have seen in other parts of my electorate, though, I suggest that people do have cars or their visitors have cars. What is being created here is a future problem in social housing which once again will give social housing, integrated housing, public housing — whatever your terminology of choice — a bad name, because the facilities will not be there.

More importantly, I am concerned about the lack of public open space. There is actually no public open space in this particular spot. The other part of the social housing that has been promoted is in Corbie Street, a residential housing area behind a large office block. Once again adequate parking is not being planned and there is no public open space. This will supposedly be an area for women who are coming out of prison and living with their children. We want these children to have happy, integrated, constructive lives, so it is really important that they have the opportunity to access public open space.

I know that things have been locked in, but I urge the government to have a much closer look at the type of social housing that it is providing for our housing stock. It is inadequate. We do not want our most vulnerable people to have to live in second-rate conditions; that is just not acceptable.

Regional Development Victoria: report 2008–09

Ms BROAD (Northern Victoria) — This morning I wish to make some remarks on the 2008–09 annual report of Regional Development Victoria. At the outset I acknowledge the responsible minister, Jacinta Allan, the Minister for Regional and Rural Development, the chief executive, Justin Hanney, and all the staff of Regional Development Victoria who work tirelessly in pursuing the key strategic objective of RDV, which is to facilitate economic infrastructure and community development to support a prosperous and growing provincial Victoria. I particularly acknowledge those RDV officers in northern Victoria who do such a great job in developing partnerships with the community, local government and business in pursuit of that key strategic objective.

The annual report outlines many highlights in Regional Development Victoria during the period of 2008–09, including managing a record year for infrastructure growth through investing $48 million under the Regional Infrastructure Development Fund to support 63 projects worth $111 million as well as establishing the regional strategic planning group in RDV to support the Ministerial Taskforce on Regional Planning and link the three tiers of government to manage and drive regional growth. These are just two of many highlights in this report that I wish to focus on in my contribution this morning.

The ministerial task force was established to oversee the development of a statewide blueprint for the sustainable growth of provincial Victoria, the development of regional plans that are integrated with the statewide blueprint and improvements to the overall processes and governance of regional planning across the state, providing greater coordination between all levels of government.

The task force is chaired by the Minister for Regional and Rural Development, Jacinta Allan. It includes a number of ministers: the Treasurer, the Minister for Agriculture, the Minister for Energy and Resources, the Minister for Planning, the Minister for Community Services and my colleague in Northern Victoria Region, the former Parliamentary Secretary for Regional and Rural Development, Kaye Darveniza.

This task force has been working away to develop a statewide blueprint to manage growth and change for regional Victoria. As the report outlines, this is something that Victoria requires because Victoria's population, thankfully, is continuing to grow strongly and our regions have the capacity to build on the prosperity of the last decade and take a greater share of future population growth, which will be a benefit not only to rural and regional Victoria but also to the metropolitan area.

Community engagement is an important part of this development. To inform the development of the statewide and regional plans the ministerial task force has undertaken extensive research and consultation over the past 12 months. Many community engagement forums have been held across the state, and I am

certainly looking forward to the release of the new long-term statewide blueprint for more livable, productive and sustainable communities in rural and regional Victoria soon. The government will continue to support the development and ongoing renewal of regional strategic plans, which are also expected to be completed soon this year.

I conclude by making some remarks about the Regional Infrastructure Development Fund, which is an important initiative of Labor that was opposed by The Nationals and the Liberal Party. They continue to be opponents and critics of the fund. I point out from the report that since its establishment to June 2009 the fund has committed $466 million towards 255 infrastructure projects, with a total value of $1.32 billion of new investment in provincial Victoria, and that figure continues to grow.

Parks Victoria: report 2008–09

Mr O'DONOHUE (Eastern Victoria) — I am pleased to make a contribution on the Parks Victoria annual report for 2008–09. At page 44 of the annual report there is a section entitled 'Engaging community'. It talks about the value of volunteers and what they contribute to parks. It also talks about other processes by which Parks Victoria can engage with the different parts of the community of Victoria, which is terrific.

I have a specific example which is of some concern and is perhaps contrary to the language contained within the report. It concerns the R. J. Hamer Arboretum in Olinda, which as members may be aware was established in the 1970s.

Mrs Coote — It is absolutely beautiful.

Mr O'DONOHUE — It is absolutely beautiful, Mrs Coote. It was made famous in part by Australian artists such as Arthur Streeton, who around that area in 1926 produced *View From Olinda*. It is an area of historical importance and natural beauty. It is an area that is treasured by the local community, bushwalking clubs and various other stakeholders.

Last year the government undertook an expression of interest program for the establishment of an eco-adventure park within the arboretum. Through that process Australia Zip Line Canopy Tours of Tasmania was chosen as a preferred tenderer to construct and run an eco-adventure park. This was done without reference to the local community. There was no community consultation; the local community only became aware of the proposed project by accident when a local resident came across the expression of interest documentation on a government website.

The secrecy around the project and its potential impact has caused enormous community concern and has led to the establishment of the Friends of the R. J. Hamer Arboretum. It has been vocal in its opposition to what the community thinks is being proposed — of course no-one really knows because the government has not communicated with the community about what its intentions are. Feeling the political pressure last weekend the Minister for Environment and Climate Change, Minister Jennings, who I am pleased is the minister on duty today, and the local MP, who is the Minister for Sport, Recreation and Youth Affairs, James Merlino, cancelled the plans for the eco-adventure park at the R. J. Hamer Arboretum.

Mr Jennings — I'm nothing if not responsive.

Mr O'DONOHUE — I take up the minister's interjection that he is nothing if not responsive, because this process demonstrates a great number of flaws in the way in which the government proposes to undertake commercial operations on public land. On the one hand we have a secretive process by which the government goes out to the marketplace without telling individual stakeholders about its proposals or engaging with the community about its intentions or desires for the arboretum and then, feeling some pressure after having engaged with a private operator, cancels the process; on the other hand we have a government that is not engaging with stakeholders and not respecting the fact that public land belongs to the public and that people rightly want an input into projects such as this. Then on the other hand — —

Mr Jennings — This is a contorted criticism.

Mr O'DONOHUE — Not at all, Minister. Then on the other hand we have a government that is failing to deliver investor confidence in Victoria by making unilateral decisions where a preferred tenderer has been chosen and presumably has expended significant resources in undertaking plans and examining the commercial viability of a project and the like.

Mr Jennings — That is a fair point. We are worried about that too!

Mr O'DONOHUE — I am glad the minister is worried about that, and I am glad that he acknowledges the twin problems: the failure to consult and engage with the public with regard to the future of public land, particularly for such sensitive, beautiful and historic land as the R. J. Hamer Arboretum, and the failure to deliver investor confidence.

I call on the minister to commit to a process of consultation which engages with all stakeholders for future projects so that if there is to be private sector involvement on public land, the private sector, the community and all stakeholders have a clear understanding of the projects and a clear consensus about the future of those projects.

Victorian Competition and Efficiency Commission: *Getting it Together — An Inquiry into the Sharing of Government and Community Facilities*

Ms PULFORD (Western Victoria) — I rise to speak on the report of the Victorian Competition and Efficiency Commission's inquiry into the sharing of government and community facilities. This inquiry was undertaken at the request of the Treasurer. The government has responded to the inquiry and has tabled its response to a total of 24 recommendations on areas of funding-based incentives for shared community facilities, governance and commercial arrangements, long-term sharing opportunities and how the plans can be implemented.

It is estimated that there are as many as 20 000 shared facilities in Victoria, from mechanics halls and sporting clubs through to the many community halls. Government funding and policies over the years have contributed to the ongoing importance of these halls and the state in which they are kept to the benefit of many communities. This report looks into the ways in which halls and clubs can be better managed for the benefit of all society and to ensure that they are run effectively and efficiently.

The report defines a 'shared facility' as:

> A physical asset that is … owned, funded, or leased by government or the community … used by more than one group … for a range of activities that share buildings, rooms or open spaces at the same time … or at different times.

There are three types of facility provider: state government, local government and community or not-for-profit organisations. Local councils are the main providers of shared facilities in Victoria, and in some local government areas there are thought to be up to 500 shared facilities. There are 1577 Victorian government schools, and it is estimated that over 1000 of these schools have shared facilities. There are over 500 mechanics halls in Victoria, many of which operate as shared facilities.

The commission looked into funding arrangements in other jurisdictions and could not see any other jurisdiction which performed better than the Victorian government, but we must not rest on our laurels. It is imperative that we focus funding better and that we always strive to do more with the funds available. In particular the commission looks to focusing funding to ensure that the money which is to be spent is spent wisely.

Since June 2004, the DPCD (Department of Planning and Community Development) through the Victorian Community Support Grants program has provided almost $50 million towards 172 projects valued at around $254 million. Through community facility funding programs DPCD has provided funding for many of these shared community services.

After deliberation on the recommendations put to government, the government has a paper outlining its responses to the report. The response paper supports all of the proposed recommendations, either in part or in full.

One example of a shared facility is the Wendouree West Community Learning Hub. The hub services around 2500 residents in the suburb of Wendouree in Ballarat. Historically this suburb has experienced high levels of unemployment, run-down public housing, a lack of health and community services, and higher-than-average crime rates. The learning hub was created in 2005 as part of a community renewal project in Wendouree West, and the outcomes speak for themselves.

There is improved housing and community infrastructure, job creation, reduced crime and more engaged local residents who are involved and empowered in decision making about their neighbourhood and their community. The school and broader community share the hub's specialist facilities, and the resultant opportunities for learning alongside one another have been critical in developing stronger relationships in the community between generations.

This is the type of program that has been supported by the Victorian government's A Fairer Victoria initiative. This morning I was pleased to join the Minister for Community Development, the Deputy Premier, and the Premier for the launch of *A Fairer Victoria 2010*. I am pleased that this provides a further $1.35 billion this year to continue the government's work in its goals to give all children the best start in life to improve educational opportunities. particularly for those at risk of being excluded from the job market, to improve health and wellbeing and to develop livable communities. The focus this year is very much on homelessness, mental health for young people at risk and community transport.

The work that was done at Wendouree West was ably assisted by my colleague Karen Overington, member for Ballarat West in the other place, who as members will know announced her intention to not contest the next election. I look forward to working with Karen in the remaining months that she will be in the Parliament to continue the great work on promoting good shared-use facilities and of course promoting A Fairer Victoria in the electorate of Ballarat West which she has served ably since 1999.

Victorian Bushfires Royal Commission: interim report

Mr FINN (Western Metropolitan) — It is fair to say that the royal commission into the Victorian bushfires of 2009 has already had an impact. The royal commission is clearly ongoing, but I believe as a direct result of his appearance at that royal commission, the chief fire officer of the Country Fire Authority, Mr Russell Rees, is leaving his position at the CFA next month. Despite the fact that Mr Rees has fallen on his sword, we have to ask some very serious questions about who else should follow. I believe that the Premier and the Minister for Police and Emergency Services have much to answer for on the matter of Black Saturday and events surrounding that day. I believe they must appear at the royal commission.

The role of the former Chief Commissioner of Police is a matter of extreme public interest at this point as well. She has appeared twice and has given varying accounts of her activities on that day, which leads to the question of whether she has perjured herself on either or both occasions. In this situation it is important to consider what we know about the events of Black Saturday and the days leading up to that day, particularly in light of the front-page story in the *Sunday Age* of 2 May.

We all know that we were warned in the lead-up to Black Saturday that it would be the most dangerous day Victoria had ever experienced. I recall the Premier speaking about that two, three and four days before 7 February 2009. In spite of that, the Chief Commissioner of Police — the head of Displan in this state — decided on this particularly dangerous day for Victorians that she would head off to the hairdresser. Also on that particularly dangerous day she had a meeting with her biographer.

After finally getting around to attending the emergency centre, after a couple of hours she decided that she was off to the pub for a feed. Public outrage at her activities on that day has been deflected by her claim that the reconstruction effort needs her. Despite the fact that she was touting for support, as I understand it, we now have on the front page of that newspaper a headline which reads 'Bushfire rebuilding "a mess" — Philanthropists slam "slow" reconstruction effort'. The story begins by saying:

> The reconstruction of Marysville is being blocked by bureaucratic delays and an obsession with process, according to four philanthropists who donated millions of dollars in goods and services — as well as time and money — to help rebuild the town.
>
> Mining magnate Andrew 'Twiggy' Forrest, Linfox managing director, Andrew Fox, and property entrepreneur Max Beck have slammed authorities for acting too slowly to construct commercial projects to kick-start the economy in the bushfire-ravaged town, 15 months after Black Saturday. Actor Russell Crowe's Melbourne representative has also expressed frustration.
>
> …
>
> Mr Fox said the 'whole structure' of the reconstruction process had failed the people of Marysville.

He is quoted as having said:

> 'There should be a leader to say, "This has got to happen". They needed a Peter Cosgrove from day one. He's a ramrod that would cut through the red tape.'
>
> Max Beck —

who I think is known and respected by a good many people throughout Australia —

> founder of the construction company Becton, said he had been helping the Victorian Bushfire Reconstruction and Recovery Authority, but withdrew five months ago because he 'was disappointed with the speed of the way things were happening'.
>
> 'I thought we could have had more businesses on the ground there in much less time. We haven't got anything up and running, or even looking like up and running,' Mr Beck said.

This is an appalling situation. The article further says that Mr Forrest:

> … became alarmed at the slow progress last year, when he spent four months working regularly in the town —

of Marysville —

> 'We really need the government leaders to show action … by actually achieving rather than slavish adherence to process', he said.

These people are not the only ones who have complained about that. This is a major issue that must addressed. The question must be asked: if Christine Nixon failed in her responsibilities on Black Saturday, if she was guilty of dereliction of duty on Black Saturday and she has failed in her duty as leader of the reconstruction authority, why is she still in the job? What ties does the Premier have to Christine Nixon?

Surely it is time for the truth to triumph and for Christine Nixon to go.

Department of Human Services: report 2008–09

Mr D. DAVIS (Southern Metropolitan) — My statement on reports and papers today is on the Department of Human Services report for 2008–09. I have essentially two points of discussion. One concerns the situation with the Australian Health Workforce Ministerial Council and a recent set of decisions it has made. I make the point that the Minister for Health in Victoria is a member of that health workforce council, a body of state, federal and territory health ministers. Under the new registration and accreditation arrangements passed through this place and through other parliaments around the country, the arrangements for registration of health professionals of various types — doctors, nurses, dentists, physiotherapists, psychologists et cetera — will be standard across the country. There will be regional boards, there is a national forum, the health ministers council, and there are boards for each of the registered health professions.

I want to pick up on two of those boards. One is for the important psychology profession, where the health ministers council — I understand in part at the pushing of the Victorian Minister for Health, Daniel Andrews — has failed to recognise two key areas of specialist psychology for accreditation or endorsement. They are health psychology and community psychology. These decisions seem to fly in the face of good sense and protecting the public, and they set the new arrangements off on a bad footing. The Australian Psychological Society had recommended all nine areas, and I understand the Psychologists Registration Board of Victoria may well have also recommended the nine areas, but I stand to be corrected on that point. Either way, these nine areas reflect the recognised areas of expertise in psychology and should be accredited in an appropriate way. I call on the minister and his colleagues to reverse their decisions.

A matter raised last night on the adjournment was the recognition of specialities in physiotherapy. The Physiotherapists Registration Board of Victoria recommended to the health workforce ministerial council that it have recognition of its specialities. The health workforce ministerial council said no. I ask it to reverse that decision. I think the Minister for Health has been particularly active in opposing that recognition, and I am concerned that at a Victorian level his approach is not in the long-term best interests of not just those professional specialties but more importantly the community. There is need for urgent action there.

The second point concerns the *Your Hospitals* report that was brought down last Thursday. We heard the nonsense in this chamber from the government when it said it could not provide the background documentation on the report. It said it was unable to provide the individual reports that come monthly from each of the hospitals and health services around the state to the Parliament. It is an absolute scandal. The documents that were provided in the *Your Hospitals* report and the information on the website, deficient though it is in scope, are a damning indictment of this government's performance. After 11 years in government, it has failed on six of the nine measures that it itself laid out on timeliness and performance for health services.

Some 137 000 patients were not admitted to a bed within 8 hours and were not discharged within 4 hours from emergency departments, an increase of 10 000 on the previous year. More than 69 000 category 1, 2 and 3 patients did not receive emergency department care within the clinically appropriate time frame, an increase of 57 000 patients on the previous year, and 10 600 patients waited too long for elective surgery on the official waiting lists. We know that the waiting lists were also very long, but these numbers are deficient because there was no Western Health data. However, we know that around 43 000 people are officially waiting for elective surgery, without taking into account the outpatient lists that in Victoria are held secret and not declared.

At a number of key hospitals the situation is dire. Significant concerns are held at Frankston Hospital, and at Barwon Health there are real concerns. At Frankston Hospital 1845 patients are on the waiting list for elective surgery; 48 per cent of patients waited more than 8 hours in the emergency department before being transferred to a hospital bed; 35 per cent of non-admitted patients waited more than 4 hours in the emergency department before being treated; 33 per cent of semi-urgent category 2 patients were not admitted within 90 days; and 12 per cent of non-urgent category 3 patients were not admitted within a year. This is a serious performance issue, and a failure on six of nine issues statewide is very bad indeed.

At Barwon Health 2542 patients were on the elective surgery list; 36 per cent of category 2 emergency department patients were not seen within 10 minutes; 39 per cent of category 3 emergency department patients were not seen within 30 minutes; 33 per cent of patients waited more than 8 hours in the emergency department before being transferred; and 26 per cent of semi-urgent category 2 patients were not admitted within 90 days. This is a very bad performance — —

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

PLANNING AND ENVIRONMENT AMENDMENT (GROWTH AREAS INFRASTRUCTURE CONTRIBUTION) BILL

Dispute resolution

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

> That standing order 7.06 be suspended so as to enable the consideration of the Planning and Environment Amendment (Growth Areas Infrastructure Contribution) Bill 2009, as amended by the Assembly on the recommendation of the Dispute Resolution Committee, which bill contains provisions the same in substance to those originally rejected by the Council during current session.

This motion deals with the way the chamber can deal with the resolution of the Dispute Resolution Committee's consideration of the Planning and Environment Amendment (Growth Areas Infrastructure Contribution) Bill that was previously considered by this chamber and rejected in a previous form. It has been subject to a dispute resolution process, subsequently been considered by the Legislative Assembly and is now due to come back for the consideration of the Legislative Council in accordance with the provisions of the Constitution.

The motion deals with how the disputed bill may be dealt with by the Parliament. A blind spot, perhaps, in the way the procedures of the Parliament work is that there are impediments in the standing orders to the disputed bill coming back if it is in significantly similar form to the bill that was originally rejected by the Council.

My motion today provides for the suspension of the standing order to enable this chamber to consider the bill in the form that has been subjected to the dispute resolution process and subsequently considered by the Legislative Assembly. The bill can only arrive in this chamber if it is passed by the Legislative Assembly. It is in accordance with the intention of the constitution for this chamber to be able to deal with a disputed bill once it has been successfully considered by the Dispute Resolution Committee, leading to a recommendation about the form in which the bill can be passed.

Yesterday the President indicated he would have difficulty in allowing the Dispute Resolution Committee's recommendation and the bill that has been adopted by the Assembly to be considered by the Council. The implication of the President's words were that unless there was a suspension of the standing order, the President would have difficulty in allowing the item to be listed. This motion, which has been formulated on the basis of relevant and appropriate advice from the Clerk in this chamber, would enable us to proceed with the relevant matters. The motion provides for the Council to consider the bill in the form that has been adopted in the Legislative Assembly as a result of the recommendation of the Dispute Resolution Committee and would thus complete the parliamentary scrutiny of this bill. For those reasons, and to enable us to conclude this matter, I commend the motion to the chamber.

Mr D. DAVIS (Southern Metropolitan) — This motion by Mr Jennings seeks:

> That standing order 7.06 be suspended so as to enable the consideration of the Planning and Environment Amendment (Growth Areas Infrastructure Contribution) Bill 2009, as amended by the Assembly on the recommendation of the Dispute Resolution Committee …

This is a motion that the opposition on this occasion will not oppose. I will comment on the dispute resolution process, and at a later point I will comment on the Planning and Environment Amendment (Growth Areas Infrastructure Contribution) Bill, which no doubt will come to this chamber in due course and follow the normal procedures.

The government has tied itself in knots with the constitutional changes that were made in the last Parliament. We have concerns with some of these changes, particularly the sections of the constitution that require a dispute resolution committee to meet in private. As I have put on the record in this Parliament on a number of occasions, the dispute resolution process is unsatisfactory, and that is something on which virtually all non-government members agree. The capacity to seek independent information and to meet openly and publicly to allow for full discussion and debate on issues is not allowed. The section of the constitution that requires the committee to meet in private, section 65B(9)(a), is in my view a gag on the committee's proper functioning.

As has been pointed out in this chamber previously, there is a history of dispute resolution processes between the chambers going back to the last century and the century before that. Those dispute resolution processes centred on the use of management committees, which were more informal arrangements. They would generally meet in public and sometimes with Hansard staff recording the proceedings. They were able to thrash out differences between the chambers, and that is a perfectly proper process to

discuss, arrange and seek the reconciliation of differences.

What is concerning is that when the constitutional changes were made in the last Parliament there was little debate of this section and I would wager almost no community understanding of the dispute resolution procedures that were entrenched in our constitution at that time. The failure to debate those sections fully and publicly is concerning. I do not think there is any democratic acceptance of those provisions and procedures.

Nonetheless, we are in a position where these procedures are entrenched in the constitution and are very difficult to get around. They require meetings in private, as I have said, and this puts particularly the Assembly members of opposition parties in a difficult position in that they are unable to speak publicly. When you look at other dispute resolution processes that have come to this Parliament previously, including the Planning Legislation Amendment Bill, it is clear that the ramshackle process and the tight time lines have an effect on the consideration of the detailed implications of changes to clauses and their impact on industry and the community. In my view there needs to be in the longer term a resolution to this process so that we can put in place a proper and full democratic process.

On 2 September 2009 a resolution was carried by this chamber at my request. The house indicated there was a mechanism for upper house members to report on that process. That is a mild improvement on the process because it enables some democratic vent, but it is dependent on where it falls within the timing of the parliamentary sittings juxtaposed to the schedule and processes of the Dispute Resolution Committee. That mechanism is not a satisfactory solution to the need for democratic informing and for arrangements to be transparently and openly conducted. There will need to be some longer term process where there is reform of this terrible section of the constitution. Frankly, it is deeply flawed.

I pay tribute to the work done under real pressure at the Dispute Resolution Committee by Robert Clark, the member for Box Hill in the Assembly, who has undertaken the difficult task of working his way through some of the details of the legislation. No doubt more will be said about the actual matters in the bill later, but I want to put on the record the work done in trying to find a resolution. No doubt we will talk about this at length. When the amended or changed version of the bill comes to the Parliament we will put on record some of the significantly positive changes that were made. But I make the point that this was done under difficult time lines, with inadequate resources and under circumstances where democratic consultation was severely curtailed by those sections of the constitution. It is very hard to see what was really intended by whoever drafted those sections of the constitution and whether they were intending to put something that had democratic credentials, as it were, as one of its aims.

The chilling effect of the privacy provision in the constitution for the Dispute Resolution Committee is a very pernicious impact. I think the chamber is unhappy in general with the way the Dispute Resolution Committee operates. We are unhappy that it is sought — —

Mr Jennings interjected.

Mr D. DAVIS — Indeed, Mr Jennings, I have flagged that we are interested — —

Mr Jennings interjected.

Mr D. DAVIS — That is right, Minister; you amended the constitution.

Mr Jennings interjected.

Mr D. DAVIS — You crunched it through, and there was no consultation on this clause whatsoever. As you say, you crunched it through. You amended the constitution, and there is no democratic buy-in on these sections of the constitution that require the dispute resolution processes to occur in secret, with a gag applied to members of Parliament and an inability to take public submissions, an inability to conduct public hearings, an inability to consult with industry and an inability to consult fully and openly with the bureaucracy. I have to say that this is an entirely unsatisfactory — —

Honourable members interjecting.

Mr D. DAVIS — It is not a matter of a lecture — —

Mr Guy interjected.

The ACTING PRESIDENT (**Ms Pulford**) — Order! Mr Davis, to continue.

Mr D. DAVIS — I appreciate your intervention, Acting President. The minister, of course, fails to understand that people can have genuine concerns about the democratic process. What is arrived at in terms of a particular outcome in a particular bill is another matter that will be subject to the precise debate we will no doubt have when the bill comes to the

chamber. I make the point that on this occasion we will not oppose this process.

There is a view about the dispute resolution process limiting the ability of the Legislative Council to defeat a bill and about whether a bill that is defeated can be brought back through this process. In this case a bill has been put to the Legislative Assembly, it has been voted through the Legislative Assembly and it has come, on message, in the normal way to this chamber. The chamber is now in a position where, to consider that message, it needs to suspend the relevant standing order which deals with not considering substantially the same matters within six months. What we are doing today is taking a simple step to enable consideration of the bill. It should be considered in a proper way, with a proper process and on its merits as it comes forward, amended, from the Legislative Assembly. But that in no way indicates that we accept or believe that the dispute resolution process itself is legitimate.

I also make the point that there is huge uncertainty about the dispute resolution process and the 30-day issue. The 30-day issue in the dispute resolution process has been interpreted by the government, which has control of the Dispute Resolution Committee, to mean that 30 days from the passing of a referral motion, a dispute resolution, as defined by the constitution, must be arrived at. If it is not, then various procedures start to go into order. It is quite unclear what the meaning of that section of the constitution is. On one view, as I said in this chamber in the report we tabled on a previous bill, it means that a resolution must be reached within this time. However, there is an equally legitimate view that the section means that the committee must seek to reach a resolution within 30 days, not that a definitive dispute resolution must actually be reached within the 30 days.

There is, I think, dispute about that time line which the government has sought to use as a whip or sought to use as a lever, but the reality is that the government will do what it will in the Assembly; it will use its numbers in a relentless and unsatisfactory way. The dispute resolution processes at the committee are entirely unsatisfactory, in my view. On this occasion we will support the motion to allow the six-month rule to not apply so that consideration of the bill can proceed — the amended, changed bill that has come from the Assembly.

Ms PENNICUIK (Southern Metropolitan) — I move:

That debate be adjourned for one week.

I have moved to adjourn debate on this motion for one week for a fairly simple reason. It has been the practice in the Council since I have been in this place that unless the government can demonstrate that it really is an urgent issue, there is no debate taken on a substantive motion or a second-reading motion for a bill within the same week that it is moved.

Mr Viney has gone on and on in this chamber almost every week about non-government motions that have been put up. The Greens have worked very hard to make sure that enough notice is given for any motion we hope to have moved in this house; it is sometimes much more than one week, but generally it is at least one week. The motion we are dealing with today has been moved by the Deputy Leader of the Government, who is sitting opposite me, complaining and interjecting about my motion to adjourn debate on his motion, which he only put to the house yesterday. Normally the house would not debate a motion that has been put on the notice paper only one day previously.

Mr Jennings' motion is that standing order 7.06 be suspended, which relates to the same-question rule. It says the same question may not be put in less than six months. The bill that is the subject of this exercise was defeated in this chamber on 23 February. It was referred to the Dispute Resolution Committee by the lower house exactly one month later, on 23 March, and resolution was reached on 22 April. The bill was tabled here yesterday, but only two and a half months — or 71 days — had passed . Under its motion the government wants to suspend the longstanding practice relating to the same-question rule to rush through the bill, but that is completely unnecessary.

As Mr Davis said, the whole idea of section 65C of the Constitution Act, in relation to the Dispute Resolution Committee, is not very clear, because the provision says the committee 'must seek to come' to a resolution, not that it 'must come' to a resolution within 30 days. More importantly, section 65D of the Constitution Act gives the Assembly and the Council 30 days, or 10 sitting days, whichever is longer, to deal with the resolution as put, and in this case it is a new bill. There is absolutely no need for us to debate the bill this week.

I am also very concerned, as are many in the community to whom I have spoken about this whole dispute resolution process — and Mr Davis raised this the last time we went through this exercise on the bill relating to planning development assessment committees — that the Dispute Resolution Committee meets in private. Mr Davis described its deliberations as 'ramshackle' and as having tight time lines, which I just referred to. It is a ramshackle and secret process. The

rest of the Parliament is locked out of it, and the community is completely locked out of it.

We are talking about a massive expansion of the urban growth boundary and the imposition of a new tax. You could not think of anything more important to the community. There is huge controversy about all the aspects of the growth areas infrastructure contribution bill and its accompanying amendment VC55, or whatever pops up from the government after that, because we certainly do not have it attached to this motion.

There is absolutely no rush to debate the bill, and that is why I moved that debate on Mr Jennings' motion be adjourned for one week, as is the normal practice.

Mr JENNINGS (Minister for Environment and Climate Change) — I did take the opportunity to interject against Mr Davis, but I did not really interject on Ms Pennicuik — —

Mr D. Davis — Different debates.

Mr JENNINGS — Yes, but they are joined. Anybody who reads *Hansard* will understand that a continuum of conversation has been going on for the last 15 minutes and that it has straddled the two contributions. In fact, my interjection against Mr Davis was probably in anticipation of the frustration I was going to be exhibiting in responding to Ms Pennicuik's proposition.

Probably I was anticipating receiving a lecture about process and about the way in which the constitution has been framed to allow for different representation in the chamber. It allows for disputes between this chamber and the Legislative Assembly to be resolved in a way that was not previously available to the Parliament.

While from the government's perspective there have been great leaps forward in relation to democratic process and representation in this chamber, and the opportunities for members to have their say about the matters, and the mechanisms by which disputes between the Legislative Assembly and the Legislative Council can be resolved, which can lead to a more harmonious legislative program — and despite that being the initiative, the intention and what has been delivered by the government — we still receive lectures from people who are the direct beneficiaries of those constitutional amendments. They deem it their responsibility to provide us with lectures about the way in which democratic institutions can operate.

The lecture we have just received from Ms Pennicuik in relation to my motion to suspend standing orders could, in effect, be achieved by a simple 'no' being exercised when the item of business on the notice paper that will deal with the first reading of the bill she is concerned about is called on. In fact, if she is interested in the precise mechanism by which she can achieve her outcome, which is to delay the consideration of the bill, it could have been achieved simply by saying no when leave is subsequently being sought to deal with that item.

Unfortunately, and I will not put it on the public record now or probably into the future because it is a bit unedifying, details could be known of the complete malaise in the way the Greens have dealt with the matter. The Greens have had ample opportunity to make a significant contribution to public policy and to this legislation. They have had significant opportunities to make a positive contribution in relation to the substantive matter, and they have baulked comprehensively from doing so. They are taking that opportunity to baulk yet again.

Today the Greens want one more week to baulk. In fact they apply the logic to say, 'It is all too hard. We get elected to Parliament, but what we have to do is oppose things or stymie things, or consider them at great length', as distinct from taking any responsibility for doing anything. They continue to find ways of conveying that message to the chamber and to the people of Victoria.

I think it is pretty evident that the contribution from the Greens at this point is to say, 'No, it is all too hard to take any decisive action that might lead to legislative reform and to programmatic outcomes. Let us baulk at decision making. We do not want to participate in that process'. Here is an ample demonstration of that yet again. The Greens say, 'Today it is all too hard. Give us another week', when that outcome could be achieved by simply saying no when leave is sought to deal with the item on the notice paper. It is a pretty easy thing to do.

We do not really need lectures about democratic institutions or the reform of the constitution, which the Greens are a direct beneficiary of. We do not need lectures about that. We do not necessarily need a lecture about the way disputes are resolved. We have found a mechanism to resolve a dispute which still allows this chamber to scrutinise the bill that is going to be presented to the house and which still allows us to have a debate about the relative merits of the policy implications and the funding mechanisms.

It even provides the chamber with an opportunity to amend the bill if it decides to do so, notwithstanding the

fact that a dispute resolution has been reached by the committee as established by the Constitution Act in accordance with the time lines that were available to it. In fact the matters have been resolved satisfactorily in the Legislative Assembly, and they are not going to be considered here until there is a resolution in a form that can be considered under our standing orders and accommodated through the resolution.

Mr D. DAVIS (Southern Metropolitan) — The minister is right on one point — that is, there is an opportunity in the normal consideration of the amended bill as it comes to the chamber, to examine it as it goes through those processes. To some extent this process is simply a procedural step to enable the consideration of a like bill that has been presented to the chamber through the motion and activity of the Assembly and the arrangements that came through the Dispute Resolution Committee.

I have indicated my views as to why the dispute resolution committee process is flawed. Nonetheless, the Assembly has considered the bill and sent the bill to this chamber through the normal message process. The chamber now has to decide whether to consider it and whether to suspend the relevant standing order to enable the reconsideration, as it were, of a similar bill. It seems to me that the simple consideration is a reasonable point.

We will support the minister's motion on this occasion, but we take the view that the debate on the bill will be an opportunity to scrutinise the details of what has come from the Assembly and decide what the chamber should do.

Ms PENNICUIK (Southern Metropolitan) — I thank the minister for his response to my motion to have the debate on his motion adjourned for one week. He spoke about great leaps forward in the democratic process to reform the upper house and to change the constitution of the upper house and about how we Greens have been direct beneficiaries of this process. As my colleague Mr Barber correctly commented, the people who are the beneficiaries of that process are the people of Victoria and not necessarily the parties.

However, what the Parliament did in that process was to give with one hand and take with the other. The aim of the process was to make reforms to the electoral process so that parties were better represented than they ever had been in this house according to the vote they received from the Victorian community. It is not totally representative, though, because if there were an accurate reflection, there would be more members of the Greens and fewer members of The Nationals in this place. However, let us not go to that.

Mr Jennings also said I could achieve my aim by just saying no when it came to voting on the bill. I advise the minister that I was aware of that. The reason I want to go to the length of adjourning the debate on this motion for one week is that there has been a diminution of democracy not only throughout the whole dispute resolution process but also through the suspension of standing orders and by not abiding by the normal practice of allowing for an adjournment of at least one week for debate on motions and bills, of which Mr Viney is the greatest champion in this house.

House divided on Ms Pennicuik's motion:

Ayes, 4

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

Noes, 36

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

Ms Pennicuik's motion negatived.

Ms PENNICUIK (Southern Metropolitan) — I thank Mr Kavanagh for his support of my motion to adjourn this debate. The Greens will not be supporting Mr Jennings's motion to suspend the standing order.

Mr Jennings — Would you have done in a week?

Ms PENNICUIK — No.

Mr Jennings — So there was not much point defending it then, was there?

Ms PENNICUIK — The reason that we will not support this motion is that it proposes to suspend standing order 7.06, which states:

> No question will be proposed in the Council which is the same in substance as any question which has been resolved during the previous six months in the same session.

It is perfectly within the realm of the government to bring back the same question in six months and one day. In this Parliament only three bills have been defeated, and all of them were worthy of defeat. In particular the Planning and Environment Amendment (Growth Areas Infrastructure Contribution) Bill was most worthy of defeat.

The reason we have an upper house is to review and scrutinise legislation and come to a view as to whether the legislation should pass either unamended or with amendments. It is the important role of this house to do that. If that occurs, it is well within the reach of the government to keep negotiations and discussions about the bill happening and to then bring back the bill in six months if it feels it has been able to persuade the non-government members of the upper house that the bill can be passed amended or unamended. In any case the whole reason for the same-question rule in this and other parliaments is to provide a check on executive power, rather than letting a government just bring back a question or a bill that has already been rejected by the majority of members in the upper house. As I said, that has rarely happened in the three and a half years of this 56th Parliament.

As I mentioned in my earlier speech on the motion to adjourn debate on this motion, the dispute resolution process under section 65 of the constitution is very controversial, and the Greens do not support it. We had no part in putting it into the constitution, and I strongly regret that it is in there. The Legislative Council has been reformed, and its composition is now more reflective of the vote that parties and candidates received in the election; however, if the majority in the Legislative Council chooses to reject a bill, that bill can then be subject to section 65 of the constitution.

The dispute resolution process is undemocratic in many ways. Firstly, a bill can be referred to the Dispute Resolution Committee only by the Assembly. That in itself is undemocratic, because the government always has the majority in the Assembly. Basically, if a bill is defeated by the upper house, the government can grab that bill again in the lower house and refer it to the Dispute Resolution Committee. It can do that by way of its numbers in the lower house.

Secondly, section 65B of the Constitution Act says the Dispute Resolution Committee is to consist of 12 members — 7 members of the Assembly and 5 members of the Council — and that when appointing those members each house must take into account the political composition of that house. That may have been achieved in each house, but the effect of that composition of the Dispute Resolution Committee is that of the 12 members, 6 are government members and 6 are non-government members. It seems as if they are evenly split but section 65B(8) of the Constitution Act says:

> In the event of an equality of votes, the Chair also has a casting vote.

The chair is a government member, so the government has the casting vote on this committee.

The government has all the power. It refers the bill which has been defeated by the upper house to the committee and, if the committee is tied, it has the casting vote. The government has all the control. This in effect takes away the decision-making power of the Legislative Council to defeat a bill which the majority of Council members feel is not in the public interest. The bill is handed over to a committee of 12 that meets in secret and comes to a resolution in secret. If the non-government committee members do not agree with the motion, the chair can use a casting vote to pass the motion. It is extremely undemocratic. It is unfortunate that this provision is in the constitution, because it completely undermines the function and role of the Legislative Council in the review and scrutiny of bills, the amendment of bills and, at the end of the day, the rejection of bills on behalf of the people of this state, which rarely happens, as I said before.

As I mentioned, the bill which is the subject of the Deputy Leader of the Government's motion to suspend standing order 7.06 was defeated only two and a half months ago. It is finding its way back into this Council through the undemocratic dispute resolution process.

The Greens are totally opposed to the dispute resolution process as currently set out in the Constitution Act. It is highly regrettable that it appears to have been entrenched there, although as I mentioned during a previous debate about the Dispute Resolution Committee, I am spending a lot of time looking into that issue because it appears to me that it is difficult to entrench something into the constitution just by way of an act of Parliament — passing an act of Parliament by majority — and then requiring a referendum for its removal. The provision was not put into the constitution through a referendum. The people of Victoria have had no say whatsoever in the entrenchment, or perceived entrenchment, in the constitution of these provisions, which take away the democratic rights which they believe they have elected members of the upper house to exercise. It is very concerning. It has been misused once regarding the bill covering planning development assessment committees, and it is being misused again in respect of this bill.

I sit on the Dispute Resolution Committee. Mr Davis described it as 'ramshackle'; it is certainly rushed. There is no time for any proper work to be done on the provisions of that bill, given that by definition any bill that goes to that committee will be a very controversial, very important bill. It is not going to be just a process bill; it is going to be a bill on which the community has a wide range of views.

This bill involves the massive expansion of the urban growth boundary and the imposition of a new tax, and it is hugely controversial in the community. We have had that rushed through the Dispute Resolution Committee in 30 days, then rushed from the upper house on Tuesday to be met by a notice of motion by the Deputy Leader of the Government yesterday, with the government foreshadowing that it wants the second-reading debate brought on today, when there is no rush under the constitution — we have got up to 30 days or 10 sitting days in which to resolve this matter, which would take us to the end of June.

The suspension of standing orders is coming about as well, it should be pointed out, because the government has chosen a particular way to present the committee's resolution. I do not think Mr Davis mentioned this in his contribution, but government members were warned in the Dispute Resolution Committee process that they would come up against this same-question rule; that if they did not want to come up against it they could have produced a resolution in a different form. But they proceeded with it in this form.

We have now had two attempts at this in the committee. Both of them have been highly unsatisfactory in the way they have been carried out. We have had two different ways of producing a resolution. If you look at the way resolutions can be presented to the house, you see that it is very much open to interpretation as to the form in which a resolution should come back to the Parliament.

The Greens will be opposing the suspension of standing orders, basically because we do not believe that there is any urgency about bringing this bill back to the house. Certainly there is no urgency about expanding the urban growth boundary, and we do not agree with any such expansion.

As I have said before in this chamber when we debated the previous planning bill, we do not believe that a defeated bill is a disputed bill. There are varying interpretations of the wording under the Constitution Act as to what a disputed bill is. From our point of view a disputed bill could be a bill that has been amended by the lower house, one that is going backwards and forwards between the two houses, toing and froing over amendments, but again, that should be sorted out by negotiation through the Legislation Committee and so forth.

A bill on which the upper house has spoken decisively — on which it has said, 'We do not support that bill; that bill should be sent away and the government should go back to the drawing board and come up with a different idea; that bill is not in the public interest' — is a defeated bill; in effect it has been defeated by the upper house. That is the right of the upper house; that is what the upper house is for. We do not agree with the basic proposition that a defeated bill is a disputed bill. We believe a defeated bill should not go to the Dispute Resolution Committee in the first place.

Mr HALL (Eastern Victoria) — I want to make a few comments on the motion moved by Mr Jennings, which seeks to suspend standing order 7.06 so that the house can consider a message from the Assembly. First of all, standing order 7.06 has been in the standing orders of the Legislative Council for a long time. Basically it says that the same question cannot be proposed again in a six-month time frame of a session of the upper house. For reasons that are quite obvious to most, I think that is an important standing order. It is one which has been observed here for a long time.

However, on the President's ruling yesterday, this motion was necessary because the President has interpreted a resolution coming from the Assembly as being in principle the same question, the same matter as has been dealt with by the Council previously. We are in the position now where we have on the notice paper the need for a first reading of a bill, but because of the President's ruling we have to suspend the standing orders to enable that to happen.

I must say I agree with the vast majority of the comments Ms Pennicuik has made about the awkward, difficult and perhaps undemocratic process by which we are at this point considering this piece of legislation. I agree with her criticisms of the dispute resolution process implemented by the house itself when the government had the majority to push that through. I think that has shown itself to be a deficient process — to give it the nicest description I can think of.

I think it is an area which this house needs to look at in thorough detail again. My criticism of that process was shared by the Leader of the Opposition, David Davis, when we made a report to this Parliament on 15 September last year in relation to a piece of legislation that went through that process previously. In

that report we expressed our strong criticism of the process, much of which has been mirrored in the comments made by Ms Pennicuik here this morning.

However, we are at a point where we have a piece of legislation on message from the Assembly, and the Parliament itself therefore has to make a decision as to whether we should allow a first reading of that bill today. Ms Pennicuik's argument has suggested there is no urgency and that therefore there should not be any hurry to pass the first reading here today and we should be allowing the people of Victoria more adequate time to look at the proposed legislation.

In an almost quirky twist, by allowing the bill to be first read today we will probably give the people of Victoria more time to look at the proposed changes to this piece of legislation than they would have if we delayed it until the next sitting week of Parliament. There is a two-week break between this current sitting week and the next sitting week of Parliament, but there is only one week's break between that week and the next scheduled sitting week. As I said, in some sort of quirky twist of fate in respect of this legislation, by putting the details to the public now people will have a period of almost three weeks rather than two weeks to look at those changes.

I share in the criticism of the dispute resolution process, and I particularly share the interpretations of the process by the government, principally, as to the status of bills and whether bills should actually be labelled as disputed bills and forced into that process. I agree with the view of many people that once a bill is defeated here it is no longer a disputed bill; it is a defeated bill, and that is it. However, as I said, that is a principle debate that needs to be had at another time, and I think changes to the Constitution Act would be desirable to clarify these matters.

With no great joy I will be supporting Mr Jennings's motion to see standing orders suspended so that this bill can be considered. I am not happy with the process, but I think this is the only way in which the amendments proposed by the government and agreed to through a process — albeit a flawed process, in my view — which has been gone through can be made public so the people of Victoria can analyse what is now being proposed with respect to this legislation. The only way we can do that is to suspend standing orders to allow government business order of the day 4 to be debated later today.

Mr P. DAVIS (Eastern Victoria) — I have a number of remarks to make on this matter, but I suspect you are going to intervene and sit me down very shortly, President. What I will do is make some very brief introductory comments and deal with the details subsequent to question time.

My view is that this is a very significant matter which is before the house. We have heard a good deal of cant, hypocrisy and dissembling from the minister handling the matter for the government, the Minister for Environment and Climate Change and Deputy Leader of the Government in this place, in regard to democracy and the constitution. It is about those matters that I wish to make some substantive remarks.

My remarks will go to the fundamental problem, which is that the changes to the constitution in 2003 were substantially flawed, not in terms of the government's policy as stated at the time but in the way, firstly, that they were drafted — and I remind members of the committee stage and that I gave the Leader of the Government the opportunity to make some clarification at the time, an invitation he did not take up — and further, in the way the government is intending to interpret — —

Business interrupted pursuant to standing orders.

QUESTIONS WITHOUT NOTICE

Planning: Hotel Windsor redevelopment

Mr GUY (Northern Metropolitan) — My question is to the Minister for Planning. Can the minister inform the house whether he or any of his staff have had any discussions with the Office of the Victorian Government Architect in relation to the redevelopment of the Windsor Hotel, and if so, what did these discussions focus on?

Hon. J. M. MADDEN (Minister for Planning) — I thank Mr Guy for his interest in these matters. I find it quite ironic that we have a line of inquiry by a committee of this Parliament that is not prepared to ask me questions in that committee forum but seeks to ask everybody else in the city of Melbourne or across Victoria about these matters.

Mr Guy — I have just asked you. Why don't you answer it?

Hon. J. M. MADDEN — I am about to. Members of the committee are not prepared to have me answer these questions in front of them, but then they seek to ask questions in this chamber in relation to all sorts of issues concerning this project. I find it quite ironic that such inconsistency can be displayed by not only the

member opposite and the Liberal-National parties but also the committee in its inquiry.

I have meetings from time to time with the state government architect, but the state government architect plays no formal role in the planning process. My understanding is that the state government architect did make a submission to the independent panel and made that based on his views on the project. Those views were considered by that advisory panel, which made recommendations to me and to the department in relation to the project.

Supplementary question

Mr GUY (Northern Metropolitan) — I thank the minister for his answer, although I will wait to see if the minister will now answer the substantive element of my first question as well as my supplementary question. I note that the independence of the Victorian government architect is something that the government has made many claims about, and I wonder if the minister could now inform the house of what measures have been put in place to ensure his department and the government architect are not involved in political decisions regarding multimillion-dollar planning applications.

Hon. J. M. MADDEN (Minister for Planning) — Again the irony is certainly not lost on me, and I hope it is not lost on others: these are questions Mr Guy could be asking me in the inquiry if he wanted me to front the inquiry, but of course the committee does not want that.

Mr Guy — The Parliament is supreme, not Rob Hulls, so we are asking you here.

Hon. J. M. MADDEN — I am happy to answer you today, Mr Guy, but I find it quite ironic that there are two streams of inquiry going at the same time with you being involved in both. In fact I find it quite interesting that you are on that committee but you want me to answer questions here as well.

I will just make the point — it has been made a number of times, but I will make it again — that the state government architect has no formal role in the planning process. Of course the views of the state government architect are always very important in terms of government policy, but the government architect has no formal role in the planning process.

Mr Guy — So probity doesn't matter? Probity doesn't count?

Hon. J. M. MADDEN — I take up your interjection, Mr Guy. He has no formal role in the planning process and has no formal decision-making role or involvement in the decision-making process in relation to any projects. If the state government architect has particular views, then he will make those views known through the respective independent panel process.

I am sure Mr Guy will ask the state government architect about any other conjecture that he throws up if the state government architect is requested or required to present himself before the committee in the inquiry that this Parliament is conducting. I cannot speak for the state government architect. I cannot speak about meetings he may or may not have had with other people. All I know and all that is important in relation to this matter is that the state government architect has no formal role in the planning process.

Government: financial management

Mr MURPHY (Northern Metropolitan) — My question is to the Treasurer, John Lenders. Can the Treasurer update the house on how the Brumby Labor government is reducing borrowing levels while still managing to invest in infrastructure and service delivery?

Mr LENDERS (Treasurer) — I thank Mr Murphy for his question and his particular interest in how we generate infrastructure investment in Victoria into the future — infrastructure investment that delivers services and creates jobs — while maintaining prudent levels of borrowings going forward.

As I have mentioned to the house before, the front-line soldiers in the fight against the global financial crisis have been the plumbers, the electricians, the bricklayers, the carpenters and the architects. It has been those people who built the schools, built the roads and built the houses that created jobs and took us forward to withstand the global financial crisis. To do that we boosted our infrastructure spend last year to $11.5 billion, when you take into account all the efforts of the state government, the state government agencies and the investment by the federal government in Victoria. This year we will have a further $9.5 billion of strong infrastructure investment to both generate and secure jobs and to deliver important services for the future. We have done this while maintaining a budget that is in the black. In fact our surpluses in years going forward will allow us to invest in even more infrastructure while reducing Victoria's levels of borrowing.

This time last year when I presented the budget we talked about it in terms of a significant global financial crisis and Victoria having a plan to take us through the

crisis and take us forward through which we modestly increased our borrowings so that we could fund these important projects that have enabled us to get those front-line troops against the global financial crisis out there. When we brought forward the plan we were told by others that it was irresponsible to borrow at those levels.

Mr Viney — Who would have said that?

Mr LENDERS — Mr Wells, the member for Scoresby in the Assembly, was one of those who said that. At that time I reminded the house that when I was born, in 1958 — and Sir Henry Bolte was Premier of Victoria in 1958 — state borrowings were 58 per cent of gross state product. What I can say is that since we inherited government we have managed those borrowings with a plan — an alien word to Mr Wells — to reduce borrowings.

Honourable members interjecting.

Mr LENDERS — We hear a cacophony of woe and gloom from those on the other side. They talk about borrowing levels, but I remind those opposite that in the current financial year borrowings as a percentage of the state economy are 2.8 per cent, which is a figure lower than the percentage we inherited from Jeff Kennett.

Honourable members interjecting.

Mr LENDERS — David Davis wants a new numberplate on his car — W-O-E — because he is a prophet of gloom. If we look at where we stand today, we see that we have managed to invest in infrastructure and reduce borrowings into the future. Last year at budget time I predicted in the forward estimates that borrowings would rise modestly and then come down to take us through the global financial crisis and ease the pressure on Victoria now and prudently invest for the future. I was wrong. Borrowings have gone up by less than I predicted. In fact instead of 5 per cent of the economy at the end of the forward estimates, it is 4 per cent. I am surprised Mr Rich-Phillips has not yet got up to congratulate the government after his woes of last year, because he will notice that there is a plan to reduce borrowings. In actual dollars, borrowings have come down.

Some of the conservative leaders across the world — like Angela Merkel in Germany, Silvio Berlusconi in Italy and Nicolas Sarkozy in France — would dream of figures where borrowings are at these modest levels and have come down. This state government is delivering prudent financial management investment to build on infrastructure and create jobs into the future. However, I am not the only one who is saying we are working to make Victoria a better place to live, work and raise a family. If I recall correctly, Kelly O'Dwyer, now the Liberal federal member for Higgins, said the same thing during the Higgins by-election. But it is not just Labor and Kelly O'Dwyer; it is now Alan Tudge, the Liberal federal candidate for Aston who wants to make Aston a better place to live, work and raise a family.

I am delighted that some of those opposite have come on board with the same aspirations as we have on this side of the house. Our aspiration is to manage our economy well so we can continue the plans that have taken Victoria through the worst of the global financial crisis and deliver for our citizens into the future. I am glad that at least two members of the opposition party now also want to make Victoria a better place to live, work and raise a family.

Regional and rural Victoria: government initiatives

Mr DRUM (Northern Victoria) — My question is to the Treasurer. In relation to the blueprint for regional Victoria, which the budget paper overviews tell us will be unveiled by 30 June this year, will projects within the blueprint require capital funding, and if so, will the Treasurer identify exactly where in the budget papers members can find the budgeted amount?

Mr LENDERS (Treasurer) — I genuinely thank Mr Drum for his question. I thank Mr Drum, firstly, for referring to the blueprint for regional Victoria, because this government has been working on a blueprint for regional Victoria in consultation with regional communities to find out what is the best way forward to plan. My colleague Jacinta Allan, who is a great Minister for Regional and Rural Development, has been working with municipalities, with business groups, with community groups, with citizens and with businesses to say, 'Working together, what can we plan going forward to make Victoria a stronger place, particularly regional Victoria?'.

Mr Leane — That's a good thing.

Mr LENDERS — Indeed, Mr Leane, it is a fantastic thing to consult regional communities. Of course I barely have to contrast that with others, including a former Premier of this state who happily had the National Party in tow and who described Melbourne as the beating heart of Victoria — —

Mr Hall — On a point of order, President, the minister is out of order in debating this question. It was

a serious and specific question that was asked. The minister is out of order in debating the answer.

The PRESIDENT — Order! I am not overly convinced that the Treasurer is debating. I think the question lends itself to an expansive answer, if that is the desire of the Treasurer. There are no time limits at question time, and I think the minister is more than aware of the need to be relevant to the question asked and of all the other restrictions or guidelines on answers. However, on the point of order, I do not think the minister is debating, and I ask the minister to continue.

Mr LENDERS — Mr Drum asked me about the regional blueprint. Again perhaps I could phrase it another way. I am sure the regional blueprint will deal with some of the medical services we need. Whether they be ones that deal with beating hearts or ones involving the podiatrists who deal with toenails, I am sure we will be able to cover all those things. This government is absolutely sincere. Victoria is a whole and we work for the whole state, and we reject the Kennett Liberal-National ideology of a beating heart and toenails, because we govern for the whole state.

As part of doing that the blueprint will build on how we make regional Victoria an even better place to live, work and raise a family. An important part of building on that is dealing with the continuing good works that have been delivered to date by Labor projects like RIDF (Regional Infrastructure Development Fund), the small towns fund and other projects that come out of Regional Development Victoria. I have presented the budget, and the bill will come to this house in a few weeks. That obviously will be an appropriate time to discuss the budget provisions line by line with Mr Drum, which I will be delighted to do in committee.

When the budget comes forward with the provision of more funds for regional Victoria I hope Mr Drum and The Nationals will vote for those proposals, because when the legislation covering RIDF was first introduced The Nationals voted against it. They only voted for it when it was presented a second time because they were held to account by Victoria's regional community, who asked, 'Why are you voting against the proposal that will deliver important infrastructure in regional Victoria?'. Only then did The Nationals put up the white flag, abandon the Kennett hearts-and-toenails approach and come to the party to let the RIDF go through and let Victorian Labor start delivering services to regional Victoria.

I look forward to Mr Drum's supplementary question, and I say this to him: only the Labor Party has delivered plans for regional Victoria. Not since Murray Byrne was Minister for State Development and Decentralisation some 30 or 40 years ago have the conservatives opposite shown any interest in decentralisation or regional development other than in through hollow rhetoric. Labor has a plan; Labor's plan is the blueprint going forward. The Premier and my colleague Jacinta Allan, the Minister for Regional and Rural Development, will deliver that blueprint.

When I look around this side of the chamber I look to colleagues like Ms Pulford who, as parliamentary secretary for regional and rural development, is working closely with the minister. I have spent time with the other regional members of the Labor Party in Victoria. I have been with Ms Broad at forums in Echuca; I have been with Ms Tierney at forums in Portland; I have been with Mr Viney; I have been with Mr Scheffer; I have been with Ms Darveniza. I have been with all our regional members. I will continue to work with a group of dedicated Labor Party members who work to deliver better outcomes for regional Victoria at every single opportunity.

Supplementary question

Mr DRUM (Northern Victoria) — Will the Treasurer reinforce his substantive answer, as I understood it, that the funding for the projects within the regional blueprint will be funded through RIDF, which is the Regional Infrastructure Development Fund, and also the small towns fund, or are there other line items hidden somewhere in the budget which will give the government an opportunity to find additional money that is not clearly identified as money that has been allocated for the regional blueprint?

The PRESIDENT — Order! I am assuming the Treasurer knows that the supplementary question relates to the initial part of his answer.

Mr LENDERS (Treasurer) — I reaffirm my substantive answer: this government has made the strongest commitment to regional Victoria in my lifetime. This government has a regional blueprint which deals with not just short-term announcements but also a long-term plan for regional Victoria. As part of our plan the blueprint will be a critical element of the planning for regional Victoria. I say this to Mr Drum: this government has a plan for regional Victoria that is growing regional Victoria. For example, as I mentioned in this house yesterday in response to a question from Ms Darveniza, we have a plan to deliver fast rail to our large regional cities of Ballarat, Bendigo and Geelong — a plan which The Nationals opposed and mocked — which delivers — —

Mr Hall — You have a plan, but we don't see any money for that plan.

Mr LENDERS — Mr Hall says, 'Plan, plan, plan'. If I recall correctly, when Steve Bracks got up at the Ballarat town hall in 1999 and announced the regional fast rail plan, a long-term plan for regional Victoria, the then government mocked it. The National Party said it was a waste of time and money — —

Mr P. Davis interjected.

Mr LENDERS — Mr Philip Davis says — —

Honourable members interjecting.

The PRESIDENT — Order!

Mr LENDERS — Mr Philip Davis says, 'How much?'. We forecast the cost of the plan; we got into government and scoped it; and, yes, it was a higher figure than we said it was when in opposition.

An honourable member — How high was it?

Mr LENDERS — If members of the opposition will forget their glee for a moment — and I would urge those opposite to reflect on the five questions asked in the Assembly yesterday on these matters — the main reason the regional fast rail went over cost was because a safety adviser to us — —

Honourable members interjecting.

Mr LENDERS — The opposition can get up in the Assembly, be all things to all people and try to hold the government accountable for rail safety, but today it gets up in the Council and says, 'You should not spend money on rail safety'. That is what this opposition is trying to do: be all things to all people. The main reason our regional fast rail — which regional cities enjoy and which the Liberal Party and The Nationals now say there should be more of, even though they opposed the project — is the cost it is, is that it is delivering more services than originally scoped and delivering services according to the requirements of the rail safety authorities which reported to us after rail disasters interstate. If opposition members are saying it is a bad thing to put safety into rail travel, they should say so.

Honourable members interjecting.

Mr LENDERS — They are mocking the cost. There are two issues here, and I am not going to move from them. There are two issues for those opposite who want to be all things to all people. If they believe there is something wrong with governments investing in rail safety, as we did with the regional fast rail, then they should say so and not do — —

Mr Drum — On a point of relevance, President, this has nothing to do with either the substantive question or the supplementary question.

The PRESIDENT — Order! That is not a point of order.

Mr LENDERS — In summing up my answer to the supplementary, those opposite need to choose: I have been asked a question about blueprints and planning — —

Mr D. Davis interjected.

Mr LENDERS — Mr David Davis likes to help me, and I appreciate that he is trying to help me, but I would rather rely on members from my own side for help, because they are a tad more trustworthy and reliable and have a bit more of a vision and a plan. The opposition is mocking on regional rail and talking about this great iconic plan Labor has delivered. If the opposition has a problem with the cost of regional rail and it wants to go put out statements saying $11 billion — —

Mr O'Donohue interjected.

Mr LENDERS — Perhaps if Mr O'Donohue listened, he might learn something. If Mr O'Donohue wants to sign up to Kim Wells's voodoo economics and say we have overspent on regional rail, then Mr O'Donohue should say what safety measures we should cut out.

Mr D. Davis — On a point of order, President, I think the Treasurer has strayed a long way from the question. This is no longer relevant. He should answer the question or sit down.

The PRESIDENT — Order! It is a reasonable point that Mr Davis makes, but I will also add this: the extraordinary amount of interjection and provocation coming from my left is getting the response it deserves. If it is going to continue, then I am going to allow the minister, or any minister, to deal with it in the way he sees fit.

Mr LENDERS — In concluding, what I will say is this: for those who say the regional rail project is full of waste and put their political colours to the mast, I invite them — —

Mr Finn — Over $1 billion! How do you justify that?

Mr LENDERS — I invite Mr Wells or Mr Finn or anybody who says the project is over cost to suggest which part of the safety measures should have been cut out.

Honourable members interjecting.

Mr LENDERS — President, I am very relaxed.

The PRESIDENT — Order! I have let this go on an awfully long time. I think I may have lost my mojo. I am not feeling really well. Nevertheless, I ask the house — —

Mrs Coote — There is more funding for men's health, so you will be able to go and access it.

The PRESIDENT — Order! Mrs Coote can take an early lunch.

Questions interrupted.

SUSPENSION OF MEMBER

Mrs Coote

The PRESIDENT — Order! Under standing order 13.02, I ask Mrs Coote to vacate the chamber for 30 minutes.

Mrs Coote withdrew from chamber.

QUESTIONS WITHOUT NOTICE

Regional and rural Victoria: government initiatives

Questions resumed.

Mr LENDERS (Treasurer) — In conclusion, the cost of the project clearly included a series of safety measures and also included a series of extensions of services because people in regional Victoria required them.

I can say to Mr Drum in response to his substantive and supplementary questions: we have a strong plan for regional Victoria, one that builds on growing communities and supporting communities. I look forward to a discussion with Mr Drum in the committee stage of this bill, line by line, of the services we are delivering in regional Victoria today.

The PRESIDENT — Order! Before I call the next member, I want to get this message out whilst I have you all captive here. Some members will already be aware that I sent an email this morning, but I will read it out. I think this is a very good cause, and I want people to assist with it as much as they can.

> On 31 March 2010 the Good Samaritan Charter was established and signed by the Premier, the opposition leader and the presiding officers in recognition of those who place themselves at risk to preserve the lives of others.
>
> All members are invited to sign the charter, which will then be framed and displayed here at Parliament House.
>
> The charter is located in the Council chamber today … at the main chamber table, and I would ask you to please take the time to sign it.

I ask members to do that when it is convenient.

Government: performance

Mr EIDEH (Western Metropolitan) — My question is also to the Treasurer, John Lenders. Can the Treasurer inform the house as to how the Brumby Labor government is continuing to deliver a fairer Victoria to help make Victoria the best place to invest, live, work and raise a family?

Mr LENDERS (Treasurer) — I thank Mr Eideh for his question and his abiding interest in making Victoria a fairer Victoria. State governments have responsibility in a series of areas, but for this Labor government there are four key areas where we are committed to delivering services. They are the obvious universal services: education, health, transport and community safety. These are key areas for any government, but particularly for this state Labor government.

However, you can deliver universal services and deliver them well, but a decent government, a decent state, requires a safety net for those whom the system has not fully assisted or those who need extra assistance to give them a better chance to go forward. We on our side clearly think one of the best things you can do to assist your citizens is to provide jobs. That is why for me the figure I am proudest of in the presentations I am making around the budget is that 92 per cent of all new full-time jobs in Australia are in Victoria.

But not everybody can get those jobs. Not everybody can get the jobs they want, and some people simply do not have the ability to immediately walk into some of those jobs. So for us the safety net that A Fairer Victoria provides is absolutely critical. Mr Eideh understands and appreciates that, and that is why I am delighted to be able to say to Mr Eideh that as part of the budget process the Premier today launched the A Fairer Victoria update.

We as a government have been consistent in having plans to go forward. It is fine to say it is important to have a safety net going forward to make us a fairer Victoria, but it cannot be ad hoc. What we have done as a government is, for the sixth successive year, invest in the A Fairer Victoria safety net. Each year under this safety net there are different programs where we seek to address areas of community need. This year, like all other years, we are again addressing areas of community need going forward. There is obviously strong support for vulnerable young people and children, which is at the heart of A Fairer Victoria, and there is also a very strong ongoing investment in social housing.

Social housing is an area of some contention in parts of the community, but the reality is that we need to provide housing for those who need housing, and we need a greater stock of social housing. My colleague Richard Wynne has led the process on some fantastic work in bringing in more available housing stock for Victoria.

We have with great enthusiasm supported the commonwealth's national rental affordability scheme proposals to get more housing stock in place, and my colleague the planning minister ought to take great credit for dealing with some of the slings and arrows that have been thrown at him as he seeks to expedite the delivery of social housing throughout Victoria, a service for which there is a great need and great demand.

There are a series of measures this year in the *A Fairer Victoria* statement, bringing to $6 billion the amount invested during the six years of this initiative. But I would rather not talk about it in dollar terms as an investment. That is important, and I guess it is some sort of recognition of the importance the state puts on it, but I would rather talk about it in terms of what it is doing for individual Victorians and Victorian households. As part of A Fairer Victoria this year, 669 000 low-income Victorian households will receive further support on water bills through the threshold going up, as well as their being indexed to the CPI.

Under *A Fairer Victoria* there is a series of programs. I would urge any member who has not yet had the chance to read that document to have a look at it seriously and look at the six-year history of where this program has gone, because these are exactly the measures that put a decent safety net in place and are so critical a part of making Victoria a better place to live, work and raise a family.

Budget: tax rates

Mr RICH-PHILLIPS (South Eastern Metropolitan) — My question is to the Treasurer. Tuesday's budget confirmed that Victorian state taxes as a share of the economy have been above the national average since 2008 and will continue to be above the national average out to 2014. I therefore ask: when will the government restore Victoria's tax competitiveness?

Mr LENDERS (Treasurer) — I thank Mr Rich-Phillips for his Dorothy Dixer; it is much appreciated. It is interesting to note that I was at a function yesterday as part of the budget launch, and Mr Rich-Phillips's question on stamp duty, word for word, was asked by someone I am reliably told is a member of the Liberal Party. Clearly there is a bit of a message going on and a bit of a plan going forward. It is good to see there is finally a plan.

Mr Rich-Phillips asked about competitiveness, and I am delighted that he has got that far in reading the budget papers. There are 1138 pages, and I am sure Mr Rich-Phillips will read the budget from end to end — he probably already has. Perhaps he could tutor Mr Wells, the member for Scoresby in the other place, about what is in those papers.

Mr D. Davis interjected.

Mr LENDERS — I thank Mr David Davis for his help. I am new to the Parliament and I have never known about this before: it is question time and he wants me to answer. I thank him for his help!

Mr Rich-Phillips asked me a question which he says is about Victorian tax competitiveness. I know the statistical table he is referring to in the budget papers. He has clearly read the table and forgotten the narrative around it. I am disappointed in Mr Rich-Phillips.

There are a couple of measures that guide what you do on taxation. Firstly, there is the measure of taxation as a percentage of gross state product — taxation per head of population. It is your definition of taxation. Do you count royalties or do you not count royalties?

In response to Mr Rich-Phillips, I make a few observations. Victoria is a low-taxing state, particularly given that we have for 110 years, with New South Wales, borne the burden under Labor and Liberal governments of a federal system which siphons money. For Mr Rich-Phillips's information, every single Victorian — man, woman and child — is today virtually passing 60 cents over the border to another state. They will do the same tomorrow, the next day

and the next day. That is the amount of GST revenue that leaves this state and goes to other states.

To suggest Victoria can provide the same level of services as the Australian Capital Territory, which is the most urbanised and the wealthiest jurisdiction in Australia, beggars belief, but that is how the grants commission works. We have always done more with less; if Mr Rich-Phillips wants to start comparing those statistics, he should compare us to New South Wales.

But I would also say to Mr Rich-Phillips that part of the reason that — if he wishes to be very clever with his stats — taxation per head in this particular year might look a bit higher than it is is that we have withstood the global financial crisis better than other states. If you were in government in New South Wales, you would find had lost 40 per cent of stamp duty revenue, while in Victoria you only would have lost 23 per cent.

If you worked out the maths you would see that our taxes per head of population are going to be a little bit higher because Victoria has maintained its taxation base, as is the case with Queensland and some other jurisdictions. But it is different if you measure taxation and royalties — we have cut our tax rates — because royalties have gone down in Queensland and Western Australia, and royalties are not in this table. But if you put royalties in there, you find the amount goes up again. If Mr Rich-Phillips wants to play with figures, he can make whatever he wants from that. I would say that the figures he quotes are a reflection of the strength of the Victorian economy.

If we are talking of tax rates, last year New South Wales increased its land tax threshold, Queensland increased its land tax and Western Australia increased its royalties, as did Queensland. New South Wales, Queensland and South Australia deferred dealing with a series of taxes that we all pledged to get rid of for the GST under the intergovernmental agreement in 1999. We got rid of all ours. Tasmania was the only other state to follow.

Those three states actually extended the time line for getting rid of the taxes. Mr Rich-Phillips might think we are a high-taxing state, but I did not notice any of the other state and territory jurisdictions bringing down budgets on Tuesday that cut taxes. No, they did not; they kept their tax levels the same — they might have nicked in a few more. In addition, they have budget deficits. Victoria is not a high-taxing state by Australian standards.

We would like to cut taxes more, but we would also like to keep the budget in the black, we would also like to invest in infrastructure and we would also like our debt levels not to go up. They are the choices we make, and I am confident that with the payroll tax cuts, the limited land tax cuts in the area of retirement villages and the WorkCover premium cuts, Victoria will deliver more to encourage business to come to this state than any other jurisdiction.

Supplementary question

Mr RICH-PHILLIPS (South Eastern Metropolitan) — I take the Treasurer's point, given his comparison of other state taxes, but it is his chart in his budget that shows that state taxes as a share of the Victorian economy are higher than the national average for the forward estimates period, notwithstanding the differences in other jurisdictions he has talked about. I also take his point about royalties, and I ask the Treasurer: given that 98 per cent of the Victorian economy is not mining related, how does an exemption from mining royalties act as any consolation for having to pay the second-highest business taxes in the nation?

Mr LENDERS (Treasurer) — Clearly Mr Rich-Phillips does not think mining royalties are a business tax. If that is his view, I would like to introduce him to the Minerals Council of Australia and a few companies who think it is. If Mr Rich-Phillips's proposition is that mining royalties are not a business tax, I am very embarrassed; I think Kim Wells is looking better by the moment!

To be fair, Mr Rich-Phillips asked a question about where taxes are at. I suggest firstly that Mr Rich-Phillips should talk to the mining council. The second person I suggest he talks to is a man I have never met, but a man whom I am liking more and more by the minute, called Mike Baird, who happens to be the shadow Treasurer in New South Wales and who aspires to be its Treasurer in March next year. I have never met Mr Baird, but I read with fascination the things he has to say about the Victorian economy.

Mr Leane — What did Troy Buswell say?

Mr LENDERS — I am not going there, Mr Leane. Mr Baird has said the Victorian state budget announcements on cutting payroll tax highlight something other states should do. I know Mr Rich-Phillips is a fan of former Treasurer Alan Stockdale, and what I would say to him is that the Kennett-Stockdale government sought to cut some taxes and it did some good work, but when it dealt with payroll tax it claimed it was cutting it and then snuck in little things like superannuation. That government said

it was cutting the tax but actually raised it in the third lot of cuts.

We will stand by our record. Victoria has cut payroll tax from 5.75 per cent to 4.9 per cent, assuming our tax measures bill gets through the Parliament. We have cut the WorkCover premiums from 2.22 per cent when I entered this house to 1.34 per cent today. As I said yesterday a $100 premium for a business will now be approximately $60.30. I thank the WorkCover Authority, the trade union movement and Victorian employers for making workplaces safer so that claims and costs have come down; we have a more generous scheme and premiums have come down.

In relation to our record on taxation, we would like to do more, and I understand Mr Rich-Phillips wanting to go out to all sorts of groups and promise things, but there is a choice. You can take pressure off business by reducing taxes — we like doing that; you can deliver services to communities that need them — we like doing that; you can keep debt down — we like doing that; and you can build infrastructure — and we like doing that. But we know that to do all four of them together and keep a balanced budget requires plans, it requires discipline and it requires resisting the temptation to be all things to all people, which those opposite constantly seek to do.

Rail: government initiatives

Mr SOMYUREK (South Eastern Metropolitan) — My question is to the Minister for Public Transport. Can the Minister provide the house with an update on what the Brumby Labor government is doing to boost train services on the metropolitan rail network in the south-east?

Hon. M. P. PAKULA (Minister for Public Transport) — I thank Mr Somyurek for the question and for his interest in this matter. Last week, along with Andrew Lezala, the chief executive officer of Metro Trains Melbourne, I was pleased to announce that passengers will soon benefit from more than 200 new and extended train services that target the lines in Melbourne's south-eastern suburbs. These new services will be added to the metropolitan weekly train timetable one month from today — on 6 June.

In particular, people who live in Melbourne's booming south-eastern suburbs are going to enjoy the benefits of improved service frequency on the Frankston — —

Mrs Peulich — You have taken them out of the loop.

Hon. M. P. PAKULA — Let me take up the interjection from Mrs Peulich. There will be Frankston line services that run through the loop and there will be Frankston line services that run direct to Flinders Street. What that means is that passengers on the Frankston line will have a choice of whether they take an express service to Flinders Street or a stopping-at-all-stations service through the loop. There will be better service frequency on the Frankston, Cranbourne and Pakenham lines.

Mrs Peulich interjected.

Hon. M. P. PAKULA — I have announced there will be a revised timetable, Mrs Peulich. Thank you for confirming that. There will be restructured stopping patterns, which are important to provide better service frequency, a more even spacing of trains on the line and, if you like, a disentanglement, particularly at Caulfield station. It means increased frequency of services.

All in all, it means that Frankston line passengers will benefit from 80 new services every week — 15 in the morning peak and 20 in the evening peak. On the Pakenham and Cranbourne lines, there will be 71 additional weekly services — 10 will be in the morning peak and 25 in the evening peak.

Those services are being added to the busiest lines to cater for the increased demand across the metropolitan rail network. They are designed to improve train loadings on the line and to ensure fewer breaches of train loadings, which will help to reduce the dwell times at stations and increase capacity on those lines. As commuters know, that has a knock-on effect for all trains on the network and is an important part of moving to a modern, metro-style rail system.

I also announced that later this year we will make further adjustments to the timetable to benefit passengers who use the Werribee, Sydenham and Craigieburn lines. That is all being made possible by the delivery of the first tranche of the 38 X'Trapolis trains outlined in the Victorian transport plan. More trains give you the opportunity to put on more services. Three of the trains are running as we speak, and a further three are here and are undergoing commissioning, dynamic and static testing. What this announcement means for June is more services, better frequency and better reliability on the Frankston, Cranbourne and Pakenham lines. And the same will apply on the Sydenham, Craigieburn and Werribee lines when we make further changes later in the year.

Housing: affordability

Mr GUY (Northern Metropolitan) — My question is directed to the Minister for Planning. Given that Victoria's housing affordability crisis is getting worse by the day, with recent reports indicating that house prices have risen by as much as 20 per cent over 18 months, can the minister advise the house why the government sought to abolish performance measures designed to combat housing affordability in its 2010–11 budget?

Hon. J. M. MADDEN (Minister for Planning) — I welcome Mr Guy's interest in this matter. I think what is particularly important in terms of the statistics that often appear in the press in relation to affordability is that there are a number of factors that contribute to affordability and also a number of items that one needs to consider and be aware of in relation to average figures.

What we have seen in recent times is that Melbourne probably remains the most affordable capital in terms of first home ownership and in terms of purchasing a new dwelling, particularly out in the growth areas. That is where we are currently doing, as Mr Guy would appreciate, a lot of work through this Parliament as part of Melbourne @ 5 Million to make sure we provide a price-point entry that is more competitive than in any other capital, certainly on the eastern seaboard if not in Australia.

One of the great aspects of living in Melbourne, which is also attracting people to Melbourne, is the affordability of your first home if it is in the suburbs.

Mr Guy interjected.

Hon. J. M. MADDEN — I am explaining the complexity. I am also explaining that some of the performance measures do not do justice to the sorts of things that need to be considered.

Mr D. Davis interjected.

Hon. J. M. MADDEN — I take up Mr Davis's interjection. One of the other critical issues we have seen is that where house prices have risen significantly it has been predominantly in the green, leafy inner suburbs where there is a limited housing supply. If we can do anything to assist with affordability in those suburbs, it is to provide more supply. We have done and will continue to do a lot of work through our central activity districts, through our development assessment committees and through Melbourne @ 5 Million. All those elements are needed to make sure we provide housing options and housing diversity right across the suburbs.

Mr D. Davis interjected.

Hon. J. M. MADDEN — I take up Mr Davis's unruly interjection. Here we have an opposition that wants to know what performance measures there are. We are very proud of our track record. Our record is of affordability, opportunity and diversity, and we have a plan — Melbourne @ 5 Million and Melbourne 2030. We have a whole load of measures we can measure performance on. I shall refer to one in particular which Mr Guy and the opposition seem focused on as the important one. Of course they consider it important, but I find it ironic — as I have found a number of things about the opposition today — that whilst they are obsessed with performance measures, they would not have a performance which they could assess, because they do not have a policy or a commitment.

We know that the most important issue is housing supply. We are committed to providing housing not only in existing suburbs, in the growth areas and in other appropriate locations, and we have a plan, which stands in stark contrast to the opposition. Melbourne @ 5 Million outlines the need for 600 000 dwellings. We are accountable for that. We look forward to the opposition's support when we present legislation that will reform the planning process so that we can provide more housing opportunities. We look forward to seeing the announcement of the opposition's plan — even maybe a policy on this front going into the future as well.

Supplementary question

Mr GUY (Northern Metropolitan) — I thank the minister for his answer. Noting the housing affordability scepticism that seems to exist on the other side of the house, I ask if the minister could now detail what new and additional measures he has put in place in this budget to ensure that declining housing affordability is a top priority for him and his department.

Hon. J. M. MADDEN (Minister for Planning) — As Mr Guy has highlighted, of course we are interested in housing affordability. We have a lot of policies in relation to that, but particularly around housing supply.

Ms Lovell — Name one!

Hon. J. M. MADDEN — I thank Ms Lovell for the interjection because that is a handy prompt.

This is a government that stands on its track record of providing social housing, public housing and first home ownership grants for regional locations as well as metropolitan locations. It has developed Melbourne @ 5 Million, Melbourne 2030, development assessment committees, the growth areas infrastructure contribution and VC55, which I suspect will be re-presented as another amendment in the not-too-distant future.

Our track record stands there as the record of a government that is committed to housing, diversity of housing stock and opportunity on all fronts. That stands in stark contrast to the alternative. Those who present the alternative shout down social and public housing because they would say, 'That is what we want, but we just do not want it there'. Unfortunately, they do not want social housing anywhere.

Ms Lovell interjected.

Hon. J. M. MADDEN — I take up Ms Lovell's interjection again. If she does not want social housing in a particular location, she should just name the location and put it on the record. I have said time and again that our measures are there, our performance stands on its track record and we will continue to work on that.

Mr Guy — On a point of order, President, the minister appears to be debating the question that was asked of him, which was very specifically about budgetary measures in relation to housing affordability reporting.

The PRESIDENT — Order! Firstly, particularly towards the end of his comments, the minister was responding to interjections. Secondly, has the minister finished?

Hon. J. M. MADDEN — Is that a question or is that a request?

The PRESIDENT — Has the minister finished?

Hon. J. M. MADDEN — Yes.

Planning: Geelong

Ms TIERNEY (Western Victoria) — My question is to the Minister for Planning, Justin Madden. Can the minister outline to the house any budget initiatives for the planning portfolio that will benefit the Geelong region?

Hon. J. M. MADDEN (Minister for Planning) — I welcome Ms Tierney's interest in these matters, particularly those relating to her region, which she strongly represents in so many ways.

The government is conscious that the great thing about the opportunities and prosperity that Melbourne and Victoria offer — reinforced by the outstanding work of my colleague the Treasurer in his recent announcements — is that people can remain in Victoria, settle in Victoria and bring their families to Victoria from interstate or overseas. The greatest endorsement Victoria can have is that people want to come and live here in big numbers.

We are a government that is committed to maintaining, protecting and preserving the lifestyle that ensures that Victoria is the best place to live, work and raise a family. The government is committed to delivering the right strategy that supports Victorian families with jobs, services and transport links.

I was pleased to announce on Tuesday, with the Treasurer's permission, of course, the delivery of a $72.1 million budget package to support many of those goals. I was particularly pleased to announce that a significant number of these are taking place in Geelong. The most significant is a $25 million allowance to facilitate the development of a new environmentally sustainable Geelong government services building. This building will be delivered by the private sector at a total construction cost of something of the order of $90 million. It will be built in the railway station precinct. It will co-locate the departments of Justice, Planning and Community Development, and Education and Early Childhood Development, as well as the Environment Protection Authority and Barwon Water. It will create of the order of 280 direct construction jobs in Geelong, and I understand more than 100 indirect jobs to support design, fit-out and associated activities.

This will have flow-on benefits to the local economy. It will also help attract more commercial development and particularly employment in the areas of finance, property, education and business services. It will also free up other existing sites in Geelong for those opportunities. The reuse of those sites will attract additional private sector investment in Geelong.

This announcement is a great reinforcement of the activity centre concept of greater economic opportunity and activity, particularly around that Geelong station precinct. The project will also provide the ability for people to travel, in a sense, against the commuter traffic, which might currently be a critical issue that people consider in terms of their employment.

As well as that, I was also pleased on Tuesday to announce a $10.4 million contribution over three years to bring the new Armstrong Creek community to life. This is really the growth corridor for the Geelong region. It will consist of 2500 hectares of land which is able to be developed in a primary growth corridor. This is being done in partnership with the Greater Geelong City Council, developers and the local community, and it will make sure that we get Armstrong Creek up and going.

We are seeing significant investment in the regions as well as in Melbourne. It is important to note that the population growth in these provincial centres complements the population growth that we are seeing in Melbourne, which is a hallmark of the success of this government and this Treasurer, because under their administration opportunity and prosperity abound in this state, and that is maintaining populations and bringing people to this state in droves.

I thank the Treasurer for that announcement. This is a great complement to encourage Victoria's growth, because people not only in Victoria but elsewhere around the world know that Victoria is the best place to live, work and raise a family.

Hazelwood power station: future

Mr BARBER (Northern Metropolitan) — My question is for the Minister for Environment and Climate Change, Mr Jennings. Could the minister tell us whether his government has investigated the feasibility of shutting down Hazelwood power station, and if so, what did he find out?

Mr JENNINGS (Minister for Environment and Climate Change) — This is an exciting and very long bow to draw, if not a long fishing line cast by Mr Barber in relation to what might be the considerations of our government about the importance of the transition of our energy generation sector in Victoria and the need to try to drive that agenda in a way that is mindful of our industrial strength and economic capability in Victoria and the ongoing security of supply issues.

In the context of those issues, of the work that led to Ross Garnaut's work and of the work we are doing in relation to the carbon pollution reduction scheme, the government has commissioned a whole range of important pieces of work. It did so in collaboration with other states and in the spirit of providing timely advice to the commonwealth in its deliberation on the carbon pollution reduction scheme legislation, which dealt with a number of scenarios: the various costs of carbon; what rate of industry adjustment it might be possible to lead with; and the rate industry could undertake with the support of various government interventions at the commonwealth and state level. All of that work we have commented on in the public domain on any number of occasions, and we will continue to say that this basket of issues is very important to Victoria.

Ahead of that, regarding any specific proposals relating to the maintenance by private operators of their generation capability now or into the future, these matters should appropriately be considered in a fashion that is respectful of their commercial interests and their sovereign rights to exercise as corporations within the state of Victoria. Beyond that, it would be inappropriate to speculate in any private way — or public way, for that matter — about the viability of those sovereign entities operating within the Victorian economy.

Supplementary question

Mr BARBER (Northern Metropolitan) — I thank the minister for assuring us all that he has sovereign risk under control. He is the Minister for Environment and Climate Change, in case anyone was forgetting. As part of the government's deed of agreement with Hazelwood, one of its undertakings was to investigate, and in fact implement, coal drying or clean coal. I believe the deadline for it to do that was 2010. It is quite clear that that will not be happening from all the information I have been able to glean — and it has announced most of its other significant events to the stock exchange. That being the case, what is the minister's plan B for making deep cuts to Victoria's emissions?

Mr JENNINGS (Minister for Environment and Climate Change) — The President was not listening, but Mr Barber has made quite a jump from a specific proposition in his substantive question to a very generic issue with broad application in how he concluded his question. I do not think it is quite supplementary in the form that the house would expect.

However, having said that — that if it had been heard, it would have been ruled out — I indicate to the chamber that the state of Victoria is particularly mindful of not only its formal contractual arrangements but also the legislative environment that we operate in Victoria. That is consistent with the way in which I answered his substantive, legitimate, question: we do not pre-empt or predict the operations of corporate entities in the state of Victoria. Time and again on the policy front the Victorian government has been prepared to show leadership in relation to driving the great transformation of our economy that led to the

establishment of the Victorian renewable energy target. We recognised the value of trying to drive investment early, we continue to recognise the value of trying to facilitate investment in the renewable energy sector, we took leadership on a national scale in relation to demand management issues and we continue to be very supportive of those demand management activities into the future.

We will be considering — not only in the context of our own climate change white paper, which will be released later this year — the appropriate role for policy prescriptions in Victoria in light of the delayed introduction of the carbon pollution reduction scheme. We will be evaluating the most appropriate mechanisms that we could adopt in our economy to drive that transformation. The government is very much alive to these issues at the moment and will share the results of this process with the Victorian community in the not-too-distant future.

Budget: national parks

Mr SCHEFFER (Eastern Victoria) — My question is to the Minister for Environment and Climate Change, Gavin Jennings. Can the minister inform the house of how the Brumby Labor government's state budget will boost Victoria's parks and natural assets and secure the quality of life for all Victorians?

Mr JENNINGS (Minister for Environment and Climate Change) — President, I know you are champing at the bit to hear about the opportunities that might be out there for you, like millions of other Victorians, to share in the rich environment we have, particularly as it is represented in national parks, and about the appropriate support provided by the government for national parks across the metropolitan area and into the regions. We hope Victorians will immerse themselves in the beauty and splendour of Victoria's natural environment.

Mrs Peulich interjected.

Mr JENNINGS — I cannot hear. The initiative the government undertook in relation to opening up access by removing fees for national parks is indicative of our support for our citizens gaining access to national parks. Indeed we followed that up with significant investments in the budget that was released earlier this week.

More than $20 million will be allocated cumulatively to a number of projects that will build pathways and facilities that will provide opportunities for our citizens to access our parks in a safe and secure fashion. In fact we have already seen our citizens responding. Family groups and people with a range of abilities are taking to our national parks, state parks, reserves and waterways. We are seeing increasing activity within those precious natural environments all the time. Whether it be through the investments that will be undertaken in the Grampians, in Gippsland or in popular metropolitan parks such as Braeside Park or Jells Park, for that matter, we will see greater access and greater utility.

It is a pity Mr Barber has left to back up his question with the newspapers, as he has missed the opportunity for me to tell him that there is something in his patch we are very keen to do — that is, to provide for bike access along the Yarra.

Mr Lenders — He is on his bike.

Mr JENNINGS — He is probably on his bike now — he is off riding with the newspapers as we speak. We will be undertaking some important work along the Yarra, because the bike paths along the Yarra are very popular and there are one or two critical bits of infrastructure that we need to make sure that people can traverse the inner suburbs safely and securely. I know Ms Mikakos is making sure I am mindful of those needs in her neck of the woods.

We are pretty keen to support those activities, and the significant investments that have been allocated in this year's budget will support them in years to come, because we want to make sure that Victorians immerse themselves in the rich splendour of our natural environment.

Sitting suspended 1.05 p.m. until 2.12 p.m.

PLANNING AND ENVIRONMENT AMENDMENT (GROWTH AREAS INFRASTRUCTURE CONTRIBUTION) BILL

Dispute resolution

Debate resumed.

Mr P. DAVIS (Eastern Victoria) — I would like to continue my contribution to the debate, having been regrettably interrupted by the President for the usual suspension of business to deal with questions without notice.

The motion before the house is a result in fact of a ruling by the President yesterday, which made it clear that it was not possible for two bills of similar content to be considered by this house within six months. That is a longstanding provision, although it is expressed

slightly differently in the current standing orders than it was previously. Previously there was, in similar terms, a denial of the opportunity for a bill similar to one that had already been defeated to be considered during the same sitting of Parliament.

Because under the parliamentary arrangements of the present government we have had essentially continuous sittings rather than sittings grouped as spring or autumn sessions, as was the longstanding tradition, the operation of that standing order had to be revised. That revision was done following the review of the standing orders prior to the 2006 election, and therefore it was part of the standing orders that were implemented during the course of this Parliament. The six-month rule is just a continuation of what has been ordinary practice.

The government seeks to suspend that rule. I do not intend to deal with the detail of whether or not it is a good or bad thing to suspend that standing order at this point, given that what we have before us is a motion that deals with — and this is on the notice paper to consider — a bill relating to the growth areas infrastructure contribution which is yet to have its first reading. In other words, if we agree to this motion, that first reading will presumably be done subsequently today, and we can deal with the detail of the bill itself at that time. However, I wish to express some concerns about why it is that we are dealing with this convoluted parliamentary procedure, particularly in the light of the government's interpretation of the Constitution Act.

Firstly, it is clear that through amendments introduced and adopted in 2003 and given effect from the commencement of this Parliament, we have in place a mechanism for dealing with disputed bills whereby they may be referred to the Dispute Resolution Committee. Without getting into the minutiae of how that mechanism works, let me insist that I believe the government is in fact subverting the role of a bicameral Parliament in the exercise of this mechanism — which, I might point out, was opposed by the opposition at the time it was introduced. I remind members that in 2003 the government had an absolute majority in both houses of Parliament and was therefore able to pass legislation, which it then further sought to entrench, by using its absolute majority, in such a way that future parliaments would be unable to amend it.

There is a constitutional argument that says that no preceding Parliament can bind a future Parliament. I have no doubt that one day that matter will be dealt with; it is not my purpose to deal with that today. My purpose is to deal specifically with this concept of a disputed bill.

What is a disputed bill? Section 65A of the Constitution Act has a definition of a disputed bill. Further, section 65A(2) states:

> For the purposes of this Division, any omission or amendment suggested by the Council in accordance with section 64 is deemed to be an amendment made by the Council.

I cannot see how that can be interpreted to mean anything other than a change to the detail of the bill — changing by way of inserting or removing words from the bill; anything other than amending the bill. There can be a dispute between the two houses of Parliament: the Council and the government's house — it used to be called the people's house — of the Assembly, and the caucus operation of the latter house effectively means that whatever the executive government resolves will be reflected in votes in that house. In fact they might as well abandon sittings down there and just have electronic remote voting or hand their voting cards to their whip because in effect that is all that is happening at the moment.

My view is that the decision of the government-dominated Legislative Assembly to agree or disagree with amendments of the Legislative Council absolutely has a bearing on whether or not a bill is a disputed bill, but the independent role of each respective house of Parliament in a bicameral system means that either house can agree independently to accept or reject legislative provisions.

In the case of the interpretation of the definition of a disputed bill, I can see no argument that can be led that would conclude that the Legislative Council acting as an independent chamber forming an independent view can in effect be disallowed from defeating legislation. It has the capacity to form a view independently and exercise that view by agreeing with, amending or defeating a bill. In the event that it amends a bill and the Assembly does not agree and there is an ongoing debate in effect between the upper house and the lower house, then that matter can perhaps be resolved by negotiation in the Dispute Resolution Committee.

Where a bill is clearly defeated by the upper house, that by definition means there is no bill before the Parliament. It is a complete mystery to me on what head of constitutional authority or principle the government is resting to presume to refer defeated or dead bills to the Dispute Resolution Committee, and it has now done it twice. That puts the Legislative Council in an invidious position.

The question for the Council is whether to treat the Dispute Resolution Committee process with the

contempt it deserves or to participate in that process to at least ameliorate what would be a unilateral action on the part of the government to simply assert whatever it chose to assert, the outcome being of a committee that is — regardless of whether the upper house attends — dominated by the executive in any event.

The appointment of members of the Dispute Resolution Committee will always mean that the government has a majority on that committee, so the executive government can quite clearly control any outcome from the Dispute Resolution Committee. That means the independence of the Legislative Council is in practice effectively being subverted. In other words, a properly constituted and elected democratic institution within the construct of the Victorian parliamentary constitutional democracy is being subverted by the executive purporting to have a capacity to refer what in fact are non-existent bills — having been defeated, they do not exist any more — to the Dispute Resolution Committee.

I listened with interest to interjections and comments during the address made by the Deputy Leader of the Government when he moved this motion. He resiled from what he predicted would be attempts to lecture him about democracy. I do not intend to lecture the Deputy Leader of the Government about democracy, but I am happy to talk about hypocrisy.

If one goes back to the debates that occurred in 2003, in which I have to confess I was fully engaged at the time, in relation to amendments to the constitution and the provisions dealing with dispute resolution, it will be found that I raised a number of concerns during the committee stage. It seems to me that those concerns were not addressed at the time, but I confess that I had no idea then that the government would simply seek to rort the constitutional provisions it had introduced in such a manner.

The hypocrisy to which I am referring is the case that was effectively put by the then opposition in 1998–99 suggesting that changes to the way the office of the Auditor-General was proposed to operate were going to in some way subvert the institutions of the Parliament and the democratic process. I cannot imagine a greater contempt for the Parliament than to suggest that the Legislative Council has no capacity to reject a bill introduced into Parliament by executive government. If ever you want to see a case of conflict between what somebody says and what they do, this is a classic case study.

My view on this is that inevitably there will come a time when the government in pursuing this approach will find that the bill will be passed using the dispute resolution procedure and deadlock provisions provided in these newer provisions of the Constitution Act by a joint sitting in much the same way as bills are nominally dealt with in a joint sitting in the Senate — something we have not seen in Victoria — and that bill will find itself becoming law.

One might argue that what the Parliament determines through its own mechanisms and the management of itself is fine, because that is what the Parliament has the capacity to do — that is, determine its own rules — and how it gets there is fine, but inevitably there will be questions about the lawful conduct of the Parliament in relation to the interpretation of the legislation.

I have absolutely no doubt that in the future there will be legislation, if the government continues to behave in the way that it is behaving, which will be subject to a challenge as to its standing. The basis of this comment is the government's presumption that the constitution provides — even though there is no reference to it in the constitution — that a bill that has been defeated may be interpreted as being a disputed bill, when in fact the provision is clearly intended for resolving the detail of a bill and not whether it is a live bill. I have not met a commentator outside the parliamentary confines who would argue any case other than that this provision relates to a bill that is between houses, the detail of which is disputed, and not to a dispute about whether it is a live bill.

It is useful to be reminded that in 2003 in the detailed debate during the committee stage I concluded my comments in relation to these matters with these words:

> For the record, I indicate that, having been given the opportunity, the Leader of the Government failed to give a commitment to the Parliament that this legislation is not flawed.

The reason I made that observation was that I had been seeking to encourage the Leader of the Government to give the house a more fulsome explanation of some technical provisions in the legislation which we had clearly identified and which were quite unsatisfactory. I have to confess how naive I was; the supplementary question I should have put to the minister at that time is: do you intend to subvert the constitution of Victoria by widely interpreting a measure which nobody other than the present executive government is prepared to interpret in the manner expressed in the motion you have moved?

I guess we can only do our best, and the best we can do is to use common sense. Common sense has not prevailed in this matter. The government regards the

Legislative Council with contempt, and it has now twice introduced legislation on which it has refused to accept the will of the Legislative Council as an independent chamber of the Parliament in rejecting those bills. This has placed the opposition parties in an invidious position on whether to participate in a process or not. My own preference would be to say there is no benefit to the parliamentary process in engaging in the Dispute Resolution Committee process; however, not being involved in it would mean that inevitably the effects of legislation the government refers to a DRC without any input from other parties would be worse than they would be if they could be ameliorated by some effort to negotiate and persuade the government to step back. I do not want to deal with the particulars of the bill, but I do want to say I believe what the government is doing here is absolutely unconscionable, and I believe it is inevitable that we will have an ongoing conflicted position in regard to this.

In conclusion, others have commented upon the process of the DRC and the secrecy provisions, which inevitably mean that it is questionable in terms of the transparency, the scrutiny, the honesty and the integrity of the parliamentary process. The community cannot be confident at all about what comes out of that process. I think the government has made a terrible mistake at two levels — both in terms of the design of the DRC process and the lack of transparency, and more importantly in foolishly, and I think unconscionably, adopting an approach to so interpret the provision of dispute resolution as to try to give a heart transplant to defeated legislation.

Mr ATKINSON (Eastern Metropolitan) — I intend to make a fairly brief contribution to the debate, because I believe a number of very good points have been made by previous speakers. In particular I refer to the comments made by Ms Pennicuik, Mr Hall and Mr Philip Davis. I did not have the opportunity to hear the earlier speakers, but I have had a discussion with Mr David Davis and believe I would be in a position to concur with the matters he might well have put in this debate.

I have discussed the Dispute Resolution Committee process with quite a number of people in the community, and I have conveyed details of this process to people who have a particular interest in planning legislation. I must tell you, President, and inform members of this house that the community is aghast at the process this government has put in place. The community is shocked to think that the government would use a mechanism to circumvent the upper house and its scrutiny role in legislation and would attempt to subvert the opportunities this house has to effectively discharge its responsibilities to scrutinise legislation. It has a responsibility to scrutinise the wishes of the executive and to ensure that a proposition that might be put to this Parliament by the executive is a proposition that garners the support of a majority of the members of the Parliament and is therefore a proposition that would have broader support in the community by virtue of its representatives having ticked off that legislation.

The government put this measure in place, as Mr Philip Davis said, at a time when it had a majority in both houses and therefore had an opportunity to get its way in terms of changing the constitution. Perhaps there is a misunderstanding in the community, too, about exactly what the constitution is for this state. I do not think people recognise that the constitution can be changed by a government that happens to enjoy a majority in both houses and that it can be changed to give greater effect to the government's power and lesser effect to the responsibilities and privileges of this Parliament and the opportunities of this house in particular to scrutinise legislation. I think it was a rather infamous day for the democratic principles of this state and this country when the government inserted the dispute resolution clauses into the constitution. Clearly the import of that decision was not understood by the people of Victoria and was probably not understood by the media, and I dare say it was not understood fully by many members of this Parliament.

As a sidelight I am rather interested to see that many of the organisations that claim to be the gatekeepers of our democracy — people like Liberty Victoria — have been strangely silent on the Dispute Resolution Committee. I cannot imagine the clamour that that organisation and many others would have made had it been, for the sake of argument, the Kennett government that had inserted the Dispute Resolution Committee process into the constitution at a time when it enjoyed massive majorities in both houses. There would have been a furore, and people would have been encouraged to march in the streets, but in this case this government has installed this process — a process that is not transparent and a process that binds participants to an agreement cast in secrecy so that they are not able to explain the basis of negotiation of matters before the house or matters that stem from issues raised in the house.

As a number of members have said, it is an instrument that is guaranteed by a government majority at all times; an instrument that can only be used or invoked by a decision of the lower house.

When you look at this whole process, you see there is nothing more damning of the government's intentions

and motivations behind the Dispute Resolution Committee than that the very legislation this particular motion seeks to bring before this house for further consideration was to be sent to the Dispute Resolution Committee before it had even been considered on the first occasion in this house; indeed it was at a time when the government was proposing amendments to the legislation. The government had amendments to the growth areas infrastructure contribution bill that were yet to be put to this house by the minister responsible and were yet to be determined by this house. The debate had not started in this house when a minister in the lower house was seeking to refer this very bill to the Dispute Resolution Committee. That is an absolute contempt of the parliamentary process by this government and its executive. As I said, I can only imagine the shrill screams from the parakeets on the other side if it had been the Kennett government that had tried to establish this process as part of our democratic legacy going forward.

On this occasion the government has gone through the process of sending legislation to the Dispute Resolution Committee. As Philip Davis, Peter Hall and Sue Pennicuik have said in their speeches, the process is most unsatisfactory. The lack of transparency, the lack of adherence to the democratic principles that this house stands for, the traditions if you like of a Westminster system dating back centuries were all subverted by this one mechanism that the government expeditiously put in place when it happened to have the numbers in both houses.

On two occasions we have had legislation referred to the Dispute Resolution Committee. Interestingly, on both occasions it was legislation introduced by the Minister for Planning, and I dare say it has been in part because of the sloppiness of the drafting of that legislation and because of a lack of consultation with the community. The legislation has ended up not being able to be carried by a majority of members of this house or to win public support. That was not good enough for the government. It said, 'Okay, we will take this through another process, a process we dominate by virtue of our numbers on this committee, and we will ensure that this legislation gets through come hell or high water'. It did that irrespective of community attitudes to the bill and the confidence of members of this house which was needed for the bill to be passed by a majority.

On this occasion the government has tripped itself up at the Dispute Resolution Committee because it has found that it cannot bring the bill back to this house, at least not at the speed it wanted to, because the legislation is fundamentally the same as the legislation already considered by this Parliament and bringing it back offends the standing orders of this house.

This motion seeks to regularise that process and give the government a chance to bring back its legislation, which has been modified, albeit modestly. The legislation has now been framed so that there is some opportunity for opposition members to address some of the primary concerns that were raised.

I am obviously not going to debate the legislation, but some changes have been made. Clearly the bill is not substantially different to the one that was first introduced. Therefore we now go through this convoluted process, this extra contortion of democratic principle, to allow the government to again have its way; to use the numbers it has on the Dispute Resolution Committee to get this legislation up. The legislation did not enjoy the confidence of the house previously and is still far from perfect legislation, but we would expect to have an opportunity to debate the legislation in the normal circumstances of legislation being introduced by the government. Legislation introduced by the government should be able to be debated without a gun being held at the heads of members of this house and without members being intimidated in the utilisation of their powers and responsibilities to effectively scrutinise legislation on behalf of Victorians.

This move by the government might have escaped the attention of many people in the public; it may have escaped the analysis of many people in the media; and it may have escaped the attention of some of the cheerleaders of the Labor Party in days gone by, such as Liberty Victoria, which has expressed outrage about various affronts to democracy as it sees them — but no more. This process has alerted all stakeholders in the democratic process to just how nasty this particular mechanism is and how the government is prepared to show contempt for the Parliament in the context of this house as a house of scrutiny so that it can get its own way and prop up a minister who cannot introduce into this house legislation which enjoys the majority support of members because it is sloppy and incompetent in its legislative provisions.

House divided on motion:

Ayes, 34

Broad, Ms	Lovell, Ms
Coote, Mrs (*Teller*)	Madden, Mr (*Teller*)
Dalla-Riva, Mr	Mikakos, Ms
Darveniza, Ms	Murphy, Mr
Davis, Mr D.	O'Donohue, Mr
Davis, Mr P.	Pakula, Mr
Drum, Mr	Petrovich, Mrs

Eideh, Mr	Peulich, Mrs
Elasmar, Mr	Pulford, Ms
Guy, Mr	Rich-Phillips, Mr
Hall, Mr	Scheffer, Mr
Huppert, Ms	Smith, Mr
Jennings, Mr	Somyurek, Mr
Koch, Mr	Tee, Mr
Kronberg, Mrs	Tierney, Ms
Leane, Mr	Viney, Mr
Lenders, Mr	Vogels, Mr

Noes, 4

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

Motion agreed to.

VICTORIAN AUDITOR-GENERAL'S OFFICE

Financial audit

Message received from Assembly seeking concurrence with resolution.

Assembly's resolution:

That under section 17 of the Audit Act 1994:

(1) Mr Peter Sexton of WHK Howarth Melbourne be appointed to conduct the financial audit of the Victorian Auditor-General's Office for the financial years ended 30 June 2010, 30 June 2011 and 30 June 2012;

(2) The level of remuneration for the financial audit be:

(a) $29 750 plus GST for audit services for the year ended 30 June 2010;

(b) $30 600 plus GST for audit services for the year ended 30 June 2011; and

(c) $32 200 plus GST for audit services for the year ended 30 June 2012; and

(3) The terms and conditions of appointment and payment of remuneration will be in accordance with the terms and conditions and remuneration of a person appointed by the Parliament of Victoria pursuant to section 17 of the Audit Act 1994, as appended to the relevant tender brief in appendix one of the report of the Public Accounts and Estimates Committee on the appointment of persons to conduct the financial audit of the Victorian Auditor-General's Office and the performance audit of the Victorian Auditor-General and the Victorian Auditor-General's Office (parliamentary paper no. 299, session 2006–10).

Resolution agreed to on motion of Hon. J. M. MADDEN (Minister for Planning).

Performance audit

Message received from Assembly seeking concurrence with resolution.

Assembly's resolution:

That under section 19 of the Audit Act 1994:

(1) Mr Tom Fazio of PKF, chartered accountants, be appointed to conduct the performance audit of the Auditor-General and the Victorian Auditor-General's Office;

(2) The level of remuneration for the performance audit be $200 420 plus GST, plus $1000 plus GST in capped costs for expenses; and

(3) The terms and conditions of the appointment and payment of remuneration will be in accordance with the terms and conditions and remuneration of a person appointed by the Parliament of Victoria pursuant to section 19 of the Audit Act 1994, as appended to the relevant tender brief in appendix two of the report of the Public Accounts and Estimates Committee on the appointment of persons to conduct the financial audit of the Victorian Auditor-General's Office and the performance audit of the Victorian Auditor-General and the Victorian Auditor-General's Office (parliamentary paper no. 299, session 2006–10).

Resolution agreed to on motion of Hon. J. M. MADDEN (Minister for Planning).

TRUSTEE COMPANIES LEGISLATION AMENDMENT BILL

Second reading

Debate resumed from 15 April; motion of Mr JENNINGS (Minister for Environment and Climate Change).

Mr RICH-PHILLIPS (South Eastern Metropolitan) — The coalition parties will be supporting the Trustee Companies Legislation Amendment Bill, and I do not propose to speak to it at any length. The purpose of the bill is to transfer responsibility for regulation of private sector trustee companies from the state of Victoria to the commonwealth.

The bill repeals sections of the Trustee Companies Act 1994 relating to companies being regulated by the state; however, it retains some of the existing general powers and obligations with respect to trustee companies. It makes consequential amendments to the Administration and Probate Act 1957 and the Guardianship and Administration Act 1986 to preserve certain powers pursuant to those acts and to the Supreme Court and the

Victorian Civil and Administrative Tribunal, basically to provide that trustee companies will still be subject to Victorian law with respect to matters of probate and administration of estates. Importantly, when a trustee is an unincorporated entity, it will continue to be subject to Victorian law.

The bill also makes amendments to the State Trustees (State Owned Company) Act 1994 to provide that State Trustees Ltd remain regulated by Victorian legislation consistent with an agreement with the commonwealth. State Trustees Ltd is an entity that has been mentioned in this place previously. It is a wholly state government-owned trustee company. It has recently been subject to action by the Australian Securities and Investment Commission with respect to its failure of its trustee duties.

This arose from matters surrounding the collapse of the Westpoint financial scheme, and recently the Federal Court endorsed a settlement between ASIC (Australian Securities and Investments Commission) and State Trustees Ltd for $13.5 million in damages to be paid by State Trustees to those parties who are owed a duty of trust by State Trustees where that duty of trust was breached. As part of that action against State Trustees, ASIC also alleged breaches of State Trustees' obligations under Corporations Law.

It is a matter of substantial concern that we have a state-owned entity in State Trustees Ltd, which is responsible to the Treasurer, being subject to action by the commonwealth regulator for breaches of trustee duty and breaches of the Corporations Law. The fact that State Trustees ultimately settled that civil matter for $13.5 million frankly does not send a reassuring sign to this Parliament that State Trustees is carrying out its trustee duties appropriately. It is a matter that the Treasurer is yet to address this Parliament on and clarify the circumstances of that settlement and what led to that settlement being reached and endorsed by the Federal Court.

At the time it was last raised with the Treasurer it was to be subject to finalisation by the Federal Court. I understand that has now occurred, and it would be appropriate for the Treasurer to come into this place and explain what circumstances led to a Victorian government body being subject to action by the corporate regulator for breach of its trustee duties.

This primary legislation before the house arose from proposals to transfer responsibility for trustee companies to the commonwealth in the 1990s; it has been a long time reaching this stage. I understand that is due to issues surrounding the Australian Prudential Regulation Authority and its ability to take on responsibility for trustee companies whilst overseeing its other prudential responsibilities. As a consequence of the legislation the house is dealing with today the responsibility for trustee companies will go to ASIC under the Corporations Law in the way the Corporations Law has previously been used to transfer power to the commonwealth.

The briefing that the opposition received indicated that it was desirable for this legislation to be in place by 1 May, which I understand was when the matching commonwealth legislation was to come into effect. The fact we have missed that scheduled implementation date by a week raises questions as to what the impact will be given that the state legislation is not in place and in all probability will not be in place for another week or so. That is something the government may wish to address in the summing up of this legislation.

It is the understanding of the coalition parties that this legislation enjoys broad support in the legal and taxation communities. Obviously it will promote a nationally consistent framework for the regulation of trustee companies, which is something we believe is a positive step forward. Accordingly we will be supporting the legislation.

Mr BARBER (Northern Metropolitan) — The Trustee Companies Legislation Amendment Bill will ensure that the commonwealth assumes full responsibility for regulating trustee companies. It is not a referral bill; the commonwealth already has the legislative power, the corporations head of power — or at least it does these days. This bill simply vacates the regulatory field at the state level, which will now be occupied by the Australian Securities and Investments Commission (ASIC).

Unincorporated entities and natural persons — that is a legal term; it has nothing to do with people who eat muesli or anything like that! — will remain regulated by the principal act, and trustee companies acting as probate and state administrators will also continue to be guided by Victorian law.

By agreement with the commonwealth, Victoria's own State Trustees Ltd, while a corporation, will remain regulated by the state because it serves the function of a public — as opposed to a private — trustee. Most of its work is in wills and probate anyway. There has been no opposition that we have managed to detect from tax or financial groups, which will be the beneficiaries of having a single set of regulations and an identical nationwide market, in which they will be competing. If

everyone is happy, then there is no opposition to this bill from the Greens.

Ms HUPPERT (Southern Metropolitan) — I am pleased to rise to make a few brief comments in support of the Trustee Companies Legislation Amendment Bill 2010. I am pleased that both the opposition and the Greens will be supporting this legislation, which facilitates the transition of responsibility for regulation of trustee companies to the commonwealth. At the same time the state will retain effective regulation of unincorporated trustees and State Trustees Ltd as well as certain activities of trustee companies in the area of probate and state administration.

Trustee companies are an important part of the financial services industry, which in itself is a significant part of the Victorian economy. Over the last 10 years the government has been supportive of the financial services sector, and this is one of the factors which has led to Victoria's leadership in this important sector of the economy. In fact the financial services sector has accounted for approximately one-quarter of the new jobs created in Victoria in the past year.

This bill arises from a series of inquiries into the financial system and regulation of providers of financial services, which were held during the 1980s and 1990s and led to the national regulation of the provision of financial services. There has been consensus that the commonwealth should have responsibility for the regulation of this important sector of the economy, including trustee companies, as this will provide uniformity across the nation. This particular transfer arises from a commitment made at the Council of Australian Governments meeting in July 2008.

Prior to bringing in its legislation the commonwealth consulted with stakeholders, who are largely supportive of it. As mentioned, the legislation ensures the state will continue to be responsible for regulation of State Trustees Ltd. While State Trustees is a corporation it carries out the role of the public trustee in Victoria, including activities of a non-commercial nature and has a number of community service obligations and arrangements; it plays an important role in protecting the assets of some of the most vulnerable in our community.

For this reason the state and commonwealth have agreed that State Trustees Ltd will continue to be regulated by the state. However, the commercial operations of State Trustees will continue to be regulated in a manner which does not afford any commercial advantage over other trustee companies. This bill is an important part of the modernisation of the financial services sector, and I commend it to the house.

Mr SOMYUREK (South Eastern Metropolitan) — I rise to speak in support of the Trustee Companies Legislation Amendment Bill 2010. The bill should be seen in the context of the general move to national regulation of financial services. The bill enables the transfer of the regulation of private trustee companies to the commonwealth. It is achieved by amending provisions of the Trustee Companies Act 1984 that impose a regulatory regime on trustee companies. However, the regulation of State Trustees will remain in Victoria, and this is done by amending the State Trustees (State Owned Company) Act 1994 to provide that the repealed provisions of the Trustee Companies Act 1984 continue to apply to State Trustees Ltd. The bill also maintains state regulation of unincorporated trustees.

The transfer of the regulation of trustee companies to the commonwealth follows agreement at the Council of Australian Governments. This agreement was reached in July 2008 and is set out at item 10 of the minutes of the COAG meeting of 3 July 2008 business regulation and competition working group, which states:

> 10. National regulation of trustee companies
>
> COAG agreed in March 2008 to the commonwealth assuming responsibility for the regulation of trustee companies. The details of the regulatory framework have since been subject to consultation with industry and consumer groups.
>
> Future commonwealth legislation will create a national market, removing the need for multiple state and territory licences, streamline the obligations that trustee companies must meet and increase the effectiveness of supervision of those companies.

In a constitutional sense, the commonwealth has the power to regulate trustee companies by exercising its corporation powers. However, this bill provides a cleaner outcome and removes any legal ambiguity by repealing the relevant provisions of the Trustee Companies Act and thereby removing any overlapping state and federal requirements.

This COAG agreement arises from the implementation plan of the national partnership agreement to deliver a seamless national economy. It is well accepted that companies operate across state borders and in a global economy, and it would be absolutely crazy to burden them with six sets of state legislation. Likewise the transfer of the regulation of trustee companies to one national licensing system will remove the cost of complying with multiple jurisdictions. This will cut red tape and reduce costs. I commend the bill to the house.

Motion agreed to.

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

Third reading

Motion agreed to.

Read third time.

JUSTICE LEGISLATION AMENDMENT BILL

Second reading

Debate resumed from 25 March; motion of Hon. M. P. PAKULA (Minister for Public Transport).

Mr RICH-PHILLIPS (South Eastern Metropolitan) — This afternoon I am pleased to rise to speak on the Justice Legislation Amendment Bill. This is a bill to make a number of amendments to the Sentencing Act 1991, the Corrections Act 1986, the Children, Youth and Families Act 2005, the Criminal Procedure Act 2009 and the Gambling Regulation Act 2003 — in other words, it is an omnibus bill. I raise that matter only from the point of view that when in opposition the Attorney-General in particular used to rail against omnibus bills, but since assuming that office he has been quite happy to bring them in on a regular basis, and so we have before the house this afternoon a bill that amends five separate and unrelated acts.

The main provisions of the bill are to expand the home detention program in Victoria, including by allowing an offender to be put on a program where they have in the past committed certain drug offences that currently disqualify them. It expands the range of offences for which home detention is available. It also increases the discretion for a court to declare that an offender is not eligible to be placed on home detention. Home detention is something the coalition parties do not support. We believe it flies in the face of what the community expects in terms of custodial sentences. While it may be useful to the government when dealing with prison capacity to be able to have certain offenders on a home detention regime, it is very much our view that it is not responsive to what the community expects with custodial sentences. That has been our consistent position since it was introduced, and it remains our position in dealing with this legislation today.

The bill also repeals offences for breaches of community-based orders, provides for the re-sentencing of persons who breach such orders and reduces the time lines within which proceedings for breaches can be commenced. It amends provisions relating to aggregate sentencing in the Supreme Court and the County Court when sentencing offenders for summary offences. It allows the Children's Court to impose a less severe sentence on a juvenile offender having regard to any undertakings that have been made to assist law enforcement agencies, and it provides the Director of Public Prosecutions with the capacity to appeal against a sentence imposed if an offender fails to fulfil an undertaking. There are various other procedural changes with respect to juvenile offenders.

The bill makes changes in relation to the giving of evidence in sex offence cases, including an increased range of options being made available for alternatives to a conventional appearance at a trial and the giving of evidence. It makes further amendments to the Criminal Procedure Act 2009, which was a rewrite of the criminal procedure legislation the Parliament adopted last year. One of the other key provisions is that it removes the sunset provisions for the sentence indication schemes in the Supreme Court and the County Court.

The bill proposes to abolish the position of executive commissioner of the Victorian Commission for Gambling Regulation with the intention of appointing a full-time chief executive, presumably under the direction of the Secretary of the Department of Justice. It makes amendments to race field publications and use provisions of the Gambling Regulation Act to make clear that the specification of a fee can include a formula retrospective to the date of the original legislation.

From a quick summary of the legislation it is clear that the bill covers an enormous range of diverse matters. As I said earlier, that is exactly the type of legislation this government complained about when it was in opposition. There are a couple of specific matters I will touch upon in noting that while the opposition parties do not oppose the legislation, we have a couple of primary concerns.

The first one I will touch on is the proposal to replace the executive commissioner of the Victorian Commission for Gambling Regulation with a chief executive. It is our view that that undermines the independence of the VCGR, and it is not a provision we are willing to support. Accordingly I have some amendments drafted, and I ask that they be circulated.

Opposition amendments circulated by Mr RICH-PHILLIPS (South Eastern Metropolitan) pursuant to standing orders.

Mr RICH-PHILLIPS — The amendments are to remove, in toto, the provisions relating to the Victorian Commission for Gambling Regulation. My understanding is the government has agreed to support this proposal, which would see — —

Mr Tee interjected.

Mr RICH-PHILLIPS — To take up Mr Tee's interjection lest I mislead the house, I understand the government will not oppose the proposal that the provisions relating to the Victorian Commission for Gambling Regulation be removed from the bill. As such, the existing independence of the executive commissioner of the VCGR will be preserved. It is certainly the view of this side of the house that it is a necessary step to take to ensure that the VCGR can continue to operate independently of the Department of Justice and the Secretary of the Department of Justice. Accordingly, when the bill reaches the committee stage we will be proceeding with those amendments which largely delete the provisions in relation to the VCGR and make other changes to various headings and formatting matters in the bill.

The second area where we have concern with the legislation is the home detention issue, which I spoke of before. It is the coalition's view that home detention is inappropriate and does not reflect community expectations of custodial sentences. There is not a lot more I can say about that.

The third issue is that of ending the sunset provision relating to the sentence indication scheme. When the scheme was put into place — I think it was last year — the coalition expressed concern about the way in which that would work and the incentive it could create for parties to plead a certain way — for example, to plead guilty when they otherwise may not have pleaded guilty, based on the operation of the sentence indication scheme.

I understand there is only around one year's experience with that scheme and only one year's worth of data regarding that scheme on which to base the decision to end the sunset provision. The coalition has concerns about whether that is inadequate. Quite often the house sees legislation brought before Parliament by the Attorney-General to alter the way in which various aspects of the courts operate. The initiatives are brought in as trials, with comparatively short sunset periods. Not long after they have been brought in on a sunset basis, after which very little experience of the program has been gained, we are asked to remove the sunset provision.

That is again the case with the sentence indication program: there is very little experience of how it operates and the success of its operation on which to be removing that sunset provision at this point. We have concerns about that.

While the coalition will not oppose this legislation, it has three fundamental concerns with it. On the matter of the Victorian Commission for Gambling Regulation, we will move in the committee stage to remove those provisions, but we will not otherwise oppose the bill.

Ms PENNICUIK (Southern Metropolitan) — The Justice Legislation Amendment Bill 2010 is another omnibus bill that has come from the bowels of the Attorney-General's office. It amends the Sentencing Act 1991, the Children, Youth and Families Act 2005, the Corrections Act 1986, the County Court Act 1958, the Criminal Procedure Act 2009, the Magistrates' Court Act 1989, the Family Violence Protection Act 2008, the Marine Act 1988, the Road Safety Act 1986 and the Supreme Court Act 1986.

The main provisions of the bill, notwithstanding all those acts that it amends, are really about intermediate sentencing orders, the extension of home detention orders, and the changes to Racing Victoria's ability to levy fees and the governance structure of the Victorian Commission for Gambling Regulation.

The bill brings into line with suspended sentences the treatment of other intermediate sentencing orders. In 2006 changes were made so that a breach of a suspended sentence order was no longer an offence. This bill makes changes to ensure that breaches to other intermediate sentencing orders such as combined custody and treatment orders, intensive correction orders, home detention orders and community based orders are treated in the same way; so that if a person contravenes an intermediate sentencing order and the contravention is an offence punishable by prison, a proceeding must be brought relatively quickly — that is, within six months of the offence being found proven or within two years of the order ceasing to be in place. If the breach is something like missing an appointment or some other less serious breach, then the proceedings must be commenced within a year of the order ceasing to be in force.

The courts have a range of powers if an intermediate sentencing order has been breached. For example, if it is a community-based order, the court may vary the

community-based order by confirming or cancelling the original order. Similar powers apply in relation to the other intermediate sentencing orders.

The bill allows the County and Supreme courts to use aggregate sentences in a wider range of cases. The bill allows for the continued operation of the sentence indication scheme. This is the scheme that encourages people, through offering more lenient sentences, to plead guilty at an earlier stage. The aim of that scheme, which we discussed last year, I think, when that amendment was made, is to avoid clogging up the courts. This bill removes the sunset provision on that particular scheme, to allow it to continue into the future.

The Sentencing Advisory Council thinks the scheme's operation should be extended and in principle it sounds like a good idea. However, there are still delays in the court system, so it is not clear how effective this scheme has been. As I mentioned at the time when the amendment was first put to allow this scheme to come into operation for a trial period, the problem here is that when someone pleads guilty, they limit future possibilities of an appeal.

As I also mentioned at the time, the consequences of doing that may not be fully understood by the person making the plea. We had some discussion on that matter in the committee stage of the debate on that bill and were given some assurances that that would be the case, but I have to say I still remain unconvinced that that is always the case. Nevertheless, we will not oppose the lifting of the sunset provision, but I would be interested to know from government speakers what plans the government has to continue reviewing the effectiveness of that scheme.

The bill also broadens the scope of home detention. The option of home detention has been available since 2004. However, it has been limited in the following ways: it operates only within a 40 kilometre radius of Melbourne; and it is not a stand-alone sentencing option. The bill expands the scheme by amending the Sentencing Act and the Corrections Act. This is partly because of changes in technology which make it easier to deal with home detention across the state, so home detention may be ordered now regardless of whether the person resides in Melbourne or somewhere in regional Victoria. This is a positive development, because it then means that offenders in regional areas are not discriminated against by not having access to the home detention scheme.

The problem that the courts have with home detention at the moment is that if home detention is ordered by a court and the person is assessed by Corrections Victoria as unsuitable for home detention, then that person automatically receives a prison sentence. Under this bill, if a person is assessed as unsuitable for home detention after the court has ordered it, it will be possible to consider other intermediate sentencing orders as an alternative to prison; and home detention could now be a stand-alone order under clause 14.

Currently home detention can be ordered in two situations — that is, in sentencing either by the court or by the Adult Parole Board at some point near the end of the pre-parole period. Amendments to the Sentencing Act give the court a judicial veto power over the option to grant home detention in the non-parole period. At the time of sentencing the court may, if making an intermediate sentencing order, attach a condition that if the offender is not entitled to make a request to the Adult Parole Board for home detention, in considering whether to make this decision the court must have regard to pretty much everything, including the nature and gravity of the offence. That seems fair enough, given the extended reach of intermediate sentencing orders.

The amendments in the bill to the Sentencing Act also prescribe where a person is ineligible for home detention. This includes offences of a sexual nature, offences involving the use of a firearm, contravention of a family violence order and contravention of a stalking order, which is treated the same way as contravention of a family violence order. These are all included in new section 26N of the Sentencing Act under clause 14 of the bill.

New section 26O of the Sentencing Act provides for situations where an offender may be ineligible for home detention and new section 26Q assists the court by outlining what the court must have regard to. There are a range of fixed conditions that apply to home detention under new section 26U, and the court can order further special conditions under new section 26V.

The bill also changes the way people are assessed for home detention. Currently offenders who have committed specific crimes, such as sex crimes and commercial drug trafficking offences, are not eligible for a home detention order. Under new section 26N people who have committed commercial drug offences are now able to be considered for home detention — that is, they are not automatically excluded, although they may be excluded after consideration of the provisions of new sections 26O and 26Q.

Several clauses deal with family violence orders and home detention. This is a part of the bill the Greens studied with some interest, because while we are not

opposed in principle to the extension of home detention orders, we are concerned about whether offenders' family members or other members of the public will be put at risk through the broader use of home detention orders.

New section 26R basically means that an intervention order would trump a home detention order — that is, the terms of an intervention order would usually include a requirement that the offender stay out of or away from the house of the applicant for the intervention order, and if it is likely that home detention would mean the offender would have to live with or come into contact with the applicant, then the home detention order would not be granted except in certain particular circumstances where the risk is acceptable. When we get to the committee stage I would like to query the minister about what is meant by 'where the risk is acceptable'.

New section 26N(3) further provides that home detention is not available where a family violence intervention order has been granted against the offender or contravened by that offender in the previous 10 years and, if home detention were granted, it would mean that the offender would be likely to reside with a protected or affected family member. The same thing goes for stalking. In other circumstances a home detention order may be made — that is, if the family violence intervention order was granted or contravened more than 10 years previously or if it is unlikely that the offender would reside with a protected or affected family member.

The Greens queried this during our briefing on the bill. We were assured that case managers are almost constantly with offenders under home detention and are also required to spend time separately with family members in these circumstances. If an incident occurred, the offender would be removed immediately. That is a bit concerning, because that would be after an incident occurred. We need to be careful that an incident does not occur. We need to ensure that we do not put people together when they should not be under the same roof.

Under the amendments to the Sentencing Act new section 26P provides that the consent of the person with whom the offender would be living is always required. That sounds good, and of course it is good, but we should always remember that some people might feel less able than others to speak out against an offender, and that just because someone has not spoken out does not mean there is no problem.

In the committee stage the minister will need to give more detail and assurances that these provisions will not put people at risk if they find themselves in the same residence as someone under a detention order. The question is whether the family member will have the emotional and psychological space and freedom to revoke their consent.

It is of the utmost importance to ensure that we do not put at risk the safety of people who have suffered from family violence in the past at the hands of an offender who may receive home detention. Just because department representatives said to us in the briefing that they were not aware of any such incidents does not mean there have not been any. It is clear to anyone who has worked in women's centres or women's legal centres et cetera that a lot of the time the big problem is silence. I will be asking the minister some questions about that area of the bill.

Changes to the Children, Youth and Families Act give the Children's Court the same powers in relation to sentencing children as the Magistrates Court has in relation to sentencing adults — that is, the Children's Court will be able to order a less severe sentence if the child makes an undertaking to help authorities with their investigation in the same way that the Magistrates Court can with adults. Under clause 34 the Director of Public Prosecutions can appeal if a child does not fulfil this promise.

Amendments to the Corrections Act also deal with home detention. Orders can be granted by a court at the time of sentencing or at some point before the expiry of the non-parole period. If done at sentencing, it is ordered by the court under the Sentencing Act. If applied for while the offender is in prison, it is administered by the Adult Parole Board under the Corrections Act. The bill makes amendments to the Corrections Act that are similar to the amendments to the Sentencing Act I discussed earlier. There are several other amendments I will not raise because they seem reasonably straightforward.

Clause 23 is a retrospective clause, which means that once the bill is passed the provisions will come into play irrespective of the time the offence was committed. This was raised as an issue by the Scrutiny of Acts and Regulations Committee, which stated in *Alert Digest* No. 4 of 2010:

> … clause 23 potentially allows offenders to be subject to a new category of sentencing order — ineligibility to ask the parole board to permit home detention — that was not applicable at the time they committed their offence. In several decisions the New Zealand Court of Appeal has unanimously held that ineligibility to ask a parole board for parole, when

> imposed as part of a judicial sentence, is a penalty for the purposes of a New Zealand Bill of Rights provision to the same effect as —

this charter — so I will be asking the minister some questions about clause 23.

We are dealing with the Justice Legislation Amendment Bill, but it has quite a bit to say about racing, Racing Victoria and the governance of the Victorian Commission for Gambling Regulation. Sometimes when you look at the names that are given to bills that come before this house, particularly from the Attorney-General, you can be fooled about what is actually in the bill. There was one called hoon boating, if I remember correctly, which was about a whole lot of other things besides hoon boating.

Mr Tee interjected.

Ms PENNICUIK — Mr Tee interjects and asks me a question. I will answer his question. I said 'particularly by the Attorney-General', but I meant also, by implication, by other ministers.

Provisions in clause 78 of the bill allow Racing Victoria and other controlling bodies to charge and collect fees from a wagering service provider.

The other clause we have concerns with, which Mr Rich-Phillips has drawn our attention to, provides for changes to the governance structure of the Victorian Commission for Gambling Regulation and enables the role of the executive commissioner to be abolished. That role is to be performed by three commissioners, with each commissioner having the power of the current executive commissioner under the Casino Control Act and the Gambling Regulation Act. All powers can be delegated to other staff except the power to authorise the disclosure of protected information, which would remain with the executive commissioner under the current act or with the three new commissioners if this amending bill gets through this second-reading stage.

We hear there is a plan to create a new CEO role to attend to the day-to-day business functions of the commission, perhaps similar to how the Victorian Equal Opportunity and Human Rights Commission is structured and to what happens with the Victorian Civil and Administrative Tribunal at the moment. It is not clear — and I think it is incumbent on the government to make it clear — what the government has in mind. Certainly we would be concerned if the CEO, as foreshadowed, or rumoured, is answerable to the department secretary, because we need to make sure that as much as possible the commission and commission staff are independent of government.

We reserve our position on the amendments that have been circulated by Mr Rich-Phillips until we hear from the government what its plans are. If we cannot be satisfied that the new arrangement is going to at least maintain and hopefully improve the independence of the commission, then we will be inclined to stick with the status quo.

Mr TEE (Eastern Metropolitan) — I will commence by identifying and foreshadowing that there will be a change in that the second-reading speech for the Justice Legislation Amendment Bill as read in the Legislative Assembly and in this house contained a minor technical error. The fifth summary point in the introduction to the speech concerns the continuation of the sentence indication scheme in the County and Supreme courts. This dot point read that the bill would:

> amend the Sentencing Act 1991 to give effect to the Sentencing Advisory Council's recommendation that the sentence indication scheme should continue to operate in the County and Supreme court.

The reference to the Sentencing Act 1991 was incorrect. The speech should instead have referred to an amendment to the Criminal Procedure Act 2009 to allow for the continuation of the sentence indication scheme. That is a minor technical change to the second-reading speech, which the minister may confirm at the appropriate time.

The other issue I want to address in commencing is the government's response to the issue raised by Mr Rich-Phillips with his amendment. While the government announced in its statement of government intentions that it desires to revamp the gaming and liquor regulatory functions — the provisions in this bill attempt to at least take the first step in relation to that integration of the Victorian Commission for Gambling Regulation and liquor licensing — it acknowledges and understands that politics is the art of the possible. We acknowledge and understand that other parties have a different view and therefore we accept that these provisions will not be proceeded with at this stage. At least I suspect that that is what the outcome will be.

Moving to the substance of the bill, it contains a number of reforms to improve Victoria's justice system. These are changes to our criminal law: they are changes to the sentencing provisions, they are changes to provisions related to home detention and they are procedural changes.

I will just briefly talk about the amendments to the Sentencing Act. What the bill does is change the way that breaches of various orders — such as custody and treatment orders, correction orders, home detention orders, community-based orders and orders for release on adjournment — are dealt with. Currently breaches of those orders are treated as criminal offences. What the bill does is ensure that where a breach of such an order occurs the offender will be returned to the courts, where there will be an appropriate determination of the consequences that flow from that breach. That is an improvement in the way these matters are dealt with because it ensures that the courts can determine any circumstances of aggravation or otherwise in dealing with those breaches.

In terms of amendments to the Children, Youth and Families Act, these changes go to the sentencing options available where young offenders cooperate with police. Currently what occurs is that if an adult offender cooperates with police and assists the authorities, they are able to receive a less severe sentence, but this provision does not apply to children. In a situation where children assist authorities in the prosecution of offences against others, such as a child working against a co-accused, that child is unable to receive a reduced sentence. This bill amends what is really an anomaly to ensure that the child can receive a lesser sentence if appropriate. Where the child agrees to help and receives a lesser sentence and then fails to help the authorities, the Director of Public Prosecutions can appeal the original sentence.

The other aspect of the bill that I want to touch on relates to home detention. I think Mr Gordon Rich-Phillips was somewhat critical of home detention, but it has been around for some time now, since 2004. This bill extends and strengthens home detention by providing it as an option for courts so that they can now provide it as a stand-alone order. It is an important change and innovation because it in effect provides another option for courts and ensures that we do not lock up those who have committed minor offences and who ought not be locked up. We know that there are very good reasons why, where appropriate, we should avoid locking up people. We know that locking up people in the wrong circumstances means that families might miss out on the support of the breadwinner and individuals might lose their jobs. For minor offences it is appropriate to provide the courts with another sentencing option, but that does not mean they will necessarily act on it. In considering whether to provide home detention as an option, courts will take into account the circumstances, including the views of victims.

Home detention can be important in terms of retaining a connection with one's family and retaining employment, but it is also sometimes the right option for people who would otherwise be locked up and who might then as a consequence of that association with other criminals develop bad habits and acquire bad friends. It is important in some circumstances to give the courts the option to keep people out of the system; otherwise you may be creating more crime by introducing people, particularly young and vulnerable people, to the criminal system from the inside. I think it is important that we keep an open mind in relation to home detention.

That of course does not mean it should be available as an option to all. The bill is very clear that it is not available to those who have committed violent crimes and should not be an option for those who have committed sexual offences and other serious offences. An offender undergoes a rigorous assessment before home detention is considered as an option. The courts must consider factors such as the period of time since the offender committed the offence, the sentence, the age of the offender, the nature and gravity of the offence and so on.

The other important aspect of home detention is the circumstances which the individual will find themselves in when they go home. It is clear that anyone who lives in the home must understand the conditions that are being imposed on the offender in home detention. They must consent to living with the offender, and there are special protections built into the act to make sure that the rights of children are protected. Consent must not only be freely given but must also be ongoing and continually monitored.

A person in home detention is subject to very strict conditions in terms of a curfew. They can only leave the home in order to engage in activities that have been approved by their supervisor, and these relate to employment or study. Effectively an offender can leave the home to make a contribution either to the community or to their family. Those under home detention are monitored electronically 24 hours a day, seven days a week to make sure they comply with the requirements of home detention. As I said, they can only leave the home under approved conditions, which are to go to learn or earn.

Home detention is relatively new to Australia, but it is an option that has been taken up in a number of other jurisdictions and it works. We know that home detention completion rates in Victoria are running at about 97.7 per cent. Home detention has been an effective way of reintegrating members with a criminal

offence into the community. It reduces crime and is the right thing to do. It is an important way of standing up for the community and also for families, and I urge members to support the bill.

Hon. M. P. PAKULA (Minister for Public Transport) — In supporting this bill I advise the house that the second-reading speech of the Justice Legislation Amendment Bill, as read in the Legislative Assembly and this house, contained a minor technical error.

The fifth summary point in the introduction to the speech concerns the continuation of the sentence indication scheme in the County and Supreme courts. This dot point states that the bill will:

> amend the Sentencing Act 1991 to give effect to the Sentencing Advisory Council's recommendation that the sentence indication scheme should continue to operate in the County and Supreme courts …

The reference to the Sentencing Act 1991 is incorrect, and the speech should have instead referred to an amendment to the Criminal Procedure Act 2009 to allow for the continuation of the sentence indication scheme.

In correcting that error, I commend the bill to the house.

Motion agreed to.

Read second time.

Committed.

Committee

Clause 1

The DEPUTY PRESIDENT — Order! I advise the committee that I consider amendment 1 to be moved by Mr Rich-Phillips to be a test for all of Mr Rich-Phillips's remaining amendments, which relate to opposing the bill's abolition of the position of executive commissioner of the Victorian Commission for Gambling Regulation.

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

> 1. Clause 1, page 4, lines 26 to 31, omit all words and expressions on these lines.

I concur with your assessment, Deputy President, that this is a test of the other amendments. The purpose of our amendments is to remove words with respect to the Victorian Commission for Gambling Regulation, because we believe that the proposed changes in this legislation could ultimately lead to the undermining of the independence of the commission as outlined in the second-reading speech. It is the intent of all these amendments to remove those provisions relating to the VCGR to ensure the status quo prevails and that independence is maintained.

Mr TEE (Eastern Metropolitan) — As I said in my contribution to the second-reading debate, the government indicated in its annual statement of government intentions at the start of the year that it would be seeking to integrate the gaming and liquor regulatory functions. That was the intention of the government, and this moves in that direction. We understand the reality is that the parties in this chamber do not have the support to proceed that way, and we understand that that will be the outcome.

Ms PENNICUIK (Southern Metropolitan) — As I mentioned in my contribution to the second-reading debate, if the foreshadowed move to install a CEO who is answerable to the department goes ahead, I would be concerned, so I would like the minister to explain what plans the government has in that respect.

Hon. J. M. MADDEN (Minister for Planning) — I am sorry. There was a bit of background noise. I could not hear what Ms Pennicuik said.

Ms PENNICUIK (Southern Metropolitan) — This bill seeks to abolish the position of executive commissioner and replace it with three executive commissioners, and abolish the role that the executive commissioner has at the moment, which fills the roles of commissioner and CEO. The rumour is that a CEO will be appointed to perform the day-to-day functions and that that CEO will be appointed by and answerable to the secretary of the department.

I understand that that would cause coalition members as well as the Greens some concern, because the Victorian Commission for Gambling Regulation should be independent of government as far as possible, and having the CEO answerable to the department would not enable that. I am asking the government to elucidate and to clarify its position regarding these amendments and the plans it has in that area.

Hon. J. M. MADDEN (Minister for Planning) — Ms Pennicuik has raised a couple of matters, and I will try to address them.

In terms of the chief executive, the Secretary to the Department of Justice in effect will be responsible for the appointment process as required by the Public Administration Act; however, the chairperson of the commission will be actively engaged during the

appointment process, therefore the chief executive will not be responsible for any adjudicative functions of the commission — for example, the chief executive will not preside over inquiries, nor will it be entitled to vote at meetings of the commission.

The commission comprising the commissioners is able to delegate functions of the commission to the chief executive at its discretion. The government has not specified which functions of the commission may or may not be delegated to preserve the independence of the commission.

Ms PENNICUIK (Southern Metropolitan) — Mr Tee mentioned the merging of the liquor licensing board and the Victorian Commission for Gambling Regulation. What is the timetable for that?

Hon. J. M. MADDEN (Minister for Planning) — I am having some difficulty hearing what Ms Pennicuik is saying.

Ms PENNICUIK (Southern Metropolitan) — Mr Tee mentioned merging the liquor licensing board and the VCGR. I am wondering what the estimated time frame for that is.

Hon. J. M. MADDEN (Minister for Planning) — My understanding is there is not at this point in time a time frame commitment to the implementation of it. Basically the intention is to get the legislation through and then determine when the establishment would take place.

Amendment agreed to; amended clause agreed to.

The DEPUTY PRESIDENT — Order! I am advised that I have to test every one of the amending clauses, despite the fact that they have the same intent as established in amendment 1. I am not sure that we need to have discussion on each of them, so I will proceed through those clauses that have foreshadowed amendments and test them.

Clause 2

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

2. Clause 2, line 6, omit "97(2)" and insert "84(2)".

Amendment agreed to; amended clause agreed to; clauses 3 to 13 agreed to.

Clause 14

Ms PENNICUIK (Southern Metropolitan) — I have a brief question. Clause 14 outlines who is and who is not eligible for home detention orders. People who are eligible include those who may have had intervention orders or stalking orders taken out against them in the past, even up to 10 years in the past. My question is: why and on what advice was the government prepared to extend home detention orders to persons who had those orders in the past at any time, given that a residual risk could remain?

Hon. J. M. MADDEN (Minister for Planning) — I am advised that it is at a court's discretion to determine what it considers in relation to these matters. It would be expected that based on the evidence and details presented, the courts would take into full account all those matters and make a decision accordingly.

Ms PENNICUIK (Southern Metropolitan) — Yes, but the bill mentions 10 years. I am wondering where the 10 years came from. It is an arbitrary figure. Can it be 5 years? It could be 15 years. What evidence was used to come to that conclusion?

Hon. J. M. MADDEN (Minister for Planning) — I am advised that in a sense the courts are limited because of the narrowness of the descriptions of what they can and cannot consider. It allows the courts to give due consideration to the circumstances in a much broader response. I understand that currently it is so narrow that they do not take that option up because of the circumstances or the prescriptive nature that they must consider.

Ms PENNICUIK (Southern Metropolitan) — I understand that, and I am not in principle opposed to it, but I am concerned that in some instances this may have the unfortunate consequence of people in home detention being with people they should not be in contact with and who have previously been victims of their behaviour.

I have only one other question: is the department planning to assess and monitor these new provisions over a period of time to see whether they are effective and do not have unforeseen unfortunate consequences?

Hon. J. M. MADDEN (Minister for Planning) — It is my expectation, as it is always the expectation of ministers and government, that the implementation of these matters will be monitored, particularly any new enforcement or legal provisions of any nature. More specifically not only will the implementation of these sorts of reforms be monitored but also that progress and practice over time is also monitored in some way. It is my expectation, and I know it would be the expectation of my colleagues, that the department would ensure the

monitoring of the success or lack thereof, if that is the case, of the implementation of any reforms in this area.

Clause agreed to; clauses 15 to 22 agreed to.

Clause 23

Ms PENNICUIK (Southern Metropolitan) — Clause 23 applies the amendments to the Justice Legislation Amendment Act, which applies to the sentencing of a person for an offence on or after the commencement of that section, irrespective of when the offence was committed or the findings of guilt were made — in other words, as a retrospective clause, about which the Scrutiny of Acts and Regulations Committee had a bit to say. As always with retrospective clauses we should not be passing legislation that has retrospectivity which applies to people so that they are subject to penalties which did not apply at the time of their offence. Why is this clause in the bill?

Hon. J. M. MADDEN (Minister for Planning) — I acknowledge Ms Pennicuik's issue about retrospectivity. Without getting into too much of a technical definition, it is not completely retrospective. In a sense it is not a retrospective punishment. It relates to the time of consideration, but it might relate to activities that have occurred before they have been presented to the court.

Ms PENNICUIK (Southern Metropolitan) — My question is: why is it there? I understand it is there, and what it is.

Hon. J. M. MADDEN (Minister for Planning) — In these sorts of matters where you have to consider how law is enacted, you have to give consideration to the way in which it is implemented. It is considered that this is the best way to implement this law from the time it is introduced.

Clause agreed to; clauses 24 to 77 agreed to.

Part heading preceding clause 78

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

3. Part heading preceding clause 78, omit "**GAMING ACTS AMENDMENTS**" and insert "**AMENDMENT OF GAMBLING REGULATION ACT 2003**".

Amendment agreed to; amended heading agreed to.

Division heading preceding clause 78

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

4. Division heading preceding clause 78, omit this heading.

Amendment agreed to; division heading negatived.

Subdivision heading preceding clause 78

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

5. Subdivision heading preceding clause 78, omit this heading.

Amendment agreed to; subdivision heading negatived; clauses 78 and 79 agreed to.

Heading preceding clause 80

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

6. Subdivision heading preceding clause 80, omit this heading.

Amendment agreed to; heading negatived.

Clauses 80 to 84

Mr RICH-PHILLIPS (South Eastern Metropolitan) — I invite members to vote against these clauses.

Clauses negatived.

Heading preceding clause 85

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

8. Subdivision heading preceding clause 85, omit this heading.

Amendment agreed to; heading negatived.

Clauses 85 to 90

Mr RICH-PHILLIPS (South Eastern Metropolitan) — I invite the committee to vote against these clauses.

Clauses negatived.

Heading preceding clause 91

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

10. Division heading preceding clause 91, omit this heading.

Amendment agreed to; heading negatived.

Clauses 91 and 92

Mr RICH-PHILLIPS (South Eastern Metropolitan) — I invite the committee to vote against these clauses.

Clauses negatived.

Clauses 93 to 101 agreed to.

Clause 102

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

12. Clause 102, line 14, omit "101" and insert "88".

13. Clause 102, line 18, omit "101" and insert "88".

Amendments agreed to; amended clause agreed to; clauses 103 to 104 agreed to.

Clause 105

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

14. Clause 105, line 32, omit "104" and insert "91".

15. Clause 105, page 127, line 2, omit "104" and insert "91".

Amendments agreed to; amended clause agreed to; clauses 106 to 108 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 doing so, I thank the members of the chamber for their contributions.

Motion agreed to.

Read third time.

TRANSPORT LEGISLATION AMENDMENT (COMPLIANCE, ENFORCEMENT AND REGULATION) BILL

Second reading

Debate resumed from 25 March; motion of Hon. M. P. PAKULA (Minister for Public Transport).

Mr KOCH (Western Victoria) — In making my contribution on the bill I indicate that after wide consultation with many industry bodies the opposition will be not opposing this legislation.

This is an omnibus bill that makes minor changes to existing rail, bus, marine and port regulatory schemes. It amends the Transport Act 1983 to further provide for the enforcement of offences under and breaches of that act, the Bus Safety Act 2009, the Rail Safety Act 2006 and the Port Services Act 1995. It also amends the Working with Children Act 2005, the Marine Act 1998, the Rail Corporations Act 1966, the Road Safety Act 1986, the Public Transport Competition Act 1995, the Road Management Act 2004 and the Transport Legislation Amendment Act 2007. It amends 11 acts in total.

The main provisions relating to rail and bus safety regimes include introducing the requirement that voluntary enforcement undertakings by rail and bus operators be made to the director, public transport, and introducing court-sanctioned adverse publicity orders.

The bill gives legislative extension to the bus safety regulations due to expire on 24 May, and as this date is prior to the next sitting week it is important that we push this bill through today so that the extension of the public transport competition regulations will align with the new bus safety regime scheduled to commence on 30 December 2010. Sensibly it will also align bus transport safety officers' powers with those of rail safety officers.

The bill also clarifies Public Transport Safety Victoria's responsibility for voluntary fatigue management administration for buses at the same time as Victoria Police and VicRoads maintain the responsibility for other road-related enforcement. Importantly the bill also picks up the fact that South Australia and New South Wales are moving towards a national rail safety program similar to that of Victoria, where the rail safety regulations also form part of the national scheme.

The taxi and hire car industries have a parallel regime that picks up on the voluntary enforcement undertakings of both rail and bus operators. The bill further introduces commercial benefit penalty orders of up to three times annual profits should applicable orders such as adverse publicity orders, supervisory intervention orders and exclusion orders in the taxi industry be infringed. Although the bill makes changes to accreditation requirements for taxi operators, it reinforces legislation that gives backing to holiday surcharges for the industry. Both of these points are important for operators as they offer greater viability to those continuing to perform what is not always recognised as an important segment of our transport obligations.

However, with these types of bills we do have some concerns. Obviously clauses 34 and 35, which deal with working with children, are two such concerns. There appears to be a double standard in this bill when we see that eligible accredited bus drivers are able to work extended hours as part of their duties in the event of public transport failures when other like industry drivers are not afforded a similar opportunity.

During my contribution to debate relating to the fatigue management criteria under the Road Safety Amendment (Fatigue Management) Bill 2008 I expressed my concern for other road users and the limitations being imposed. The members of the industry who were not offered any exemptions under that legislation were the livestock carriers, who for reasons not of their making but because of occupational health and safety and animal welfare-related issues could not under any circumstances exceed the scheduled 14 hours. It would appear unreasonable and unacceptable that people, particularly children, could be subject to a process that protects livestock before humans in what are reasonably similar situations. Maybe this is an area that should be further investigated to offer other important industries similar exemptions where the need arises, albeit on an infrequent basis.

The Brumby government continues to inform members of the Victorian public of its commitment to safe transport systems for all, irrespective of whether they commute by road, rail, bus, taxi, bike or even ferry. Recently I attended a VicRoads consultation forum in Geelong on two important road safety programs known as RoadSafe Victoria and Safer Roads, which have been in place statewide for nearly 20 years. Historically RoadSafe Victoria has been underwritten financially and administered by a VicRoads officer in a part-time capacity with great support from community volunteers. Collectively both VicRoads and community members have achieved major and important safety outcomes within communities. I continue to be advised of and have little doubt about the success of these programs, whether that be in increasing safety through ground works or education programs, which have involved combining local community knowledge with the expertise and engineering knowledge of the VicRoads part-time support officers.

Unfortunately, as I raised in an adjournment debate earlier, VicRoads — whose contribution has been so important in maintaining and managing community enthusiasm — has elected to withdraw its services in favour of outsourcing the administration component. This is disappointing on a couple of fronts, as there is little doubt that the alliance of knowledge and expertise on a part-time basis and the information and enthusiasm at a community level have added greatly to road safety, especially in regional areas.

The removal by VicRoads management of this important contribution to the 24 road safety groups statewide has been seen as a snub to the many people who have given willingly of their time over many years in supporting road safety in these communities. VicRoads, which has a primary responsibility for road safety, is now trying to convince those who have been so supportive of these programs over the last two decades that they can spend these allocated funds better. This will see a further cost shift to local government to support Safer Roads programs, and without this vital input from VicRoads many of the RoadSafe Victoria groups will fragment due to not having the expertise and authoritative knowledge they had during their earlier deliberations. Surely VicRoads has a community obligation to road safety in this state if this government's mantra of being committed to a safe, reliable and first-class transport system is to be believed.

In closing, as mentioned at the start of my contribution, the opposition will be not opposing the bill, but I express the opposition's concern that some confusion remains about parts of the bill that do not complement earlier legislation. The government seems to have been all over the place with transport legislation in the last six months in its enthusiasm to get its unfunded but much-trumpeted transport plan up. The government continues to play at the edges in trying to put meaningful legislation before the house, but in most cases it is obvious that this is a government that is just tired, lazy and bereft of ideas.

Mr BARBER (Northern Metropolitan) — The Transport Legislation Amendment (Compliance, Enforcement and Regulation) Bill makes a number of modest amendments to a number of different acts.

Various acts that represent the various parts of the transport system are outlined for us in the diagram that the government provided to us. Of course there are so many of them because we have so many different operators out there providing different parts of our transport system. I notice that within the diagram there is even a proposed walking and cycling act, which will contain walking and cycling regulations as subordinate legislation. I shudder to imagine what is going to be in that bill. Clearly the idea that there is unregulated walking going on out there without any kind of legal framework has got the attention of the Department of Transport, and it will be bowling that bill up to the Parliament, no doubt, wherever it can fit it into our extraordinarily busy legislative agenda.

However, safety on motorised transport is a serious issue. It is of concern to all that those systems are safe, and for the most part they are safe. To take a train is, by some crude measure, six times safer per kilometre than travelling by car. We should remember when we see high-profile train accidents that in fact there are car accidents happening all day, every day. By the measurement of the national transport safety bodies, per unit of exposure per person kilometre travelled, you are six times safer on a train than you are driving along the parallel highway when we measure both accidents that might occur to trains and also accidents that happen inside train carriages compared to the analogous vehicle accidents. Certainly moving more people onto the public transport system can only make our overall transport system safer.

There are a number of measures being brought in here, including the ability to create voluntary enforceable undertakings, essentially through mediated outcomes with the various operators rather than the issuing of infringement notices. The bill extends sentencing powers, so that where a profit has been made by an operator illegally, a court can order an account of profits up to three times the amount gained. Courts are able to have adverse publicity orders published in newspapers. No doubt, these are all helpful tools.

Public Transport Safety Victoria will regulate the voluntary fatigue management strategies, and non-commercial bus operators — essentially, community group or minibus drivers — will have to be registered. There are a number of other proposed regulations where the legality, for the removal of doubt, is to be confirmed through this now-familiar bill.

Naturally we have some interest and maybe concern about voluntary enforceable undertakings. They are like any other voluntary code which may at times fall short of what the community expects. However, as you would expect, since most of these operators are very much the creature of the Department of Transport, the Greens have not received any specific feedback from transport operators on this, and therefore we are willing to support the bill, which in most part empowers the director of Public Transport Safety Victoria with binding powers over these operators. I believe we are expecting to see more law reform in this area soon.

Mr TEE (Eastern Metropolitan) — This is an important bill, which was foreshadowed in the government's annual statement of government intentions. It continues Victoria's leadership in key transport areas by improving national harmonisation.

The focus of the bill is around improving compliance, enforcement and ensuring we have consistency across the various transport modes, whether that be taxis, rail or buses. It builds on the review that has been done, particularly in relation to transport, with a view to ensuring we have consistent approaches across the various transport modes. For example, the bill will introduce commercial benefits orders for the taxi industry. These orders already apply to the rail, bus and marine industries and will operate in the same way that the proceeds of crime-type legislation applies.

Orders can be made where up to three times the profit has been made from taxis, for example, that have been operating without a licence, or where someone has been touting illegally. This will ensure we send a clear message that that kind of conduct is not acceptable.

Importantly, the bill extends the availability of adverse publicity orders to rail, taxi, bus and marine safety enforcement. These orders operate successfully in areas such as occupational health and safety and in the consumer protection arena. We are extending them to the transport arena. I suppose they are the equivalent of the name-or-shame provisions, and they will enable courts to tackle repeat offenders. These are the taxi operators, not the drivers, who have unsafe or unlicensed vehicles. Those are the sorts of incidences these provisions will pick up, and again, they ensure Victorian consumers can have a degree of comfort that the taxis they get into are safe and licensed. It ensures we continue regulatory reform in the area.

Other important provisions relate to the extension of infringement notices for bus and rail transport in relation to safety-related offences. It means that for those lower-level offences committed by operators there will be an option to provide infringement notices rather than the more onerous requirements.

The bill also provides for an option in relation to voluntary enforceable undertakings, and again, this is based on a national model rail safety scheme and will operate for bus and rail operators. It is about trying to encourage and promote best-practice in safety regulation, but it is also important there is a hard edge — that is, if undertakings are breached, they can be enforced in the Magistrates Court.

The other expansion of the infringement notice system relates to hazardous port activities. The bill provides for the operation of infringement notices for those lesser offences rather than the more onerous court proceedings that currently are the only options available.

In relation to standards, the bill strengthens the current operations to ensure that only authorised people can permit taxis to be operated. This is an important innovation. We are trying to prevent taxis operating without accreditation. We are trying to prevent the illegal sub-assignments in the taxi industry. Everybody deserves to know the taxis they are driving are safe and fall within the regulations.

The provisions in the bill do that by providing easier and more streamlined regulations and by providing a number of options to the authorities, be they in relation to infringements or to naming and shaming, to make sure the taxi industry is a better and cleaner industry and is an industry which promotes best practice and promotes career operators rather than fly-by-night operators. I am sure everybody in the house supports that initiative.

The bill builds on other measures we have adopted on the introduction of prepaid fares, late-night and holiday surcharges for taxidrivers, driver protection screens, improved education programs and so on. As I said, it is about making sure the experience for Victorians who want to catch a taxi is one that is safe and which occurs in a well-regulated environment that identifies and excludes rogues and other such operators.

There is an important time-critical part of the bill, and that is in relation to the registration of bus operators. There is a requirement under the Bus Safety Act 2009 for bus operators to be regulated and to be registered. This effectively defers parts of that regulation to allow for that regulation to be phased in rather than being made immediately effective as of 1 January. The regulation covers safety provisions, but those provisions are not affected by these amendments contained in the bill. They simply ensure that the registration process is phased in rather than coming into operation overnight.

As I say, this bill is about streamlining our current regulation of the taxi industry. It is about making sure that there is national harmonisation and that there are better enforcement options so that the experience for Victorians who use our taxis, trams or buses have a better and safer experience. I commend the bill to the house.

Motion agreed to.

Read second time.

Third reading

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

That the bill be now read a third time.

In doing so, I thank members of the chamber for their contributions.

Motion agreed to.

Read third time.

PLANNING AND ENVIRONMENT AMENDMENT (GROWTH AREAS INFRASTRUCTURE CONTRIBUTION) BILL

First reading

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

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

That the bill be printed and, by leave, be read a second time forthwith.

Leave refused.

Ordered to be printed and second reading be made order of the day for next day.

FAIR TRADING AMENDMENT (UNFAIR CONTRACT TERMS) BILL

Statement of compatibility

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

In accordance with section 28 of the Charter of Human Rights and Responsibilities, I make this statement of compatibility with respect to the Fair Trading Amendment (Unfair Contract Terms) Bill 2010.

In my opinion, the Fair Trading Amendment (Unfair Contract Terms) Bill 2010, 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 part 2B of the Fair Trading Act 1999 to ensure that the unfair contract terms provisions in that part are consistent with national unfair contract terms provisions in the Commonwealth Trade Practices Amendment (Australian Consumer Law) Bill 2010 (the ACL bill).

In particular, the bill —

amends the definition of 'consumer contract', for the purposes of part 2B, in line with the national definition;

amends the part 2B definition of 'unfair term' in line with the national definition;

introduces a rebuttable presumption that an unfair term is not reasonably necessary to protect the legitimate interests of the party who would be advantaged by the term;

sets out factors that must be taken into account in finding that a term of a consumer contract is unfair;

excludes certain types of terms and contracts from the operation of part 2B;

includes examples of the kinds of terms of a consumer contract that may be unfair;

limits the application of part 2B to consumer contracts that are standard form contracts;

repeals the definition of 'standard form contract' and instead sets out factors that a court must take into account in determining whether a contract is a standard form contract;

includes a rebuttable presumption that a contract is a standard form contract;

modifies the existing enforcement and remedies provisions under part 2B to make them more consistent with the national provisions; and

aligns the transitional provisions relating to the amendments with equivalent provisions in the ACL bill.

The bill also removes the current power for regulations to be made prescribing a term to be an unfair term for the purposes of part 2B, and repeals existing part 2B offences for using or attempting to enforce a prescribed unfair term. This is in line with the national unfair contract terms provisions, which do not include an equivalent power or offences.

These amendments do not extend the impact of part 2B on any charter right.

The amendments simply ensure that the terminology and structure of the Victorian and national unfair contract terms provisions are consistent.

Human rights issues

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

The bill does not engage any of the rights under the charter.

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

As the bill does not engage any of the rights under the charter, it is not necessary to consider the application of section 7(2) of the charter.

Conclusion

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

Justin Madden, MLC
Minister for Planning

Second reading

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

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

That the bill be now read a second time.

Incorporated speech as follows:

In 2003, following a 2002 recommendation by the Fair Trading Act review reference panel, provisions regulating unfair contract terms were introduced into the Fair Trading Act 1999 (the act), as its new part 2B.

These provisions protect Victorian consumers who enter into consumer contracts for the supply of goods and services, whether with Victorian or non-Victorian suppliers, from unfair terms in those contracts.

Unfair contract terms provisions have served Victorians well. Since their introduction the director of Consumer Affairs Victoria has succeeded in a number of unfair contract terms actions in the Victorian Civil and Administrative Tribunal, to the benefit of Victorian consumers.

The success of the unfair contract terms provisions of part 2B is demonstrated by the inclusion of similar unfair contract terms provisions in the commonwealth Trade Practices Amendment (Australian Consumer Law) Bill 2010.

These national unfair contract terms provisions, which form part of the forthcoming Australian Consumer Law, are scheduled to come into operation on 1 July 2010.

The bill amends part 2B of the act to achieve consistency between its provisions, and the national unfair contract terms provisions.

The bill amends the definition of consumer contract, for the purposes of part 2B of the act, in line with the national definition of that term. This ensures that the provisions of part 2B will apply to the same category of contracts as the national unfair contract terms provisions.

The national definition of unfair term has also been replicated, as well as a provision establishing a rebuttable presumption that an unfair term is not reasonably necessary to protect the legitimate interests of the party who would be advantaged by the term. The bill also amends part 2B to include factors that must be taken into account in finding that a term of a consumer contract is unfair.

In line with the national unfair contract terms provisions, the bill excludes certain types of terms — such as terms that set the up-front price payable under a contract — and contracts from the operation of part 2B, and includes examples of the kinds of terms of a consumer contract that may be unfair.

The bill also limits the application of part 2B to consumer contracts that are standard form contracts. Part 2B currently applies to both standard form and non-standard form consumer contracts, while the national provisions only apply to standard form consumer contracts.

The bill repeals the existing definition of standard form contract, and instead sets out factors that a court must take into account in determining whether a contract is a standard form contract, as well as providing a rebuttable presumption that a contract is a standard form contract.

Finally, the bill modifies the existing enforcement and remedies provisions under part 2B to make them more consistent with the national provisions, and ensures the transitional provisions for the amendments are consistent with those in place for the national unfair contract terms provisions.

In accordance with the national partnership agreement to deliver a seamless national economy, and in line with the commitments of other states and territories, Victoria has agreed to apply the full Australian Consumer Law, including national unfair contract terms provisions, as a law of Victoria from 1 January 2011.

As part of the application of the Australian Consumer Law in Victoria, part 2B will ultimately be repealed, and replaced with the national unfair contract terms provisions.

This bill ensures that the provisions of part 2B and their national equivalents are consistent until this occurs.

I commend the bill to the house.

Debate adjourned for Mr GUY (Northern Metropolitan) on motion of Ms Lovell.

Debate adjourned until Thursday, 13 May.

PRAHRAN MECHANICS' INSTITUTE AMENDMENT BILL

Statement of compatibility

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

In accordance with section 28 of the Charter of Human Rights and Responsibilities ('charter'), I make this statement of compatibility with respect to the Prahran Mechanics' Institute Amendment Bill 2010 ('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 amend the Prahran Mechanics' Institute Act 1899 ('the act') to provide the Prahran Mechanics' Institution and Circulating Library Incorporated ('the institution') the power to sell in whole or in part certain lands currently vested in it under the act or any building upon the lands; to sell land it owns situated at 140 High Street, Prahran; to make up to three acquisitions of land, each of which may include unlimited adjoining parcels of land; and to use funds from that sale of land, with the express requirement that these powers must be exercised for the purpose of achieving its objectives. The bill will clarify the institution's objectives, importing into the act the objectives currently specified in an order in council made under section 5 of the act.

The bill follows an agreement entered into between the institution and Swinburne University of Technology ('Swinburne') for the sale of land situated at 140 High Street, Prahran. The bill will, in the immediate term, allow the institution to sell the High Street property it currently owns to Swinburne in accordance with the terms of the sale agreement. In the longer term it will enable the institution to sell lands vested in it or purchase certain lands as necessary for the achievement of its objectives.

Human rights issues

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

Property right

New section 11A, to be inserted by clause 5 of the bill, will enable the institution to make up to three acquisitions of land, each of which may include unlimited adjoining parcels of land. The provision engages, but does not limit, the right to property in section 20 of the charter. The institution will not possess the power to compulsorily acquire land. Any acquisition will be pursuant to a commercial agreement with the owner of the land and at market value. Proposed new section 11A is therefore compatible with the charter and does not limit the right to property.

Conclusion

For the reasons outlined above I consider that the bill is compatible with the charter because it does not limit any rights under the charter.

Justin Madden, MLC
Minister for Planning

Second reading

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

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

That the bill be now read a second time.

Incorporated speech as follows:

This bill will amend the Prahran Mechanics' Institute Act 1899 to provide the Prahran Mechanics' Institution and Circulating Library Incorporated with a clear power to purchase and sell certain real property. In the immediate term, this will enable the Prahran Mechanics' Institution the ability to sell the premises it owns at 140 High Street, Prahran to Swinburne University of Technology, which occupies the premises for technical educational purposes under an existing lease arrangement.

The bill achieves this by providing the Prahran Mechanics' Institution with both a specific power to sell lands that are currently vested in it, and a specific power to sell the property at 140 High Street, Prahran.

The latter amendment is required in order to implement an agreement reached between the Prahran Mechanics' Institution and Swinburne University for the sale of the High Street property. This has been the subject of considerable discussion following lengthy negotiations over the terms of the lease in relation to the said land.

It is also proposed to provide the institution with a specific power to sell lands which are currently vested in it under the act. The reason for this is that the Prahran Mechanics' Institution has other property vested in it which it may in the future wish to sell.

The bill further provides the institution with a power to make up to three acquisitions each of which include adjoining parcels of land, which will enable it to establish a new lending library, and separate office and storage space if required.

To ensure the granting of these powers is consistent with the original intention of the Prahran Mechanics' Institute Act 1899, the bill provides that the Prahran Mechanics' Institution exercise such powers only in a manner that achieves the objectives of the institution. This not only ensures the bill is consistent with the original intention of the act and is legally viable, but also offers protection to the Prahran Mechanics' Institution by ensuring that the proceeds from the sale cannot be diverted away from the core business activities of the institution.

Accordingly, the bill provides that the powers provided, and the use of the proceeds from any sale of land, can only be exercised by the Prahran Mechanics' Institution for the purpose of achieving its objectives.

These objectives are now clearly stated in the bill, which replicates the original objectives set out in an order in council which was gazetted in 2007. These include providing a circulating and reference library, organising and conducting educational activities, and encouraging research for the benefit of its members and general public.

I commend the bill to the house.

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

Debate adjourned until next day.

COURTS LEGISLATION MISCELLANEOUS AMENDMENTS BILL

Introduction and first reading

Received from Assembly.

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

Statement of compatibility

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

In accordance with section 28 of the Charter of Human Rights and Responsibilities, I make this statement of compatibility with respect to the Courts Legislation Miscellaneous Amendments Bill 2010.

In my opinion, the Courts Legislation Miscellaneous Amendments Bill 2010, 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 makes miscellaneous amendments to legislation in relation to the courts and judicial officers.

The bill will preserve the entitlement to a pension at age 60 and after 10 years' service for associate judges (formerly masters) of the Supreme and County courts who are appointed as judges of the County Court. This is consistent with amendments made to the Constitution Act 1975 by the Courts Legislation (Juries and Other Matters) Act 2008 to ensure that eligibility to a pension at age 60 would be preserved if a judge was appointed to the Supreme Court from the County Court, and also with provisions ensuring that the pension age is preserved for judges appointed from interstate or federal courts.

The bill amends section 94(5) of the Coroners Act 2008 to provide that an acting coroner be paid the same salary and allowances as a magistrate. This amendment will maintain the status quo in relation to salary and allowances for fixed-term coroners under the old Coroners Act 1985 and salary and allowances for acting coroners under the new Coroners Act 2008. This amendment addresses an unintended outcome of section 94(5).

The bill creates the new office of judicial registrar in the Supreme, County, Children's and Coroners Courts. The office of judicial registrar was created in the Magistrates Court in 2005 by the Magistrates' Court (Judicial Registrars and Court Rules) Act 2005 and is operating successfully. That act inserted a new part 2A into the Magistrates' Court Act 1989. That part has provided a model for the creation of the legislative framework for the office of judicial registrar in the other courts, but with some modifications to suit the particular circumstances of each court.

The creation of the office of judicial registrar in each court provides an opportunity for the courts to operate more efficiently, as judicial registrars will be able to undertake minor judicial duties that would otherwise fall to judicial officers. This will enable the judiciary to focus on matters of greater complexity or importance, which warrant the involvement of a judicial officer. Thus, the capacity to appoint judicial registrars provides greater flexibility in making appointments to manage demand in the court system.

The benefits of more flexible resourcing, as have been demonstrated in the Magistrates Court, also support the creation of the office of judicial registrar in the Supreme, County, Children's and Coroners courts. The court system overall will benefit both from enhanced efficiency and improved consistency.

Each of the three amendments are consistent with justice statement 2 initiatives aimed at modernising the court system, and with the government's commitment to judicial independence and to the delivery of a fair, efficient and accessible justice system.

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

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

Section 24(1) of the charter is based on article 14(1) of the International Covenant on Civil and Political Rights. Article 14 guarantees the right to a fair and public hearing in the 'determination … of rights and obligations'. By contrast, section 24 simply refers to the right to a fair and public hearing of 'a civil proceeding' or a 'charge'.

The bill, in making provision for the determination of civil and criminal proceedings in various Victorian courts, engages section 24(1) of the charter.

The bill creates a scheme where the powers and jurisdiction of each court may be delegated to judicial registrars, who may constitute the relevant court for the limited purpose of exercising functions expressly conferred on them under the rules of court, or, in the case of the Supreme Court, by the Supreme Court Act 1986 and the rules of court.

Judicial registrars will be appointed for a period of up to five years by the Governor in Council upon the recommendation of the Attorney-General. This recommendation will be made after the relevant head of jurisdiction (i.e. chief justice, chief judge, president of the Children's Court or the state coroner) makes a recommendation to the Attorney-General. In accordance with the regime used in part 2A of the Magistrates' Court Act 1989, the ability to suspend or remove a judicial registrar is tightly circumscribed.

The provisions for the review of a decision of a judicial registrar have been modelled on the requirements identified in *Harris v. Caladine* (1991) 172 CLR 84, where the High Court considered the extent to which the Family Court of Australia could delegate judicial functions to persons other than judges. The bill provides, subject in the Supreme Court to its rules, for review de novo by a judicial officer of the same court.

In this way, the right to a fair hearing is ensured because the exercise of jurisdiction by a judicial registrar is subject to review or oversight of the judicial officers of the court.

The bill also provides that judicial registrars will have the same protection and immunity in the performance of their duties as judges of the Supreme Court have in the performance of their duties as a judge. This immunity is consistent with the common-law immunity expressed in *Wentworth v. Wentworth* (2000) 52 NSWLR 602 and *Najjar v. Haines* (1991) 25 NSWLR 224. The common law developed this immunity in order to protect the administration of justice and the independence and fairness of the decisions of the court officer.

The bill, in reflecting the common-law immunity, does no more than provide those protections necessary to enable independent decision making by a court officer and, accordingly, does not limit the right to a fair hearing under section 24 of the charter.

Conclusion

I consider that this bill is compatible with the charter because this bill does not limit any human right protected by the charter.

Justin Madden, MP
Minister for Planning

Second reading

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

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

That the bill be now read a second time.

Incorporated speech as follows:

The Courts Legislation Miscellaneous Amendments Bill 2010 contains three sets of amendments in relation to the courts and judicial officers.

Associate judges' pension entitlements

The first amendment amends the County Court Act 1958 to rectify an anomaly in relation to the pension entitlements of an associate judge (formerly master) of the Supreme or County Court who is subsequently appointed a judge of the County Court of Victoria.

This amendment preserves the entitlement of an associate judge who was originally appointed to judicial office before the commencement of the Judicial Remuneration Tribunal Act 1995 (and who is therefore entitled to a pension at age 60, subject to accruing 10 years service), who is subsequently appointed as a judge of the County Court after the commencement of section 18 of the Judicial Remuneration Tribunal Act 1995 on 18 May 1995.

This amendment is consistent with amendments made in 2008 by the Courts Legislation (Juries and Other Matters) Act 2008, which preserved the pension entitlements of County Court judges who are subsequently appointed a judge of the Supreme Court.

Amendments to the Coroners Act 2008

The second amendment is to ensure that, from 1 November 2009, acting coroners are paid the same salary and allowances as a magistrate, in order to maintain the status quo in relation to salary and allowances for fixed-term coroners.

This amendment addresses unintended outcomes of the Coroners Act 2008, namely that coroners appointed under the old act on a short-term basis and reappointed under the new act and acting coroners appointed under the new act will have their allowances diminished with the commencement of their new appointment.

The operation of this amendment will be retrospective and will apply to any appointments of acting coroners that occur on or after 1 November 2009.

Office of judicial registrar

The third amendment amends the Supreme Court Act 1986, the County Court Act 1958, the Children, Youth and Families Act 2005 and the Coroners Act 2008 to create the office of judicial registrar in the Supreme, County, Children's and Coroners courts.

This amendment is consistent with the office of judicial registrar created in the Magistrates Court in 2005 by the Magistrates' Court (Judicial Registrar and Court Rules) Act 2005. That office is operating successfully and has been well integrated and accepted into the operations of the Magistrates Court and is accepted by the legal profession.

The creation of the office of judicial registrar in all of the courts provides an opportunity for the courts to operate more efficiently, as judicial registrars will be able to undertake minor judicial duties that would otherwise fall to judicial officers. Thus, the capacity to appoint judicial registrars provides greater flexibility in making appointments to manage demand in the court system.

Judicial registrars will not be judicial officers, but may be assigned some judicial functions by the heads of jurisdiction and under court rules. For example, the bill provides that the chief justice may assign a judicial registrar to be the registrar of the Court of Appeal and registrar of criminal appeals.

It is also proposed that judicial registrars will be appointed for a period of up to five years by the Governor in Council upon the recommendation of the Attorney-General. This recommendation will be made after the relevant head of jurisdiction — that is, the chief justice, chief judge, president of the Children's Court or the state coroner — makes a recommendation to the Attorney-General. Decisions of judicial registrars will be subject to review or appeal by a judicial officer of the courts by way of a rehearing de novo.

In summary, judicial registrars will be used in the Victorian courts to assist the judiciary in managing its workload in an efficient and cost-effective way, without compromising either the independence or the quality of judicial decision making.

Each of the three sets of amendments is consistent with justice statement 2 initiatives aimed at modernising the court system, and with the government's commitment to judicial independence and to the delivery of a fair, efficient and accessible justice system.

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, 13 May.

HEALTH AND HUMAN SERVICES LEGISLATION AMENDMENT BILL

Introduction and first reading

Received from Assembly.

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

Statement of compatibility

Mr JENNINGS (Minister for Environment and Climate Change) tabled following statement in accordance with Charter of Human Rights and Responsibilities Act:

In accordance with section 28 of the Charter of Human Rights and Responsibilities, I make this statement of compatibility with respect to the Health and Human Services Legislation Amendment Bill 2010.

In my opinion, the Health and Human Services Legislation Amendment Bill 2010, 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 makes various consequential amendments to Victorian legislation following the establishment of a new Department of Human Services and Department of Health.

The bill:

establishes a new body corporate known as the Secretary to the Department of Health (DoH) and abolishes the body corporate known as the Secretary to the Department of Human Services (DHS);

assigns new delegation powers, and powers in relation to intellectual property and land, to the new body corporate;

makes provision for property held by the former body corporate to be vested in the new body corporate;

assigns new delegation powers, and powers in relation to contracting, intellectual property and land to the secretary to DHS; and

makes a number of minor amendments to legislation to appropriately differentiate between the secretary to DoH and the secretary to DHS.

Human rights issues

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

The bill does not engage any rights protected by the charter.

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

As the bill does not engage any rights protected by the charter, it is not necessary to consider reasonable limitations.

Conclusion

I consider that the bill is compatible with the charter as no provisions of this bill engage human rights.

Gavin Jennings, MLC
Minister for Environment, Climate Change
Minister for Innovation

Second reading

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

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

That the bill be now read a second time.

Incorporated speech as follows:

On 12 August 2009 the Victorian Premier announced the creation of a new Department of Health (incorporating health, mental health and drugs, nurse policy and aged care) and a new Department of Human Services (which comprises disability, housing, children, youth and families). In essence, the health-related portfolios within the old Department of Human Services have been moved into a separate department.

As a result of the establishment of the new Department of Health it is necessary to amend section 16 of the Public Health and Wellbeing Act 2008 which creates a body corporate known as the Secretary to the Department of Human Services.

The body corporate was established in 1977 as the successor to the former Health Commission, and, in 1993, when the departments of health and community services were combined to form the Department of Health and Community Services, the role of the body corporate was extended to apply across the whole of the newly created department. This arrangement continued after the creation of the former Department of Human Services in 1996. The body corporate, operating as it did across the entire department, has contracted and holds land for all the portfolios supported by the former department. As a result, a large number of parcels of land are held by the body corporate for health, mental health, disability, child protection and youth justice purposes. The body corporate is also committee of management for a considerable volume of managed Crown land, again for health, disability and youth justice purposes.

With the creation of two separate departments it becomes necessary to separate out the contracting and land-holding powers formerly exercised by the body corporate, and the respective land ownership. Parts 3 and 4 of the bill make provision for the Secretary of the Department of Human Services to deal with property on behalf of the Crown for the purposes of the Disability Act 2006 and the Children, Youth and Families Act 2005 and transfers parcels of land owned or occupied by the existing body corporate for disability, child protection and youth justice purposes to the Secretary of the Department of Human Services.

The amendments to the Children, Youth and Families Act 2005 and to the Disability Act 2006 do not establish new bodies corporate, as the model adopted for the entity known as the director of public transport in amendments made to the Transport Act 1984 enables this to be done without the complexity of an incorporated body. However, in order to avoid unintended consequences in respect of the historical dealings of the body corporate in relation to health portfolio matters, the body corporate has been maintained in the Public Health and Wellbeing Act 2008.

The body corporate established under the Health Act 1958, and continued under the Public Health and Wellbeing Act 2008, has explicit power to acquire, hold and dispose of real and personal property. Consistent with the approach adopted for the director of public transport, explicit provision is now also made for dealing with intellectual property, a form of personal property. Both departments provide significant amounts of funding for the development of research and data where a primary purpose is to enable that research and data to be made available to others. The provisions of the bill have been included for the avoidance of doubt and will assist in clarifying and simplifying the administrative requirements necessary to achieve these goals.

The department's review of the impact of the machinery of government changes has identified a number of references to 'the Secretary to the Department of Human Services' in Victorian legislation administered by other portfolios that need to be amended to clarify whether they refer to functions being performed by the secretary in relation to health or in relation to the human services portfolios. In some cases the references must now be to both the secretaries. These consequential amendments are contained in part 5 of the bill.

I commend the bill to the house.

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

Debate adjourned until Thursday, 13 May.

CHILD EMPLOYMENT AMENDMENT BILL

Introduction and first reading

Received from Assembly.

Read first time for Hon. M. P. PAKULA (Minister for Industrial Relations) on motion of Mr Jennings.

Statement of compatibility

For Hon. M. P. PAKULA (Minister for Industrial Relations) Mr Jennings tabled following statement in accordance with Charter of Human Rights and Responsibilities Act:

In accordance with section 28 of the Charter of Human Rights and Responsibilities, I make this statement of compatibility with respect to the Child Employment Amendment Bill 2010.

In my opinion, the Child Employment Amendment Bill 2010, 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 makes targeted amendments to the Child Employment Act 2003 (the act) to improve the operation of child employment regulation by strengthening protections for children in employment and reducing the administrative burden on business.

The main purpose of the bill is to amend the act to —

(a) amend the definition of employment to ensure the focus of the act is to protect children under the age of 15 years in employment and employment-like activities;

(b) improve the process of applying for and issuing permits;

(c) apply provisions of the Working with Children Act 2005 to the supervision of children in employment; and

(d) make other changes to improve the operation of the act.

Human rights issues

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

Protection of families and children

The bill engages section 17 of the charter which provides that:

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

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

The purpose of the act is to regulate the employment of children under the age of 15 years, to protect such children from harm in employment.

The bill supports and furthers this objective by inserting a specific purpose into the act, of protecting children under the age of 15 years from performing work that could be harmful to their health or safety or their moral or material welfare or development, or their attendance at school or capacity to benefit from instruction. It promotes rights guaranteed by section 17 of the charter.

The bill will make some changes to the operation of the act relevant to the protection of families and children, including the streamlining of permit application processes and adoption of the working-with-children check for supervisors of children.

Key protections provided by the current act will remain in place, including the permit system, restrictions on types and hours of work and ages regulated by the scheme.

The bill is compatible with section 17 of the charter as it provides strong protections for children in employment. The amendments proposed by the bill do not substantively change existing protections in the act, and adoption of the working-with-children check will enhance current protections by improving the systems for ensuring that a person who supervises a child in employment is fit to do so.

The charter defines 'child' as a person under 18 years of age.

The protections afforded by the act, including the amendments contained in this bill apply only to children under the age of 15 years. This is because historically Australian children have commenced workforce participation, either on a full-time or part-time basis, from this age. There are large numbers of 15, 16 and 17-year-old children in the workforce.

It is recognised that children face greater risks to their health, safety and moral welfare at work, due to their physical, mental and emotional immaturity. The act seeks to provide appropriate protections for children in employment, by placing restrictions around the age at which children can work, when they can work and the types of work that can be undertaken, in recognition of children's special vulnerability.

The enhanced regulatory protections applying to the employment of under-15-year-olds, and consequent administrative and compliance burden on business, is not warranted in respect of young workers aged 15 to 17 years.

With their increased physical and mental maturity and experience, persons aged 15 and above are less in need of special protections than younger children. Strong protections are afforded by other workplace relations laws, including the Fair Work Act 2009 (cth) (and instruments made under that act), Occupational Health and Safety Act 2004 (Vic) (the OHS act) and federal and state equal opportunity laws.

Under the OHS act and regulations, employers must provide a safe and healthy workplace for all employees, including young workers, so far as is reasonably practicable. Employers must consider a worker's age as a specific risk factor when identifying hazards and controlling risks in the workplace.

Regulating the 15 to 17-year-old cohort under the permit system would drastically increase costs for business, through

the imposition of a new regulatory burden additional to the statutory protections discussed above. This may then impact upon levels of engagement of such workers and consequently, the personal and developmental benefits that can be derived from working at those ages. For these reasons, it is not considered necessary nor in their best interests to extend the act's coverage to young persons aged 15 to 17 years.

Therefore, although the bill engages section 17 of the charter, it does not limit that right.

The right to property

Section 20 of the charter provides that a person must not be deprived of his or her property other than in accordance with law. There is no definition of property in the charter but it may include statutory rights such as permits. New sections 18 and 18A of the act provide circumstances in which the Secretary of the Department of Innovation, Industry and Regional Development (the secretary) may vary or must cancel a permit.

The variation of conditions or cancellation of a permit will engage but not limit the right to property. Any deprivation resulting from a variation or cancellation will be neither unlawful nor arbitrary because the act creates a transparent permit system which sets out a clear legislative basis for the determination of permit applications and the imposition of conditions. Permit-holders know that they participate voluntarily in a scheme in which their permits can be subject to variation of conditions or cancellation. Further, a permit holder affected by a decision of the secretary can seek judicial review of the decision.

Accordingly, I consider that the bill engages but does not limit the right to property.

The right to a fair hearing

The bill raises the issue of the right to a fair hearing provided for in section 24 of the charter. New sections 18 and 18A of the act provide circumstances in which the secretary may vary or must cancel a permit, consistent with the current exercise of an existing power. The amendments are directed to making any exercise of the power more transparent. They do not confer new or stronger powers on the secretary; rather, the bill clarifies when such powers may be exercised.

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

The decision of *Kracke v. Mental Health Board* [2009] VCAT 646 (Kracke) clarified the meaning of 'civil proceedings' in section 24. Justice Bell held that the expression should be construed broadly and that it covers administrative proceedings that are determinative of private rights and interests. However, his Honour noted that the entire decision-making process in question, including the right to judicial review, must be considered to determine whether the right to a fair hearing in section 24(1) has been limited.

The bill clarifies circumstances in which the secretary will have an obligation to cancel, or the power to vary, a permit. The cancellation or variation of an employment permit is 'determinative of an individual's private rights'. However, as Justice Bell explained in Kracke the context in which a decision is made is important. Some decisions may affect fundamental rights; others, such as planning decisions or decisions about a permit made pursuant to this act, are executive, policy decisions, which may not be subject to the same rigorous review.

The act is based on a child employment permit system, whereby a permit must be obtained for a particular employment of a particular child, prior to the employment commencing. In my view, section 24 is not limited because employers who obtain permits engage voluntarily in a strictly regulated sphere of activity. New sections 18 and 18A amend the act to make the exercise of existing powers to vary or cancel a permit more transparent. Under new section 18, the secretary may vary or cancel a permit, and in certain clearly specified circumstances the secretary must cancel an employment permit. Under new section 18A the secretary may only vary a permit if satisfied that the health, safety, education and moral and material welfare of the child will not suffer from the variation. Importantly, a decision to cancel or vary a permit will continue to be subject to judicial review. The process set out in the act, together with the right of judicial review, when considered in its entirety satisfies the requirements of the charter and does not limit the right to a fair hearing.

Right to privacy

Section 13 of the charter provides that a person has the right not to have his or her privacy unlawfully or arbitrarily interfered with. The right to privacy in section 13(a) is only limited if an interference with privacy, family, home or correspondence is 'unlawful' or 'arbitrary'.

'Unlawful' means that no interference with privacy can take place except if the law permits it. The United Nations Human Rights Committee has said that a law which authorises any interference with privacy must be precise and circumscribed. In order to avoid being characterised as 'arbitrary' any interference must be in accordance with the provisions, aims and objectives of the charter and should be reasonable and justifiable in the particular circumstances. Protecting the community from harm is a key principle underpinning the charter.

The bill engages the right to privacy of several classes of persons. For example:

clause 9 (new section 8) will require an employer to obtain the consent of a child's parent or guardian to a proposed employment;

clause 19 (new section 19) will require persons who will supervise a child under the age of 15 in employment to disclose personal information to the Department of Justice, their employers, and potentially to parents of employed children and to child employment officers, through the requirement to obtain a working-with-children check assessment notice and to disclose the number of that assessment notice to such persons in certain limited circumstances;

clause 11 (new section 13) will require persons who employ a child who require a permit for that employment, and any representatives of those persons, to disclose their names and contact details on the permit application form;

clause 11 will also require persons who are parents or guardians of children who work to provide their name and contact details to a potential employer of their child and/or the Department of Innovation, Industry and Regional Development.

The transitional provision contained in new section 55 also engages the right to privacy of persons who will supervise a child under the age of 15 in employment and who rely on a police check obtained under the old system, in order to ensure that these people have a legitimate right to rely on this transitional measure.

Requirements akin to those which engage the right to privacy in the bill already exist in the act. These requirements are essential to the proper functioning of a parental consent-based permit system of child employment.

It is considered that given the important protections these safeguards provide to working children, privacy is not arbitrarily or unlawfully interfered with by these requirements of the bill. The bill does not limit the right to privacy because the requirements are limited to the specific circumstances where this information is necessary to ensure that children are only employed in appropriate employment, with parental consent and supervised by an appropriate person. The objective of protecting vulnerable child workers in employment is consistent with the charter.

The right to privacy is engaged but not limited by the bill because privacy is not unlawfully or arbitrarily interfered with.

Recognition and equality before the law

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

The bill engages the right to recognition and equality before the law because it provides for different treatment of persons in the same or similar circumstances based on their age. The bill, in concert with the act, provides that children under the age of 15 years can only engage in work in limited circumstances where that employment is authorised by a permit. The act also prohibits some types of employment and regulates the circumstances in which children under the age of 15 years may be employed. This is necessary to ensure that children are prevented from undertaking work that is or is likely to be harmful to their health, safety, moral or material welfare or development, or prejudicial to their attendance at school or their capacity to benefit from instruction. Accordingly, while these provisions limit the right to recognition and equality before the law as protected by section 8 of the charter, the limitation is reasonable and justifiable, as discussed in section 2 of this statement.

Furthermore, insofar as the bill seeks to protect vulnerable child workers from exploitation, it promotes the human rights concern of recognition and equality before the law as it takes steps to promote the safety of children in employment. As noted above, it also promotes rights guaranteed by section 17 of the charter, through its strong protections for children under 15 years of age.

Self-incrimination

Proposed new subsection 43(1)(c) will authorise child employment officers to interview a broader range of people than currently authorised under the act. The current power hampers the effective conduct of investigations as it is restricted to 'employees' and does not allow the questioning of others who may possess relevant information. This new power is necessary for the effective conduct of investigations.

Proposed new section 44 will also be broadened to provide that child employment officers can by written notice request employers to provide any information that a child employment officer requires, or any document in an employer's custody or control.

While amended section 47 of the act will make it an offence to fail to comply with a notice under section 43 or section 44 of the act in respect of providing information, an accused person will be able to invoke a reasonable excuse defence, and the right against self-incrimination contained in section 48 will constitute a reasonable excuse.

Accordingly, the powers in sections 43 and 44 are subject to the right against self-incrimination contained in section 48 of the act. Subsection 48(1) protects the right against self-incrimination but it is subject to the exception in subsection 48(2). This subsection provides protection against self-incrimination except in respect of a record or other document that the person is required to keep by the act or the regulations, if the production of the record or other document would tend to incriminate the person. This provision would apply where someone is being checked for compliance with the regulatory regime. Subsection 48(2) captures documents required to be produced pursuant to subsections 43(1)(d) and 44(1)(b). Subsection 48(2) only applies in relation to pre-existing documents and it does not abrogate the privilege against self-incrimination in relation to the giving of oral testimony pursuant to subsection 43(1)(c). The bill does not change existing subsections 48(1) or 48(2) of the act.

Proposed new subsections 48(3) and 48(4) will require that a child employment officer must inform a person of his or her right against self-incrimination, before directing a person to produce a document or answer questions under amended section 43, and on any notice issued under section 44. This enhances the right protected by section 24 of the charter.

Sections 43 and 44 together with subsection 48(2) limit the right not to have to incriminate oneself, as protected by sections 25(2)(k) and 24(1) of the charter. Proposed new subsections 48(3) and 48(4) will ensure that people are aware of the rights under subsections 48(1) and 48(2). I am of the view that the limitation imposed by section 48 of the act is reasonable under section 7(2) of the charter for the reasons discussed in section 2 of this statement.

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

To the extent that the right to recognition and equality before the law and the right not to incriminate oneself are limited, I consider that the limitations are reasonable, in accordance with section 7(2) of the charter. I provide the following reasons for this view.

Recognition and equality before the law

(a) the nature of the right being limited

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

(b) the importance of the purpose of the limitation

The limitation on the right to equal treatment before the law serves a significant public interest purpose; namely, protecting children in the workplace. This is achieved by regulating the employment of children under the age of 15 years.

Child labour and work is the subject of international law and it is recognised that children are particularly vulnerable to exploitation and harm in the workplace. The regulation of child work imposed by the act and the bill confers protections on child workers in order to prevent such exploitation and harm.

(c) the nature and extent of the limitation

Consistent with the act, the bill proposes to limit the right by placing restrictions on the employment activities of under-15-year-old children.

As described above, there are historical and policy reasons for regulating children under the age of 15 years, including that historically Australian children have commenced workforce participation, either on a full-time or part-time basis, from this age; and that regulating the 15 to 17-year-old cohort under the act's permit system is not warranted given the comparative physical and mental maturity and experience of such workers, the existence of other legislative protections to mitigate risks to such workers in the workplace and potential negative impacts on business of extending the scheme's coverage.

(d) the relationship between the limitation and its purpose

There is a direct relationship between the limitation and the objective of protecting child workers from harm.

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

There are no less restrictive means available to achieve the purpose of protecting child workers.

The purpose of the act is to regulate the employment of children under the age of 15 years, to protect those children from performing work that could be harmful to their health or safety or their moral or material welfare or development or the attendance at school of those children or their capacity to benefit from instruction.

The act does this through the establishment of a child employment permit system, and the imposition of legislative safeguards.

For the reasons outlined in the 'Protection of families and children' section, a higher level of regulation is warranted in respect of children aged under 15 years when compared to older children, in order to protect them from harm in employment.

Accordingly, I consider that the bill is compatible with the right to recognition and equality before the law in the charter.

Self-incrimination

New sections 43 and 44 of the act together with subsection 48(2) limit the right not to have to incriminate oneself, as protected by sections 25(2)(k) and 24(1) of the charter. The right against self-incrimination was discussed at length in the statement of compatibility made in relation to the Accident Compensation Amendment Bill 2009. Based on similar considerations, I am of the view that the limitation imposed by section 48 of the act is reasonable under section 7(2) of the charter for the following reasons.

(a) The nature of the rights being limited

In *Re Application under the Major Crime (Investigative Powers) Act 2004* [2009] VSC 381 (Major Crime), Chief Justice Warren said that the right not to be compelled to incriminate oneself as protected by sections 25(2)(k) and 24(1) of the charter is at least as broad as the common law privilege against self-incrimination. It protects against the use of material that was obtained from a person either prior to or after the charge was laid.

The right in section 25(2)(k) of the charter is a right not to 'testify against oneself', the core idea being that a person should not be forced to incriminate him or herself. For that reason, a search of and seizure of a person's records is not generally considered to breach the privilege against self-incrimination as the person is not being compelled into articulating or producing what is expressed in the records.

The right protects against the compelled production of documents. However, in my view, the protection accorded to the compelled production of pre-existing documents is considerably weaker than the protection accorded to oral testimony or to documents that are brought into existence to comply with a request for information. That view is consistent with the decision of the High Court of Australia in *Environment Protection Authority v. Caltex Refining Co Pty Ltd* (1993) 178 CLR 477:

> It is one thing to protect a person from testifying to guilt; it is quite another thing to protect a person from the production of documents already in existence which constitute evidence of guilt, especially documents which are in the nature of real evidence … Plainly enough the case for protecting a person from compulsion to make an admission of guilt is much stronger than the case for protecting a person from compulsion to produce books or documents which are in the nature of real evidence of guilt and are not testimonial in character: per Mason CJ and Toohey J at page 502. See also per Deane, Dawson and Gaudron JJ at page 527 and per McHugh J at page 555.

A number of the purposes that underlie the privilege against self-incrimination are not implicated or are less implicated by the compelled production of documents that already exist or of real evidence, in particular, the concern about oppressive conduct or psychological pressure being brought to bear in the creation of the evidence, and the related concern about the reliability of the evidence.

(b) The importance of the purpose of the limitation

The primary purpose of the abrogation of the privilege against self-incrimination in subsection 48(2) is to ensure that child employment officers have adequate powers to inquire into

and monitor compliance with the statutory obligations imposed on those who employ children.

The primary purpose of the exception to immunity in subsection 48(2) is to facilitate the prosecution of those who commit offences under the act in circumstances where the information would be required to be provided in any event.

Both of these are important purposes that advance the underlying objective of children's safety in employment.

(c) The nature and extent of the limitation

The situation in which immunity does not apply relates to pre-existing documents and real evidence. As already explained, the protection accorded to such documents is considerably weaker than the protection accorded to oral testimony or to documents that are brought into existence to comply with a request for information.

Furthermore, the exception relates only to documents that a person is specifically required to keep under the act or its regulations. The result is that only people participating in the employment of children under the age of 15 years can be compelled to produce items either that they are obliged to create and maintain, or that are related to and arise from their involvement in that activity.

(d) The relationship between the limitation and its purpose

The limit on the right against self-incrimination is directly related to its purpose as described above.

(e) Less restrictive means reasonably available to achieve the purpose

There are no less restrictive means reasonably available to achieve the purpose of the limitation. The ability to enforce the act would be curtailed if evidence from documents that people participating in the employment of children are legally required to keep, or which relate directly to child employment, could not be used in criminal proceedings relating to breaches of statutory requirements.

Accordingly, I consider that the bill is compatible with the right not to incriminate oneself in the charter.

Conclusion

I consider that the bill is compatible with the Charter of Human Rights and Responsibilities because although the bill engages the right to protection of families, to a fair hearing and to privacy, it does not limit these rights, and insofar as the bill limits the right to recognition and equality before the law and the right not to testify against oneself, these limitations are reasonable, justifiable and in the public interest.

Martin Pakula,
Minister for Industrial Relations

Second reading

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

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

That the bill be now read a second time.

Incorporated speech as follows:

It has been a long-term priority of the Victorian government to protect children from exploitation in the workforce, whilst supporting opportunities for children to benefit from employment.

The Child Employment Act 2003 (the act) came into operation in June 2004. The act modernised and enhanced existing legislative protections for Victorian children under 15 years of age in employment. It has now been in operation for over six years and has played a vital role in protecting Victoria's children from harm in the workplace.

Many children under the age of 15 work. Statistics indicate that approximately 6 per cent of Victorian children between 5 and 14 years of age participate in work in any year, and this work is not limited to babysitting and paper rounds. The growth in part-time and casual work in the retail and service sectors has meant that children are being employed in a wider range of jobs than ever before.

Employment presents specific risks to children. Over the past six years, the act has provided a sound framework to support positive and safe working experiences of children in Victoria, together with occupational health and safety laws.

Since the act became law, we have gained valuable experience about how the system works in practice and how it can be improved. There have also been a number of changes to child-related regulation, both within Victoria and interstate.

Against this background, the Victorian government commissioned a departmental review of the effectiveness of Victoria's child employment laws.

A range of stakeholders were consulted as part of this review on ways the current scheme could be improved. The review found that there were opportunities to increase protections for children, while reducing red tape for business, by retaining the permit system established by the act and making some changes to its operation.

Significant developments are also occurring at the federal level with respect to the regulation of child employment in Australia. The goal of national consistency was raised by a number of stakeholders throughout the review, and I have listened to these concerns. In 2009 I placed the issue of child employment regulation on the Workplace Relations Ministers Council agenda, and discussions on this matter are continuing with Victoria's active participation.

Given these developments, making wholesale changes to the Victorian child employment scheme at this time could potentially expose stakeholders to a succession of significant reforms, bringing disorder and increasing costs for all users of the system. Accordingly, significant reforms are not proposed.

The bill does not alter the fundamentals of the current system, including the permit system, ages regulated by the scheme and restrictions on types and hours of work.

Against this framework, the Child Employment Amendment Bill proposes targeted amendments to the scheme to improve its operation without causing disruption or unnecessary costs to stakeholders.

Purpose of the bill

The purpose of the Child Employment Amendment Bill is to improve the current permit system, by both strengthening protections for children in employment and at the same time reducing red tape for business and simplifying the current administration of the scheme. This will be achieved by:

improving the existing child employment permit processes and introducing additional flexibilities for permit processes for the entertainment industry;

refining key definitions in the act to better target children in employment and employment-like situations and remove anomalies in the act's application;

replacing current police check requirements for employers and supervisors with a working-with-children check for supervisors only; and

strengthening compliance powers of child employment officers.

The permit system

The permit system is the basis of regulation of child employment in Victoria. The bill will improve the current permit system and will create special permit application arrangements for entertainment industry employers (such as for TV productions and advertising catalogues), who are high-volume users of the scheme.

As currently applies, permits are free of charge. Employers will now be responsible for applying for a permit, as it has become apparent that employers generally do the work of collecting the relevant information and are best placed to do so.

Employers will benefit from a number of changes to the permit system, including:

improved sign-off processes, including schools only being required to sign off on employments that will occur during school hours;

employers in entertainment will be able to secure parental and school permission for the employment of the child independently from the permit process;

employers will no longer need to nominate supervisors on the permit application, but will instead be required to ensure any supervisor holds a working-with-children check assessment notice;

permits for employment occurring outside of school hours will now run for up to 24 months;

multiple children employed by the same employer at the same time will be able to be covered by one permit in the entertainment industry; and

child employment officers will be able to vary employment particulars on permits where this is deemed appropriate, which will increase flexibility for all parties.

These improvements will not compromise protections for children and will be of significant benefit to Victorian employers.

Definition of employment

The bill amends the definition of employment. This is intended to focus coverage of the act on employment and employment-like activities. The current definition has created some concern and confusion among stakeholders in certain circumstances. Accordingly it is proposed to focus the definition by clarifying that the act applies to all engagements of children as common-law employees or independent contractors, whether by for-profit or not-for-profit entities.

The act will continue to cover a child who is engaged under any other arrangement to work for a business carried on for profit, whether or not the child is paid. This is considered necessary in view of the risk of harm to children in such situations; for example, working long or late hours on school nights.

Circumstances where a child might work without pay arise frequently in the entertainment industry. Given the highly competitive nature of that industry, children are more likely to work without pay for the experience and/or public exposure or with the hope of securing future paid employment.

Relevant considerations will be inserted into the act to assist in the understanding and application of this aspect of the definition of 'employment', such as the intention of the parties. This will ensure the administration of the act is focused on true employment-like situations — for example:

the act may not apply when a child is merely singing in a public end-of-year concert with a for-profit choir;

the act may apply when a child is singing with a for-profit choir for the filming of a television commercial.

The proposed changes will mean that the act will generally no longer apply to situations such as where a child is singing with a non-profit community choir, and a for-profit entity only indirectly benefits from the child's services in singing with the community choir.

The proposed bill will specify clear exclusions from the definition of 'employment', to reflect and build upon longstanding arrangements. For example, the act will not capture participating in a religious program where the proceeds are directed back to the church.

Working-with-children checks

Working-with-children checks will replace police checks under the bill. Employers will have to ensure that anyone supervising a child holds a current assessment notice under the Working with Children Act 2005, unless they are exempt.

Working-with-children check assessment notices have the following advantages over child employment police checks:

they are automatically updated on a weekly basis and do not require manual updating by statutory declaration, as police checks currently do;

they last for five years and can be obtained well in advance of when they are required;

they are wider in scope, as they include prescribed professional disciplinary body findings;

The working-with-children unit in the Department of Justice has state-of-the-art software and systems in place designed to deal exclusively with the system and their staff are fully dedicated to administering the working-with-children checks;

approximately 17 per cent of Victoria's labour force already has one.

Some defences and exemptions in the Working with Children Act will be modified for the child employment context, to maintain current probity checking standards and to recognise the different situations that commonly arise in the child employment context, compared to other child-related work.

Protections for children will be significantly improved by the efficiencies of the working-with-children check system, while businesses will benefit from administrative efficiencies.

Offences and penalties

The act currently provides a range of offences with appropriate penalties. The maximum penalties for offences under the act range from $1168.20 for more minor offences to $11 682 for serious offences committed by a body corporate.

The bill proposes to increase the penalty for an employer who employs a child without a permit. This is currently set at $1168.20 for non-bodies corporate and $5841 for bodies corporate, which is lower than other substantive offences in the act.

The requirement to obtain a permit has proved to be critical to the protection of our children, as if no permit is obtained for a child's employment, there is no scrutiny of that employment by parents, schools and the government. In order to provide an appropriate deterrent for failing to secure a permit, the bill increases the penalty for an employer who employs a child without a permit to the standard penalties for bodies corporate ($11 682) and others ($7009.20).

The bill also proposes the introduction of some body corporate-level penalties for existing offences, to reflect the fact that bodies corporate may also commit offences under the act; and also introduces some new offences to support the powers and functions of child employment officers.

Information and compliance

Community consultation revealed some lack of community awareness of the nature of child employment laws in Victoria, and concerns about the perceived lack of strength of compliance powers.

Child employment officers are responsible for educating the community about the laws, and are also responsible for ensuring compliance with the legislation. To this end, the bill improves the capacity of the government to administer the scheme by simplifying, clarifying and strengthening existing compliance powers. This will include a new 'last resort' directions power for child employment officers, to respond to an immediate and serious threat to a child's health, safety, moral or material welfare in employment.

Summary

The Child Employment Amendment Bill is an important step in ensuring our child employment regulation remains current and keeps abreast of developments in this area. These changes will ensure the continuing protection of children from exploitation in the workforce, whilst supporting opportunities for children to benefit from employment. At the same time, it will reduce red tape for business and facilitate greater compliance with the scheme.

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, 13 May.

EDUCATION AND TRAINING REFORM AMENDMENT BILL

Committee

Resumed from 13 April; further discussion of clause 41 and Ms Pennicuik's amendments:

11. Clause 41, page 30, line 26, omit "no" and insert "a".

12. Clause 41, page 30, lines 27 to 30, omit ", but that the teacher may seek leave of the panel before the hearing to have legal representation".

13. Clause 41, page 31, line 15, omit "no" and insert "a".

14. Clause 41, page 31, lines 16 to 19, omit ", but the teacher may seek leave of the panel before the hearing to have legal representation".

The DEPUTY PRESIDENT — Order! The committee has been asked to consider the Education and Training Reform Amendment Bill, a bill for an act to amend the Education and Training Reform Act 2006 and for other purposes. Progress was reported on clause 41 after Ms Pennicuik had moved her amendments 11 to 14, and I understand that subsequently there was further discussion. We will resume on clause 41.

Mr HALL (Eastern Victoria) — I am happy to get the ball rolling on this committee discussion. It is my recollection that, as you rightly said, Chair, we were in the process of debating Ms Pennicuik's amendment 11, which tested amendments 11 to 14. The amendments sought to enable a teacher appearing before a medical panel to have legal representation. So it was that there was some discussion between me and the minister as to the merits of that particular proposal, and the minister invited me to look at the Health Professions Registration Act of 2005 as an example of where a similar sort of structure and medical panel was set up

and where similar conditions applied relating to legal representation before a medical panel constituted under the Health Professions Registration Act of 2005.

I did that, and I noted that health panels constituted under the Health Professions Registration Act, as provided for in section 3 of schedule 2 of that act on page 194, are composed of three people — one being a lawyer, one a medical practitioner and the other a health practitioner. So it is a similar sort of composition to that proposed for medical panels in the bill we are talking about today.

More importantly, though, and related to this, I refer the committee to section 69 of the Health Professions Registration Act of 2005 at pages 81 and 82, which states in subsection (1) under the heading 'Conduct of a panel hearing' that:

> (c) a health panel may grant leave to a health practitioner or student to have legal representation at a hearing of the health panel …

More importantly, for the sake of this argument, the next paragraph of subsection (1) says:

> (d) a health panel must grant leave if the panel is of the opinion that there is a reasonable likelihood that the student's or practitioner's registration may be suspended…

That means that if there is a possibility of registration being suspended, the person appearing before the medical panel has an as-of-right right to have legal representation before the panel.

Given those particular provisions under the Health Professions Registration Act, and indeed for the sake of having some sort of consistency between this and the Education and Training Reform Act relating to the appearance of teachers before a medical panel, it is the considered view of the coalition parties that we should support the amendment moved by Ms Pennicuik because, as I say, it will provide greater consistency on a very similar matter between these two acts.

Ms PENNICUIK (Southern Metropolitan) — I would like to take the opportunity to thank the coalition for its support and for the research it has done into the provision that I am trying to insert into the bill — that is, the right of a teacher who appears before a medical panel to have legal representation, because by definition if a teacher is appearing before a medical panel under the Victorian Institute of Teaching, then their registration can possibly be revoked. So it is a very similar situation. As I said, I appreciate the support of the coalition in this matter.

Mr LENDERS (Treasurer) — The government's position has not changed, for exactly the same reasons I gave in the committee when the house last considered this issue. I do say that while the government does not support this, for the record I thank Mr Hall for having agreed to have a further look at the issue. I do not agree with his reasons, but I understand where they are coming from. The government's position has not changed, but in a process sense I think the committee has done well in giving attention to this in a way that has allowed us to have a more informed debate.

The DEPUTY PRESIDENT — Order! As I understand it, Ms Pennicuik formally moved amendments 11 to 14 on the previous occasion when the bill was in committee stage. Those amendments are what we are to test now. We have had some contributions in respect of different parties' positions on those amendments. The question that I will put, as they are all related amendments, is that Ms Pennicuik's amendments 11 to 14 be agreed to.

Amendments agreed to; amended clause agreed to.

Clauses 42 to 51

The DEPUTY PRESIDENT — Order! Clauses 42 to 51 were — —

Ms PENNICUIK (Southern Metropolitan) — I think my amendment 15 goes to clause 41.

The DEPUTY PRESIDENT — Order! But that was already tested by amendment 1, so unless there are any further remarks in respect of clauses 42 to 51, I will put them together.

Clauses agreed to.

Clause 52

The DEPUTY PRESIDENT — Order! Ms Pennicuik has amendment 18, which I also consider is a test for her amendments 19 and 20. The amendments relate to applications to the Victorian Civil and Administrative Tribunal when registration of permission to teach has ceased or where a person has been convicted or found guilty of a sexual offence. I believe amendment 18 has not been tested by any previous amendments. I invite Ms Pennicuik to formally move amendment 18 and make any remarks in support of that amendment.

Ms PENNICUIK (Southern Metropolitan) — I move:

> 18. Clause 52, page 37, after line 5 insert —

"( ) Section 2.6.55(3) of the Principal Act is **repealed**.".

This amendment provides for the insertion of a new clause to follow clause 25 of the principal act. That would enable a person who has had their registration or permission to teach revoked to appeal to Victorian Civil and Administrative Tribunal (VCAT) if the reason for that was that the person had been convicted or found guilty of a sexual offence in Victoria or elsewhere before the person became a registered teacher or was granted permission to teach.

The amendment would enable a person to whom this section applies to apply to VCAT for an order reinstating the registration as a teacher or permission to teach, and that VCAT may, after hearing an application under this section, direct the institute to reinstate the person's registration as a teacher or the person's permission to teach, or refuse to direct the institute to reinstate the person's registration as a teacher or the person's permission to teach.

In making an order under an application under this subsection, VCAT would have to have regard to the following factors: the age of the applicant and the victim at the time the offence was committed; the gravity and circumstances of the offence; the impact of the offence on the victim; the decision of the court in relation to the offence; the period of time that has elapsed since the commission of the offence; the conduct and behaviour of the applicant since the commission of the offence; the risk of the applicant committing any further offence; the likelihood of parents, students and the community ceasing to have confidence in the applicant being able to or to have and maintain professional student-teacher relationships.

The institute must comply with an order made by VCAT under subsection (3)(a) despite anything to the contrary, and nothing in this section would limit the power of the institute under this part.

In the second-reading debate and in our earlier discussions in the committee where I moved an amendment to put a similar clause in the bill — that the Victorian Institute of Teaching would take these things into account — we had quite a long discussion of the reasons behind this. The reasons for doing so were to prevent teachers who have been convicted of minor sexual offences in the past and who pose no risk to anyone from being refused permission to teach. Many speakers mentioned during the second-reading and committee stages the case of the Orbost teacher, which I will not go over again, but certainly the review of the Victorian Institute of Teaching recommended this change be made to the act, as has the Australian Education Union and the Victorian Independent Education Union.

It would be a just provision to add to the bill to make sure that people do not suffer an injustice and, more to the point, that people who would be assets to the teaching profession but who have been charged with a minor sexual offence in the past would still be able to teach. It would also mean that those persons would not be lumped together with persons who are in fact a danger to the community and have been convicted of serious sexual offences. They are the people we do not want in the teaching profession, but we certainly do not want to keep people out of the teaching profession who would be good teachers and who pose no threat at all to anybody. They are the reasons I moved the amendment. I commend it to the committee.

Mr HALL (Eastern Victoria) — Having not supported amendments 1 and 2 relating to this matter, it would be inconsistent of the coalition to support these further amendments where similar provisions are attempted to be made available for the Victorian Civil and Administrative Tribunal to consider an appeal against a suspension of a registration to teach. Therefore, the coalition will not be supporting these further amendments. That is despite the comments I made earlier in this committee debate that I have some sympathy for the position and the reason these amendments have been put forward.

I have to say that I have some strong personal views about this matter, and to some extent those personal views are influenced by my personal knowledge of the case concerning an Orbost teacher that has been mentioned previously in debate and also my background in the teaching profession. However, as I said earlier in this committee debate, and these comments still stand, the people I represent overall would want me to remain consistent and not to support these particular amendments. So it is that the coalition has come to the belief that the majority of people in Victoria would not want us to support this amendment.

Ms PENNICUIK (Southern Metropolitan) — I hear what Mr Hall is saying, but I do not necessarily agree that it would be inconsistent to not support the first amendment, which was that the Victorian Institute of Teaching take these matters into consideration, and then to support this amendment, which gives a person the right to appeal to the Victorian Civil and Administrative Tribunal against the judgement made against them. If it is left as it is now, such a person will have no right of appeal and that is not fair or just.

Committee divided on amendment:

Ayes, 4

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

Noes, 36

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

Amendment negatived.

Clause agreed to; clauses 53 to 63 agreed to.

The DEPUTY PRESIDENT — Order! Because Ms Pennicuik's amendment 18 was lost, I do not propose to pursue amendments 19 and 20, which would have added extra clauses to the bill. In my view they have already been tested. That therefore concludes the committee's consideration of the bill.

Reported to house with amendments.

Report adopted.

Third reading

Motion agreed to.

Read third time.

JUSTICE LEGISLATION AMENDMENT (VICTIMS OF CRIME ASSISTANCE AND OTHER MATTERS) BILL

Second reading

Debate resumed from 15 April; motion of Mr LENDERS (Treasurer).

Mr RICH-PHILLIPS (South Eastern Metropolitan) — I am pleased to make a few remarks on the Justice Legislation Amendment (Victims of Crime Assistance and Other Matters) Bill. Like the earlier justice bill, this bill is something of an omnibus bill. It makes amendments to the Victims of Crime Assistance Act 1996, the Sentencing Act 1991, the Children, Youth and Families Act 2005, the Family Violence Protection Act 2008, Stalking Intervention Orders Act 2008, the Infringements Act 2006, the Liquor Control Reform Act 1998 and the Summary Offences Act 1966.

The main purpose of the bill is that it provides that victims or their representatives may read aloud their victim impact statements in court. They may include and display non-written material, such as photographs. The bill provides that the court will be able to permit a representative nominated by the victim to read the victim impact statement on their behalf, rather than the victim themself having to go through the distress of doing it personally. In a similar vein it will allow a court to apply the vulnerable witness protection arrangements which currently exist within the various court jurisdictions, such as closed-circuit TV or similar arrangements, for victims to deliver their impact statement without having to be front and centre with the accused in a court setting.

The bill allows the Chief Magistrate to delegate his powers with respect to the Victims of Crime Assistance Tribunal to a judicial registrar for the practical operation of that body. The bill provides for a category of reasonable safety-related expenses to be paid to victims, including on an interim basis. It makes changes in relation to family violence protection and stalking intervention, including extending police search powers to include seizure, to allow children to be the subject of interim orders on the court's initiative, to provide for interim orders to extend final orders and to allow the court to make interim orders based on the information in a police family violence safety notice.

The bill requires a court to consider whether to refuse to admit or limit the use of a family violence safety notice to consider whether it is reasonably practical to obtain oral or affidavit evidence.

The bill provides for an extension of the time limit for commencing a summary offence proceeding in the Children's Court. This is a matter that the Parliament dealt with previously when that time limit was reduced from 12 to 6 months. The time limit will apply in various cases where an infringement notice has been served on a juvenile and registered on the children and young persons infringement notice system.

The bill increases the infringement penalty amount from 2 to 4 penalty units under the Liquor Control Reform Act 1998 for being drunk, violent, quarrelsome

or for refusing or failing to leave licensed premises when requested to do so. The bill allows a banning notice under the Liquor Control Reform Act 1998 to be issued for up to 72 hours instead of the existing period of 24 hours. The bill also increases the maximum penalties for various drunkenness offences under the Summary Offences Act 1966; the penalty for drunkenness has increased from 4 to 8 penalty units, and for being drunk and disorderly and for disorderly conduct the penalty has increased from 5 to 10 penalty units. The infringement penalty amount for these offences and for behaving in a riotous, indecent, offensive or insulting manner has been increased from 2 to 4 penalty units.

This is something of an omnibus bill because it covers a range of matters. The Liberal-Nationals coalition has resolved they will not oppose this legislation. We are concerned about a couple of matters. The first relates to the change in the time period in which a summary offence proceeding can be brought before the Children's Court. This concern is not so much about the change being proposed in this bill as it is about a vindication of the position that the coalition took when the legislation was changed last year to reduce that period from 12 to 6 months. The fact that that decision is being reversed, at least with respect to some proceedings, is a vindication of the position we took that 6 months was an insufficient period of time in which to bring summary offences proceedings forward and that the existing 12-month time frame was more appropriate.

The government is now seeking to extend that time frame back to 12 months for certain offences, as indicated in the bill, and this suggests that the position we took was appropriate. It will be interesting to see whether the government intends to reverse that decision to limit the time frame to 6 months with respect to other proceedings as well.

Comments were made by the government and Victoria Police when the coalition parties announced a policy of a two-year ban on violent drunks re-entering licensed premises. The position was put by the government, which was supported by Victoria Police, that that would be hard to enforce. The provision in this bill which requires police to enforce bans and prevent drunks from going into any part of a prescribed area, rather than just a licensed premises, for a period of 72 hours would presumably impose similar enforcement difficulties for Victoria Police. Basically this bill is seeking to impose a more complex enforcement framework for Victoria Police than the coalition parties' proposal of a two-year ban on violent drunks entering licensed premises. Frankly by bringing this legislation forward the government is effectively reversing its previous opposition to the coalition's policy, because if it is possible for Victoria Police to enforce the exclusion that will be created by this legislation in respect of prescribed areas, it would certainly be possible to enforce the coalition's proposal to exclude drunks from licensed premises. It seems from this legislation that the government is acknowledging there is no flaw regarding enforcement in the coalition's policy.

One area in which we have concerns relates to the way in which providing for representatives to read victim impact statements is going to work. We agree it is potentially a step forward to take the stress off the victim, from having to deliver the victim impact statements themselves. In the same vein the capacity to use the vulnerable witness protection arrangements to equally deliver a victim impact statement may be useful and a step forward for those victims of crime who wish to present evidence as to the impact of the crime on them. However, it remains to be seen how that is going to work in a practical sense and whether it is taken up as a viable option by victims of crime.

Another matter on which we have expressed concern relates to the growing waiting list with respect to the Victims of Crime Assistance Tribunal (VOCAT). As we see a rise in the rate of crime in the community, which is a matter the Liberals-National coalition has run strongly on, there is no doubt the Victorian community is increasingly concerned about the violent crime it is experiencing and seeing, and which is being reported. It would seem that VOCAT, as a body to assist victims of crime, is failing to keep up with the ever-growing list of victims of serious crime seeking assistance and compensation through the VOCAT mechanism. Many of the institutions the Attorney-General is ultimately responsible for, including the judiciary with its ever-growing caseload, is simply not keeping up with the demands placed on them.

The other matter we are yet to see a strong response from the government on is the growing crime rate. In the budget this week was a response which was an attempt to come close to the Liberal-Nationals commitment on police numbers and protective service officers on railway stations. From the government point of view, the reality is this is too little, too late. The government has had 11 years to address the growing crime rate in the community; to address concerns held about the growing crime rate in the community; and to address the issue of community concern about the effectiveness of sentences coming through the judicial process.

We hear on an ever-increasing basis about the revolving door in the justice system, and that continues to be of concern to the Victorian community. Not only do we have a rise in the crime rate but also too many people who are found to have committed serious offences are receiving nothing more than a slap on the wrist and are then let back on the streets. That is of increasing concern to the Victorian community.

As I said, this bill covers a very broad range of matters and, like the earlier Justice Legislation Amendment Bill, it borders on an omnibus bill, which was heavily criticised by the Attorney-General when he was in opposition. While noting our criticisms of the legislation, the Liberal-Nationals coalition will not be opposing this bill.

Ms PENNICUIK (Southern Metropolitan) — The Justice Legislation Amendment (Victims of Crime Assistance and Other Matters) Bill is the second justice omnibus bill the house has debated this afternoon. It amends nine acts, but the major provisions centre on amendments to the Children, Youth and Families Act and the Sentencing Act with regard to victim impact statements.

The bill amends the Children, Youth and Families Act 2005 to broaden the definition of 'victim', so that a victim in relation to an offence means:

> … a person who, or body that, has suffered an injury, loss or damage, (including grief, distress, trauma or other significant adverse effect) as a direct result of the offence, whether or not that injury, loss or damage was reasonably foreseeable by the child found guilty of the offence …

That definition uses the last phrase 'foreseeable by the child' because it is referring to child offenders under the Children, Youth and Families Act. The definition is in line with the current definition in the sentencing legislation. Section 358(f) of the Children, Youth and Families Act provides that a court may take a victim impact statement into account in sentencing where the court has found a child guilty of an offence. The change of the definition ensures that a broader range of people may have their say during sentencing, and this may impact the sentence given.

There are some concerns about the role of victim impact statements in sentencing generally and perhaps even more so in the sentencing of children. We need to take care of victims, but we also need to balance that with a fair justice system. That is always an issue with respect to the effectiveness of victim impact statements in assisting victims but also in ensuring that the justice system remains fair in terms of offenders, in particular in rehabilitation and more particularly rehabilitation of child offenders.

Clause 4 of the bill provides that victim impact statements may now include:

> … photographs, drawings, poems and other material that relates to the impact of the offence on the victim or to any injury, loss or damage suffered by the victim as a result of the offence.

It also provides that the statement may be read aloud by the victim or by the prosecutor; previously only the prosecutor could read the statement.

Under clause 5 the court can direct the way a victim's impact statement is made when being read aloud by a victim or another person. This can be done remotely, similar to arrangements that are made for witnesses in sexual offence cases. Clause 6 provides that once new provisions come into effect, they will apply to all sentencing hearings.

The amendments to the Sentencing Act mirror the amendments to the Children, Youth and Families Act that I just described and which determine how victim impact statements can be made.

Another amendment is to the Victims of Crime Assistance Act, to:

> … enable the Chief Magistrate to delegate powers of the Victims of Crime Assistance Tribunal to judicial registrars, and provide for a category of reasonable safety-related expenses —

which would be awarded to the victim by the tribunal.

Mr Rich-Phillips talked about compensation by the tribunal, and he talked in this place earlier about other bills. Not only do victims need the ability to make victim impact statements but they also need access to reasonable expenses and to compensation.

These amendments appear to arise from the recommendations in a report of the Victim Support Agency, entitled *A Victim's Voice — Victim Impact Statements in Victoria*, which was launched in October last year and which highlighted the restorative value for some victims in being able to include non-written material, such as pictures, with their victim impact statements and to read out their own statement in court.

We need to support victims, but it is not necessarily always the case that victims want to avail themselves of these provisions or that they would necessarily find them useful in being able to recover from an offence committed against them.

The other main changes or amendments made by this bill are in clause 49, which increases the maximum period of operation of banning notices in designated areas from 24 hours to 72 hours. Banning notices were first introduced in 2007 under the Liquor Control Reform Amendment Act 2007. During debate on that bill my colleague Ms Hartland had much to say, including:

> On the subject of banning notices and exclusion orders, while the government has indicated that the first exclusion areas will be King and Queen streets in Melbourne and Chapel Street in Prahran, we believe the measure has a far wider implication. While it is not stated, where will the next areas be?

There have been some next areas, but the question we did not ask then was: 'How much longer will banning notices be extended to?'. We now have before us a provision for banning notices to be extended from 24 to 72 hours. The Scrutiny of Acts and Regulations Committee outlined this particular provision of the bill as a major problem. SARC said:

> First, a 72-hour ban may extend well beyond the aftermath of a drunken evening and impinge on legitimate weekday activities. While existing section 148B(6) prevents a full banning notice from being issued to a person who lives or works in the designated area, such a notice may still be issued to a person who needs to travel through that area to get to work, attend school or for other legitimate purposes. As current designated areas include the entire Melbourne CBD (including the city loop train stations and all CBD tramlines) and the centres of some towns … the committee considers that clause 49 engages the charter's right to freedom of movement …

It also said:

> The committee is concerned that the use of 72-hour banning notices to deter people who are repeatedly suspected of offences in a designated area may amount to punishment of suspected criminal behaviour by police officers without a charge, trial or appeal and therefore may engage the charter's rights with respect to criminal punishment, including a fair hearing by an independent tribunal, the presumption of innocence and the right to appeal to a court …

As far as I know, and a government speaker may wish to go to this issue, we have no data to support the expansion of this power. We do not know how banning notices have been used because the government has not issued any information. The statement of compatibility merely states that:

> The extension of the maximum duration for which a banning notice may be made, to 72 hours, is reasonable and appropriate as there have been a number of people to whom the police have had to give a banning notice on multiple occasions. Police have used the banning notice system effectively since its inception …

That is a mere assertion. I say again that statements of compatibility, particularly those out of the Attorney-General's office, are full of mere assertions, with no backup evidence — for example, there is no evidence supporting increasing the time of banning notices threefold from 24 hours to 72 hours. Even a 24-hour banning notice is an infringement of people's rights of movement, and we should not be infringing people's rights of movement without very good reason. I have not seen any good reason for this. How do we know the police have used the banning notice system effectively? What evidence has been put forward? I am sure that the community legal centres that deal with homeless, indigenous, immigrant and other disadvantaged groups will have an entirely different story to tell on this point.

When this power was first brought in my colleague Colleen Hartland moved an amendment to trigger a review of this power after a certain length of time. Mr Kavanagh supported Ms Hartland in that amendment. Unfortunately the amendment was not agreed to. That is unfortunate because we are standing here three years later with no review and no evidence, just the government's assertion that the police have used the power well and we need to extend it from 24 to 72 hours. We do not believe that is the case. No evidence has been put forward.

Colleen Hartland moved other amendments at that time which were not supported, including that the Chief Commissioner of Police's annual report should include statistics on homeless people and other disadvantaged groups. We would then have had substantial data to ensure an effective and truthful review, which would provide some mechanism to ensure that banning orders are not used discriminatorily. Now we do not know. All we have now is a bill popping up with a clause to extend the banning notices.

The other substantive part of the bill with which the Greens have some grave concerns is clauses 50 to 53. Clause 50 increases penalties for being drunk in a public place under section 13 of the Summary Offences Act. The Summary Offences and Control of Weapons Acts Amendment Bill was debated here just six months ago; it introduced a penalty for being drunk in a public place. Prior to that bill's passage a person found drunk in a public place may have been arrested, placed in safe custody and could have incurred a fine of 1 penalty unit, which is equal to $116.82. The initial amendment to the summary offences bill six months ago created an offence carrying 4 penalty units, equal to $467.28, which is enforceable through a mere infringement notice — that is, with no arrest or placement in safe

custody. This was a huge hike in penalty units, and it provided a 'streamlined' method of enforcement.

The amendment in this bill provides for a further increase to 8 penalty units, equal to $934.56, for the offence of being drunk in a public place. In the space of six months the penalty has increased eightfold, and now there will be no requirement to keep the person in safe custody. This legislation is from a government that not so long ago was saying it was going to repeal the offences of being drunk in a public place and being drunk and disorderly, for all the reasons that that should be done, as we understand. However, with no evidence, no reason and no rationale, and in the space of six months, we have gone from a person being arrested, placed in safe custody and fined 1 penalty unit to their being fined 8 penalty units, no safe custody, no arrest and just a summary infringement.

I wonder if there has been a huge leap in the revenue raised from this system. This increase is truly incredible for a mere regulatory offence. How does this link in with the general attitude to homelessness and recent articles we have seen in the papers about the government's commitment to homeless people? This will further criminalise vulnerable people.

One penalty unit is in itself a significant fine for vulnerable people, and you would think that together with a night in safe custody or in the lockup it would be a significant deterrent. These laws are completely unrelated to violence, although they are purported to be related.

Clause 51 amends section 14 of the Summary Offences Act to increase the penalty for being drunk and disorderly. This too was amended by the Summary Offences and Control of Weapons Acts Amendment Bill six months ago. Prior to that bill, 1 penalty unit or three days in prison applied for a first offence of being drunk and disorderly. For a second or further offence, 5 penalty units or a month in prison applied. The amendment in the summary offences bill six months ago increased the first offence penalty to 5 units and left the penalty for a second or further offence as it was. This bill increases each to 10 penalty units for first and second offences; the alternative three days or a month in prison still applies.

At the time of the passage of the Summary Offences and Control of Weapons Acts Amendment Bill last year the justification for the creation of the infringement regime was that:

> The amendments form part of a specific package of reforms aimed at addressing the problems of violence, the carrying and use of weapons and public disorder, at least some of which is alcohol related. There are strong and justifiable public interest grounds for enabling drunk and drunk and disorderly offences to be enforceable by means of infringement notices.

We do not agree with any of that. We did not support the hiking of the penalties at the time, and we are totally horrified by what is being put forward in this bill.

Clause 52 amends section 17A of the Summary Offences Act to increase the penalty for disorderly conduct in a public place. The Summary Offences and Control of Weapons Acts Amendment Bill created this offence. Through our research into that legislation last year we found that disorderly conduct does not have a settled legal definition and has not been adequately judicially considered. It is quite capable, because of its wide construction and hence application, of unnecessarily capturing the behaviour of people who are not a threat to themselves or any other person. In a rare case on the subject Justice Napier said:

> I have no doubt that these words, 'disorderly behaviour', refer to any substantial breach of decorum which tends to disturb the peace or to interfere with the comfort of other people who may be in, or in the vicinity of, the street or public place.

The term 'disorderly conduct', therefore, clearly does not have anything to do with the objectives of this legislation in regard to weapons and drunken violence.

Clause 53 of the bill amends section 60AB of the Summary Offences Act so that the offence of behaving in a riotous, indecent, offensive or insulting manner now carries 4 penalty units rather than 2 penalty units. I call for the bill to be considered in the committee stage so that I can further explore clauses 49 to 53.

I will conclude by quoting Mr Gerard Vaughan, a former member for Clayton in the Legislative Assembly, who said many years ago that the answer does not lie in increasing the lengths of sentences for perpetrators of crime, increasing police powers or adopting a more draconian approach. He said these powers do not lead to a solution; the solution requires the creation of a more just society and a multifaceted approach to problems.

I will be asking the government to justify its rationale for these increases in summary offence fines and infringement notice fines outlined in this bill for which no justification has been put forth. It should be remembered that the imposition of these huge fines will not involve the arrest and safe custody of persons. When police are issuing an infringement notice, particularly for the offence of disorderly conduct, which is insufficiently defined in the legislation, it will be up

to the individual police officer to decide who is and who is not engaging in disorderly conduct.

Although the Greens will not oppose the bill, we will seek to remove those clauses from it.

Ms MIKAKOS (Northern Metropolitan) — I am pleased to have an opportunity to speak in support of this bill which builds on the Brumby Labor government's ongoing commitment to supporting and protecting victims of crime and acknowledging the pain and suffering they experience.

Members may well recall that under the Kennett Liberal government, members opposite legislated to abolish pain and suffering compensation for all victims of crime. Victims were left to seek compensation directly from the offenders. Needless to say, this showed a complete lack of support for the victims and for all those affected by any act of violence.

In contrast, the Brumby Labor government believes that all governments have a responsibility, on behalf of the community, to acknowledge the pain and suffering of victims. I am proud to say it was a Labor government that reinstated pain and suffering compensation funding in 2000, and in 2007 increased payments to victims by 30 per cent. This has resulted in $108 million to date being awarded for pain and suffering compensation.

As well as pain and suffering compensation, victims of violent crime can receive up to $60 000 in compensation for counselling, lost wages, medical and other expenses. To date, over $300 million has been awarded to victims of crime, with a record $50 million to be awarded this financial year.

This bill makes a number of small but critical amendments to several acts relating to Victoria's criminal justice system. In particular it seeks to give effect to three main changes that will improve the overall effectiveness of the Victims of Crime Assistance Tribunal (VOCAT), strengthen the processes that support victims of crime and make minor procedural improvements to the family violence protection scheme.

Firstly, in relation to victim impact statements, the bill seeks to make a number of amendments to the Sentencing Act 1991 and the Children, Youth and Families Act 2005 to clarify a victim's right to read their victim impact statement aloud in court. A victim's right to make a victim impact statement is already an established part of the Victorian legal process and has been enshrined in Victorian legislation since 2006 in the Victims' Charter Act. Engaging victims in the justice system by recognising the importance of them being able to tell, in their own words, the story of how they have been affected by crime is vital to a victim's sense of justice.

These amendments arise from the legislative recommendations of the Victims Support Agency report entitled *A Victim's Voice — Victim Impact Statements in Victoria*, which was handed down in October last year. The report highlights the highly therapeutic and restorative value of a victim impact statement in adversarial proceedings in communicating not only between the victim and the court but also between the victim and the offender. I believe these amendments recognise the importance of engaging victims in the justice system by ensuring that victims are given a voice in the sentencing process, and research shows that in many cases going through this process aids in the victim's recovery.

The court will also have the discretion to allow alternative arrangements to be made for victims and witnesses who are reading statements or giving evidence in relation to the statements. Victims will have the opportunity to use non-written material such as photographs or recordings as part of their statements if they so choose. They may also request a limit on the number of people present in the courtroom or even read their statement via closed-circuit television. If they wish, they may have a representative read their statement on their behalf. However, the bill makes it clear that in such cases the victim's representative would need to be available during the sentencing hearing in order to avoid any unnecessary delays because of a possible adjournment of the hearing.

The bill affords protections against any potentially prejudicial effect of inadmissible content inadvertently being read in a victim impact statement, so there are protections and safeguards in relation to these new measures. As a further safeguard, the power to cross-examine a victim on their victim impact statement remains, which I believe strikes an important balance between the right to a fair trial and a victim's right to have input into the sentencing process.

I turn now to the Victims of Crime Assistance Tribunal procedural changes. There are amendments in the bill that address operational issues, particularly in relation to delegations and safety-related expense awards by VOCAT. The Victims of Crime Assistance Act will be amended to provide for a specific award category for safety-related expenses to help victims cope with the fear of further crime and revictimisation for certain types of violent crime. Examples of safety-related expenses may include the changing of locks or window repairs. Currently victims can only apply for urgent

safety or security-related expenses in exceptional circumstances, which can be a difficult test to meet.

VOCAT awards financial assistance to victims under particular categories, and these amendments will enable victims to apply for this type of financial assistance. To assist a victim in their recovery VOCAT will also be able to award interim financial assistance for expenses directly arising from the alleged act of violence. Victims will be able to access urgent assistance at an interim stage when this is most needed.

I will quickly address the family violence and stalking intervention order changes. The Brumby Labor government has made substantial progress in family violence reform and continues to build on this critical work through a 10-year family violence reform strategy. The Family Violence Protection Act has been in operation for just over one year, and this bill seeks to make a number of technical amendments to it and the Stalking Intervention Orders Act, which I will touch upon briefly.

The overall aim is to improve the system of intervention orders for victims of family violence and stalking. The substantive amendments to the Family Violence Protection Act include clarifying existing police search powers to include appropriate seizure powers, allowing the court to include a child as a 'protected person' on an interim intervention order on its own initiative and enabling the court to base interim orders on Family Violence safety notices, which are certified by police officers.

Further provisions provide that the Children's Court may order an assessment of a respondent or affected family member, with the consent of that person, for joint hearings of stalking intervention orders and family violence intervention orders where appropriate and applications for warrants to search premises, including vehicles that are on those premises. The changes to the Stalking Intervention Orders Act will mirror the changes in relation to warrants to search premises and vehicles and will ensure that these two pieces of legislation are procedurally aligned.

In relation to children's infringement matters, currently the aim is to resolve most child infringement matters going before the Children's Court within a six-month period. This is important to ensure that young people see the immediate consequences of their actions. However, in some circumstances resolution in the six-month time period may not be possible and it may be desirable for young people to be encouraged to have a matter mediated. The Children, Youth and Families Act 2005 currently precludes a matter being proceeded with outside of the six-month time limit. The bill will amend this to enable proceedings to be commenced within a further six-month extension period.

Finally, in relation to the Summary Offences Act and Liquor Control Reform Act amendments the bill will increase the maximum penalties and infringement penalty amounts for the offences of being drunk in a public place, being drunk and disorderly in a public place and behaving in a disorderly manner. It will also increase the penalty amount for the offence of behaving in a riotous, indecent, offensive or insulting manner.

As a member of Parliament who represents many inner suburban areas, including the CBD, I support any measures that aim to reduce alcohol-fuelled violence and crime. I know that many of my constituents are very concerned about these issues. The increase in penalty amounts is an appropriate response. I also note that the number of infringement notices issued by Victoria Police since the commencement of these new powers on 16 December last year will ensure that the police can make an appropriate response. It is important that those sorts of behaviours in public are not tolerated and that the police are armed with the appropriate means to respond to them. I commend the bill to the house.

Mr VINEY (Eastern Victoria) — I merely seek to advise the house that I have an indirect interest in the legislation, in that my wife runs a small legal practice specialising in crimes compensation, and obviously a reasonable part of that work involves the victims of crime assistance program. Other than that, I intend to make no contribution to debate on the bill.

Motion agreed to.

Read second time.

Committed.

Committee

The DEPUTY PRESIDENT — Order! I understand the purpose of the committee is to allow at least one member to ask some questions about the legislation; no amendments have been proposed.

Clauses 1 to 48 agreed to.

Clause 49

Ms PENNICUIK (Southern Metropolitan) — Clause 49 seeks to extend the period of operation of banning notices from 24 hours to 72 hours. My question for the minister is: on what evidence is the

government proposing to extend the number of hours, given the significant infringement it has on a person's right of movement?

Hon. J. M. MADDEN (Minister for Planning) — Deputy President, Mr Tee has been involved quite closely with some of these discussions, and I am happy for him to make some initial technical responses to queries from Ms Pennicuik.

Mr TEE (Eastern Metropolitan) — The banning provisions have been working very well. They are a great way of pre-empting individuals who might be drunk and disorderly and who are likely to commit a crime and removing them from an area. The evidence has been from police, who have indicated they are a very effective tool, but they have indicated there is a difficulty in that sometimes an individual who is banned for 24 hours at, say, 11.00 p.m. on a Friday, may be back 24 hours later, at 11.00 p.m. on a Saturday. The concern has been to try to exclude individuals for a period of up to 72 hours — it does not have to be 72 hours — to get them over the hump of, say, a weekend.

The evidence has been that the banning notice has proved to be a very effective tool for diffusing a dangerous situation. It has been a very effective tool to ensure the safety of those people who are out to have a good time and who may then run into an individual who has been banned. For those reasons, the government has introduced this amendment to the original provision.

Ms PENNICUIK (Southern Metropolitan) — I am sorry; I did not quite hear the end of what Mr Tee was saying. I did hear him say at the start that somebody may come back into an area after they have been banned for 24 hours, and that is the reason for extending the ban to 72 hours. However, that does impinge on that person's right and it presupposes that the person coming back into the area has come back in bad faith, whereas they may be coming back to enjoy themselves and behave properly. We remain concerned that this is an extensive length of time to be banning someone.

Mr TEE (Eastern Metropolitan) — It is an important provision. It is working and it is making our streets safer. There are a number of important safeguards in place. It is a maximum period of 72 hours. It could be limited to a particular venue, area or street. There is a lot of flexibility as far as its application. There is a capacity for it to be reviewed so that if the individual does sober up the next morning and realises that there are certain constraints they would like to have reconsidered, there are review mechanisms in place through the police to try to activate that. It does get the balance right. It is about getting individuals off the streets before they commit further crimes. It is about making sure that those who are out there to have a good time are not affected by people who are behaving badly, but it has that balance in place.

Ms PENNICUIK (Southern Metropolitan) — In our research we were not able to find any publicly available evidence that it is working well. Is that evidence publicly available, or will it be?

Mr TEE (Eastern Metropolitan) — Again, there are two aspects to this. As I indicated, the evidence has been given to us by police who have found it to be a useful tool. In terms of the use of banning orders more generally, there are reporting mechanisms under the Liquor Control Reform Act.

Committee divided on clause:

Ayes, 36

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

Noes, 4

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

Clause agreed to.

The DEPUTY PRESIDENT — Order! I ask if Ms Pennicuik wishes to discuss the next group in a block of clauses. Does she intend to vote against those clauses as well by calling for a division?

Ms Pennicuik — No.

The DEPUTY PRESIDENT — Order! Is the minister happy for me to deal with them as a block of clauses?

Hon. J. M. Madden — Yes.

The DEPUTY PRESIDENT — Order! I understand the opposition is happy with that as well. Ms Pennicuik wants to discuss clauses 50 to 53. In an effort to expedite the committee's proceedings I will allow members to discuss those clauses together. I understand the questioning that Ms Pennicuik has in respect of those clauses is related at any rate.

Clauses 50 to 53

Ms PENNICUIK (Southern Metropolitan) — Under clause 50 the bill increases the penalty for drunkenness from 4 penalty units to 8 penalty units. The penalty had already been doubled six months ago.

Under clause 51 the penalty for being found drunk and disorderly will double from 5 penalty units to 10 penalty units. The penalty for disorderly conduct, which I mentioned in my second-reading speech, is a poorly defined or understood term in terms of the Australian law in particular and could range from annoying people to more serious behaviour. The penalty units will double, going from 5 to 10 penalty units. Infringement penalties for being drunk and disorderly will be increased under clause 53.

The Greens opposed the introduction, in the Summary Offences and Control of Weapons Acts Amendment Bill 2009, of this infringement regime for being drunk and disorderly, persons found drunk, being drunk in a public place and disorderly conduct. Now we are back here, six months later, in effect doubling the penalties for those offences.

The government's rationale is that this is somehow going to make the streets safer and provide protection from alcohol-fuelled violence. There is no evidence for that, and the worst part about the changes to these provisions is that previously there was a need to arrest people and put them into safe custody and that has been lost in these new provisions. Putting people into safe custody is far and away the best thing to do if one is trying to prevent harm, firstly, to the person who is drunk or intoxicated, and secondly, to any other persons with whom they may come into contact, but that has been completely lost under this regime.

We are moving to a punitive approach and a regime of fines up around the $1000 mark for persons found drunk, which will not achieve anything. Even a fine of 2 penalty units is a significant fine for most people. A fine of $1000 for being drunk, which one would have to say could affect anybody in this place, except a person who is a teetotaller, and they might find themselves in this position when walking down the street on the way home from a restaurant.

Mr O'Donohue interjected.

Ms PENNICUIK — Once upon a time, Mr O'Donohue, yes. These provisions are completely out of line and are just a law and order approach to this important social issue, but this is not the way that a progressive government should be dealing with these issues.

Mr TEE (Eastern Metropolitan) — By way of response, the provisions in relation to taking people to a safe place are still in the statute; they have not been taken out. They will still be part of the legislation and in fact have been extended to include being drunk and disorderly. There has been an expansion of the requirement for individuals to be taken to a safe place.

More generally, there is community concern about drunk and disorderly behaviour on our streets, and that concern is something that the bill seeks to address. It seeks to address it by making our streets safer, and the way we do that is by making sure that we have got infringement provisions that have got an appropriate level of penalty so that they send a signal to the individual that that behaviour will not be tolerated.

Hopefully that ensures the individual stops their behaviour, moves on, goes home and sleeps it off, rather than staying, potentially committing further offences and potentially harming others when they are drunk and disorderly. It delivers a sharp message that the individual needs to go home. They have received a penalty. It is a strong penalty; it ought to be a strong penalty. It is a strong message, but it is an important issue because we know that people in that situation can continue to behave badly in a way that harms other people, physically and otherwise.

Ms PENNICUIK (Southern Metropolitan) — I put it to Mr Tee that the original position prior to the passing of the Summary Offences and Control of Weapons Acts Amendment Bill last year, when people were faced with a 1 penalty unit fine, was achieving that aim. The problems that are being reported in the press about drunk and disorderly behaviour, alcohol-fuelled violence et cetera, if they exist to the extent that they are reported — I think the perception of the incidence of these problems is higher than the reality — are not caused by people not receiving a $1000 fine and going home. They are caused by a whole lot of other things, which were addressed in a big parliamentary inquiry into this issue, as Mr Barber mentioned.

Many of the recommendations from that inquiry regarding the clustering of venues, opening hours

et cetera have not been taken up. I am no wowser — I like to go out and have a drink as much as anyone else — but we need to look at the way the whole regime is handled in terms of licensing, clustering and what goes on in some venues. Aiming measures at the victim by increasing fines to $1000 will just turn people into fine defaulters. If Mr Tee is telling me the reason for doing this is that a deterrent needs to be $1000 rather than $100, I do not believe it and I do not accept it.

Mr KAVANAGH (Western Victoria) — In my opinion we should try to retain what freedoms we can. We are supposed to be living in a free society, and people are free not to be orderly if they choose. Of course people should not be allowed to be violent, destructive of property, threatening or anything like that, but in a free society people are entitled to decide for themselves how to behave, provided they are not harming other people, and that includes the freedom to drink alcohol or be inebriated.

In my experience what Ms Pennicuik said was quite correct: if we are going to make something illegal and make the behaviour we are prohibiting somewhat undefinable, then the least we can do is make the penalties quite mild. I do not think the fact that perhaps someone has drunk a bit too much and is singing a song that some policeman does not like is justification enough for fining them $1000. The provision is probably excessive, and we would be better off without it.

The DEPUTY PRESIDENT — Order! I invite Mr Kavanagh and Mr Rich-Phillips to look at each of the clauses — 50, 51, 52 and 53 — so they can assure me that they are prepared to vote the same way on each of those clauses. In other words, I have indicated earlier that I am prepared to put them en bloc, but that presupposes that members would be inclined to vote the same way on every one of these four clauses. The Greens have indicated that they are prepared to vote the same way on all four clauses, and I presume from the minister's assurances that the government is prepared to vote the same way on each of them; I just need to understand the position of the opposition and Mr Kavanagh.

Mr RICH-PHILLIPS (South Eastern Metropolitan) — Chair, I can confirm to the committee that the coalition parties are not opposing this legislation. Accordingly, we will support the retention of those four clauses in the bill.

Mr TEE (Eastern Metropolitan) — I will briefly respond to the points that Mr Kavanagh and Ms Pennicuik made in terms of the quantum of the penalty. I think there may be some common ground. Mr Kavanagh is concerned that the police can issue an individual with an infringement notice of $1000 and that that is excessive. That is not the case. The provision provides for an infringement notice of $500. What the provision does, though, is provide that if that infringement is tested and goes to the courts, then the courts have a further discretion and they can impose for a penalty of up to $1000. So the $500 —

Mr Barber — Double or nothing.

Mr TEE — Exactly. The point about the infringement notice is that it is not the end of the matter. An individual is entitled, as we all are, to get the independent umpire to make a decision in relation to that. But the independent umpire has a discretion. I am sure Mr Barber would not have a problem with the independent umpire being able to make an assessment. But the view is that in those circumstances, when all the matters are taken into account, there is some greater discretion for the courts. The on-the-spot fine is $500.

Mr BARBER (Northern Metropolitan) — Chair, it is Mr Tee who ought to take his own advice and go home and think about it for a bit and sleep it off. The Drugs and Crime Prevention Committee of this Parliament, before the Greens were in this place, undertook a comprehensive study on the harmful effects of alcohol. The report takes up a lot of space on my shelf. Its key finding was that public drunkenness should be decriminalised in the state of Victoria after a network of sobering-up centres had been set up as an alternative to putting these people in jail cells.

At some time — I do not know when; I would love to know — the Labor and Liberal parties threw a U-turn and are now going the other way, with no particular end in sight. I presume that committee did a pretty thorough job. I presume it gathered a lot of evidence. But when we asked Mr Tee about evidence here tonight, he did not provide evidence; he substituted for it what he called 'community concern'.

I am sure the community is concerned, but that does not mean it is going on this particular rampage that the Labor and Liberal parties are going on here.

Mr TEE (Eastern Metropolitan) — I do not think for a moment that this is the answer to all of the ills out there. This is a particular remedy to address a particular concern. In terms of the broader issues that Mr Barber raised, yes indeed, there are other actions that could and should be taken.

Ms PENNICUIK (Southern Metropolitan) — I cannot let Mr Tee have the last word. I think Mr Barber said it: decriminalisation of public drunkenness is what should be happening, not hiking up the fines.

The DEPUTY PRESIDENT — Order! Is everybody satisfied that Ms Pennicuik has had the last word? Is Mr Kavanagh happy if I put the clauses en bloc, or would he prefer to vote separately on the clauses?

Mr KAVANAGH (Western Victoria) — I am happy if you put them en bloc.

The DEPUTY PRESIDENT — Order! I have the same assurance from all parties now, so I will follow that procedure. There being no further discussion, my proposition to the committee is that clauses 50 to 53 stand part of the bill.

Committee divided on clauses:

Ayes, 35

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

Noes, 4

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

Clauses agreed to.

Clause 54 agreed to.

Reported to house without amendment.

Report adopted.

Third reading

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

That the bill be now read a third time.

I thank members of the chamber for their contributions.

Motion agreed to.

Read third time.

BUSINESS OF THE HOUSE

Adjournment

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

That the Council, at its rising, adjourn until Tuesday, 25 May.

Motion agreed to.

ADJOURNMENT

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

That the house do now adjourn.

Housing: tenancy

Ms LOVELL (Northern Victoria) — The matter I wish to raise is for the attention of the Minister for Housing. It relates to increasing concerns about public housing tenants vacating their properties and subletting them to other tenants without permission. My request of the minister is that he urgently investigate whether home visits are being conducted and that he conduct a thorough audit of properties to ensure subletting is not rife and that those on Victoria's public housing waiting list are not being disadvantaged and forced to wait longer due to properties being sublet.

This issue has been raised with me by a number of public housing tenants who are concerned about what they perceive as an abhorrent abuse of Victorian taxpayer-funded housing. I have been told that some tenants who have purchased their own home, or they have moved into a private rental property, another public housing property or even overseas, are subletting their public housing properties at a rate higher than the rent they are paying to the Office of Housing.

Concerns about this issue were raised with the government as early as November 2006 as part of the Carlton Community Infrastructure Plan Report, which is on the Office of Housing's website. The report states:

> There is frustration over people holding flats on the housing estates but living overseas and others subletting their flat.

More recently the concerns that have been raised with me are about permanent subletting due to the official tenants leaving a public housing property but not

relinquishing the lease and instead subletting to others at a higher rate of rental than the official tenant is required to pay the Office of Housing. Whilst I acknowledge that the accusations that have been put to me by tenants are only hearsay, it is concerning that this has been a recurring theme in recent months.

Any illegal tenancy should be picked up through the home visit program. Unfortunately in July 2006 this government pushed home visits out to only triennial visits. However, tenants have advised that they do not believe home visits are being carried out even within this time frame. A former housing officer has also expressed concern to me about the home visit program, alleging that some housing officers may be recording an accidental meeting with a tenant in the supermarket or a tenant visiting the local Office of Housing office as a home visit with that tenant. The Office of Housing should be doing regular home visits of these properties, particularly those they suspect are being sublet, to ensure tenants are not unlawfully subletting their properties.

The *Herald Sun* of Tuesday, 4 May, carried an opinion piece by radio announcer Steve Price, who raised the issue of tenants in one of the high-rise towers subletting their car parks to city workers and to weekend clubbers for a profit. He also questioned whether anyone from the Office of Housing ever visited the apartments to check on who lived there.

My request of the minister is for him to urgently investigate whether home visits are being conducted. I ask the minister to conduct a thorough audit of properties to ensure that subletting is not rife and that those on Victoria's public housing waiting list are not being disadvantaged and forced to wait longer due to properties being sublet.

Remar Australia: funding

Mr KAVANAGH (Western Victoria) — My adjournment matter is for the Minister for Mental Health and relates to a matter that has been brought up in this house before by Mr Guy. It relates to Remar, which is a facility that has been set up to help people in their quest to get over their addiction to addictive drugs. I have met with representatives of Remar recently, and it is quite apparent that they do a wonderful job for many people.

I was quite moved to hear of one young man from Geelong, which is in my electorate, who had begun an apprenticeship and almost finished it when his drug habit consumed him. He ended up getting into trouble with the law and actually being incarcerated. When he was released he went to Remar, which helped him. At the end of about 18 months of treatment he went back and finished his apprenticeship, and he is now a working and productive member of society again.

The action that I seek from the minister is to help Remar obtain facilities and resources that would help people in such need, perhaps in the form of grants if there are any available. Any advice or other help that can be given by the minister to Remar would have a significant and very beneficial effect on the state of mental health in Victoria.

Hospitals: government performance

Mr O'DONOHUE (Eastern Victoria) — I raise a matter this evening for the attention of the Minister for Health. It concerns the state of hospitals in Eastern Victoria Region. The latest *Your Hospitals* report was recently released, and moreover a number of different health annual reports have also been released. They show a very disturbing situation. It should be said that the health-care professionals do a fantastic job, and the comments that I am about to make are not a reflection on the health-care professionals who work in our hospitals and do such a great job, but more on the government, its funding of them and its management of the health-care system.

I was disturbed to learn that in the year to 30 June 2009, 65 people at Peninsula Health were forced to wait longer than 24 hours before being seen in the emergency department. I was also concerned to learn that in the year ended 30 June 2009, 125 people at West Gippsland Hospital were forced to wait longer than 24 hours, and that in the year 30 June 2009, 70 people at the Latrobe Regional Health Service were forced to wait longer than 24 hours before being admitted in the emergency department.

Moreover, the *Your Hospitals* report shows some concerning failures. The government is failing to meet its own benchmarks. Latrobe Hospital, for example, failed to meet two of the eight benchmarks as of December 2009 and Casey Hospital failed to meet six of the eight benchmarks as at December 2009.

There are also some concerning statistics. For example, as at December 2009, at Casey Hospital 1629 patients were on elective surgery waiting lists; 30 per cent of category 2 emergency department patients were not seen within 10 minutes; 45 per cent of category 3 emergency department patients were not seen within 30 minutes; 23 per cent of patients waited more than 8 hours in the emergency department before being transferred to a hospital bed; and 23 per cent of

non-admitted patients waited longer than 4 hours in the emergency department before being treated.

We have some serious problems with the state of our hospitals and, notwithstanding the agreement that was reached with the federal government, I do not have confidence that the current proposals will fix this problem. Whilst some capital works funding was committed in this budget, the hospitals I have just mentioned sadly have missed out, by and large.

The action I seek is that the minister take action to ensure that the government meets its own benchmarks so that confidence can be restored in our public hospital system and, most importantly, ensure patients receive the timely health care they deserve.

Hospitals: government performance

Mrs PEULICH (South Eastern Metropolitan) — I wish to also raise some matters in relation to the state of health services across South Eastern Metropolitan Region with the Minister for Health.

Notwithstanding the fact that the Victorian health system is at the top of the pile because of the reforms undertaken under the Kennett regime — during which I was a member of Parliament — in introducing the health networks and also the activity-based funding, which the government, including the current Premier, campaigned vigorously against, it clearly shows that our health system is in a slightly better state than many other states around Australia. Nonetheless, as was shown by Mr O'Donohue earlier has shown, there is a systemic failure to meet the government's own benchmarks. He mentioned the failures of six of the eight benchmarks that have been demonstrated in the latest *Your Hospitals* report in the city of Casey.

I noted also that the member for Narre Warren South in the Assembly, who had the misfortune of being ill with breast cancer, also indicated that the reason she did not relocate from Mount Martha was because of the absence of services that she needed in order to look after her health.

This clearly applies to the very many people who are on elective surgery waiting lists or who spend far too much time in emergency departments and those who do not get a bed; I think a total of 1629 patients were on the waiting list. That similarly demonstrates that these people have access to a level of health service that is beneath their needs. It clearly needs to be addressed as a matter of priority, because there is nothing more important than the health of our community.

Similarly at Frankston Hospital, as has been mentioned, four of the nine benchmarks have not been met and in excess of 1845 patients were still on the elective surgery waiting list between July and December 2009. There is a range of other areas in which those benchmarks are not being met. The Monash Medical Centre has also failed to meet six of the nine benchmarks, with 2026 patients on the waiting list. That is obviously far too many.

I commend the Leader of the Opposition on his recent announcement that he would set aside money from the gaming machines for a health fund. Obviously we need to do something dramatic. This government has exhausted the ideas which we introduced over a decade ago and has done nothing to improve the current state of the health system. I call on the Minister for Health to look at introducing yet another Liberal Party policy to take us into the next generation of better health services for our community, especially those in the south-east.

Environment: landfill levy

Mr KOCH (Western Victoria) — My issue is for the Minister for the Environment and Climate Change and relates to the state government using local councils as revenue collection agencies in the guise of an environmental initiative. Recently the Brumby government announced that rural Victorians will be slugged with a 290 per cent increase in landfill taxes over the next five years. During the first year the increase will be more than 100 per cent. This sort of increase is unaffordable and unsustainable. The burden on regional municipalities will be passed on to ratepayers through higher fees for residential garbage collection and landfill gate fees.

This is another tax on regional Victorian freehold title holders that will not be spent in the area where it is raised. The state government is using municipal councils as revenue collectors without directing funds back to councils to assist them with waste management and the promotion of recycling in their municipalities. Tax increases of this magnitude are not about improving the environment or better utilising shrinking landfill opportunities; they are about raising general revenue. No arrangements have been made to establish regional landfills or to assist established ones to meet Environment Protection Authority guidelines.

It is estimated that in 2010–11, the first financial year of these tax adjustments, ratepayers in the City of Greater Geelong could be asked to cough up an extra $1.5 million for the Spring Street coffers. Ratepayers in the Corangamite shire will contribute $250 000; Glenelg shire, an extra $114 000; and Southern

Grampians, an extra $90 000. This is untenable for these communities.

According to Corangamite shire, a number of unlicensed landfills still operate in western Victoria. These facilities do not collect levies or comply with environmental standards. Patronage at these illegal venues will no doubt increase as individuals attempt to avoid paying these unreasonable fee increases. The dumping of rubbish along roadside reserves, at recreational parks, on spare blocks and in unfenced waterways will also increase. Councillors of the City of Greater Geelong have expressed concern that illegal dumping of waste material could force the council to hire private security people to monitor places where illegal dumping occurs. This would lead to yet another charge being imposed on ratepayers.

It is disappointing that the state government has chosen not to introduce a program allowing consumers to pay for disposal and recycling at the point of purchase rather than at the end of the life cycle, which then affects rural and low-income earners. Any tax increases should remain in the municipality where funds are raised and be quarantined for waste disposal and recycling projects specifically.

My request is for the minister to immediately review this proposal. If it proceeds in its current format, all taxes raised should go directly to the local government authority and not be squandered by Spring Street.

Firearms: licence outsourcing

Mr HALL (Eastern Victoria) — Tonight I wish to raise a matter for the attention of the Minister for Police and Emergency Services. It concerns the possible outsourcing of firearms licensing functions to Australia Post. It has been brought to my attention that the government is considering outsourcing firearms licensing functions. Currently all those licensing functions are undertaken by the licensing services division within Victoria Police. It has been brought to my attention that the government has been engaged in discussions with Australia Post with a view to having Australia Post maintain the firearms registry and manage all registrations and renewals for firearms licences.

If it were to proceed, a consequence of this would be that firearm owners would queue up at Australia Post offices across the state when they need to pay their annual licence renewals. That would mean information such as the number of firearms, where those firearms were stored et cetera would become freely available to staff at Australia Post and conceivably those in the queue behind that person. That information may particularly be conveyed if there is some discussion between the person behind the counter and the person in front of the counter as to any differences of view in respect of the records of particular firearms.

Firearms organisations have approached me to express their grave concerns about the outsourcing of this function to Australia Post. I think the general public would share that concern if that particular function was outsourced to Australia Post, which is very much a public service provider.

Given that I have some serious concerns about this, given that the people who have approached me have concerns that this might happen, the action I seek is an assurance from the minister that the government will not proceed with the outsourcing of firearms licensing functions to Australia Post in particular.

Bushfires: tourism

Mr VOGELS (Western Victoria) — I raise an issue for the Minister for Tourism and Major Events, Tim Holding, and it concerns regional tourism in Victoria. Regional tourism was badly affected last summer with the implementation of code red catastrophic fire danger warnings. Many accommodation providers running small businesses in communities like Halls Gap, Hepburn and the Otways were looking in this week's budget for a tourism campaign to encourage visitors back to the state and its national parks — the Grampians, the Otways et cetera.

Last summer the code red catastrophic fire warnings created a fear-and-panic mentality amongst potential visitors, keeping tourists away from forested areas over summer and devastating rural and regional businesses. As it turned out, none of the areas in Western Victoria Region declared code red were affected, and in fact Halls Gap has never burnt.

The rural and regional tourism authorities were looking to this budget to fund a summer marketing campaign to overcome the bushfire risk fears generated by last summer's catastrophic code red declarations. The action I seek from the minister is that the government fund a campaign through regional tourism authorities and Tourism Victoria which will make tourists and visitors aware of the dangers that exist on total fire ban days but show that, with a common-sense approach, country Victoria is a great place to have a summer holiday.

Werribee Park tourism precinct: access

Mr FINN (Western Metropolitan) — I wish to raise a matter for the attention of the Minister for Roads and Ports. It concerns the access to the Werribee Park tourism precinct on K Road in Werribee. I am sure members will be aware of this particular precinct. It contains the Werribee Open Range Zoo, which is truly one of the gems of the west, if not Victoria generally. I was there just recently, and it really is a delight to visit. There is the rose garden next door; the Werribee Mansion, which is world-famous now; the Werribee Park National Equestrian Centre; and just down the road a little bit the Werribee Park Golf Club, which, as I have mentioned to the house before, is certainly one of the most picturesque golf clubs in Melbourne and possibly around Australia.

Those who wish to visit this particular area and come from Melbourne have no problem, because they just exit the Princes Freeway at Duncans Road and there is no issue, but access from Geelong and particularly from Avalon Airport does present real problems, because those who wish to go to the Werribee Park tourism precinct have to exit the Princes Freeway and do a tour which would do the Leyland brothers proud. Those people have to travel many kilometres through Werribee, down to Duncans Road, back up through Duncans Road and over the freeway — a trip that I suggest would take 10 to 15 minutes on a good day, so it is a real problem. To get to one of these wonderful attractions is not easy; travellers really have to be committed to the task at hand if they are coming from Geelong or indeed from Avalon Airport, which I suggest is going to be a major part of the tourism industry for many years to come.

I ask the minister to take into consideration the points that I have made with regard to this issue. He will hopefully be aware of the issues I have raised, given that this area is within his electorate. I ask him to provide funding for the building of a ramp off the inbound lane of the Princes Freeway directly onto Duncans Road. This would provide a much more direct and easier link for those who wish to get onto K Road and visit any of those marvellous places that I have mentioned. I ask the minister to provide that funding as soon as is humanly practical. This will be a major boon for Werribee, a major boon for tourism in Victoria and indeed a major boon for the western suburbs of Melbourne.

Clearways: city of Stonnington

Mrs COOTE (Southern Metropolitan) — I raise a matter for the attention of the Minister for Roads and Ports, Tim Pallas, and it will come as no surprise at all to members that it is about clearways. I remind this chamber again about the issue of clearways and what this government under Minister Pallas has done, which is impose a clearway — actually a ban on businesses — within a 10-kilometre radius of the centre of Melbourne. The imposition of clearways in the city of Stonnington in my electorate has meant that afternoon clearway times for outbound traffic begin at 3.00 p.m. and end at 7.00 p.m., and inbound morning clearway times begin at 6.00 a.m. and end at 10.00 a.m. A similar situation has been imposed in other vicinities, including Brunswick. An article by Clay Lucas appeared in the *Age* of 25 March. The article states that the new clearway times in Brunswick have reduced average travel times by only 7 seconds.

I have explained to the chamber on other occasions that people in the city of Boroondara decided to set up their own investigation into what the impact of these clearways would be on businesses in Boroondara, and they have reported their findings. The council commissioned MacroPlan Australia to examine the impact of clearways on traders and pedestrians over a six-month period. Some 54 businesses at Kew Junction were involved in the study. The study found that more than 70 per cent of traders reported losing $100 a day or more, that lost sales across the Kew Junction amounted to between $500 000 and $700 000 and that customers reported visiting shops less and spending more time looking for parking. Some traders reported financial stress and possible closure within 12 months. The study concluded that the clearway extension had the potential to reduce traffic congestion in the short term but was unlikely to result in any long-term benefits.

The mayor of the city of Boroondara, Cr Wegman, is a very good man. He has said clearways are hurting mum-and-dad businesses and that there are no benefits in having them. Tim Warmington of the Boroondara Traders Group has said that business is hurting. He has asked to meet with the government, and government spokesman, Chris Owner, has confirmed that the minister received his request for a meeting. He said the minister would reply ‘in due course’.

Given the statistics and the litany of disasters that we are facing, I ask the minister to meet the Boroondara Traders Group not ‘in due course’ but as a matter of urgency. I ask him to meet with the Boroondara Traders Group and discuss this issue to see what can be done about this disastrous situation.

Planning: Frankston bypass

Mr RICH-PHILLIPS (South Eastern Metropolitan) — I wish to raise a matter for the attention of the Minister for Planning in his capacity as the minister responsible for Heritage Victoria. I raise this matter in the context of the Frankston bypass, of which I have been a strong supporter and for which I was an advocate before it was the government's policy to build it. However, I am conscious of the need to ensure that communities and land-holders affected by this project are afforded due process through the various environmental, planning and heritage processes that are required in planning the freeway.

In that context I raise this matter on behalf of Mr Simon and Mrs Joyce Welsh, the owners of the Westerfield property in Frankston South which is proposed to be divided by the Frankston bypass. Part of that property has been compulsorily acquired by the Linking Melbourne Authority and was recently the subject of an application to Heritage Victoria for a heritage permit. It is the process followed by Heritage Victoria that I am now raising as a concern with the Minister for Planning, in particular the basis on which Heritage Victoria decided to grant a permit for works to proceed on that site.

I raise the matter in the context of instructions for completing an application for a permit to carry out works or activities for a heritage listed place or object. These are guidelines published by Heritage Victoria, in accordance with which applicants must apply. It would appear from evidence given to me by Mr and Mrs Welsh that the application from Linking Melbourne Authority did not contain any of the required supporting documentation on which Heritage Victoria made its decision regarding the heritage application. Indeed, much of the detail — scale plans, before and after scenarios, photographs, heritage impact statements — were not attached to that application.

It is difficult for Mr and Mrs Welsh to understand, and it is difficult for me to understand, the basis on which Heritage Victoria was able to determine this application without having received the documentation that Heritage Victoria itself says is required to accompany an application of this nature. Accordingly I ask the Minister for Planning to have the Department of Planning and Community Development undertake an investigation — not to revisit the decision but to understand the process that was followed by Heritage Victoria, including an investigation of what documents Heritage Victoria had access to in making the decision it did — and to report the results to the house.

Sherbourne Road, Greensborough: traffic congestion

Mrs KRONBERG (Eastern Metropolitan) — My Adjournment matter is directed to the Minister for Roads and Ports. Many parts of the electorate of Eltham are suffering from an acute lack of an effective roads system — 'effective' in the context of being able to carry the volume of traffic and mix of vehicles that travel through and around the district with optimum throughput, safety and the least possible impact on residential precincts.

Families living on Sherbourne Road are increasingly concerned about the increasing volume of heavy, often articulated vehicles passing by their homes. Sherbourne Road originates at Para Road, Greensborough, passes through Briar Hill, including some commercial areas, and leads on through the leafy residential precincts of Montmorency and parts of Eltham proper. One family recently has had to go to the trouble and expense of converting their front garden into a circular driveway. This had to be undertaken because the passing trucks created danger for a car reversing out into the traffic, seemingly at all times of the day.

Furthermore, trucks create disturbance when exhaust brakes are released. Briar Hill, Montmorency and Eltham residents, businesses and service providers continue to suffer because the road system has been largely ignored by this government and far too frequently becomes the subject of buck-passing between local authorities and VicRoads.

Because Sherbourne Road is one of the few roads in the district that could pass for a main road, my request of the minister is for him to institute an urgent review of the nature and volume of vehicles travelling along Sherbourne Road, and that such a review — as an immediate, minimum, interim measure — receive appropriate signage and traffic management measures, speed signs and a designated area for safe run-off in case trucks' brakes fail. It is imperative that these issues be addressed in order to avoid the serious consequences of residents living alongside such heavy vehicular movements.

Regional and rural Victoria: ambulance services

Mr D. DAVIS (Southern Metropolitan) — I wish to raise a matter for the attention of the Minister for Health. It concerns ambulance services in country Victoria. Victorians awoke on Sunday morning to see the *Sunday Herald Sun* leading with a terrible headline '65 minutes', depicting a grieving father who put the

case that his son, who subsequently died, was not provided with suitable ambulance services. Victorians will be very concerned about the failure, in that case, of Ambulance Victoria and the Victorian government — through its systems — to get a suitable mobile intensive care ambulance to that location in Gippsland.

We all understand that there are challenges in parts of country Victoria in getting ambulance services to certain zones sufficiently quickly, but there is no excuse. After all, this government in 1999 promised to cut ambulance response times to 10 minutes, but that is not something it achieved. In 2005–06 the government pushed out ambulance response times to 15 minutes. The government routinely does not meet that target of 15 minutes.

Budget figures have just been released. I am not sure for how many years the government has failed to meet its targets, including the old target and even the subsequent watered down or weakened targets. Let us be clear about what watered down or weakened ambulance response targets mean: they mean that ambulances take longer to get to emergency sites and people in tremendous need, in this case in country Victoria.

There have been a series of cases; some of them I have raised in this chamber. In Geelong the absence of an ambulance meant police needed to use a divvy van to move a seriously injured man to hospital when it was clear an ambulance could not arrive for more than an hour.

There has been another case involving a divvy van in country Victoria. In Yarrawonga there was a case that received tremendous publicity that involved a woman impaled on a fence for 47 minutes after the ambulance was called. The response time of 47 minutes in such a circumstance is simply unacceptable.

John Brumby said he would fix the hospital system. He said he would pay attention to the basics in 1999, yet nothing could be further from the truth. There was the tragic case involving young Rupert Rafferty in Gippsland that was reported on the weekend. It was another terrible and tragic case where the quality of service provided by this Brumby government was not up to scratch.

I am asking the minister to review what has gone on regarding country ambulances and why the service is so bad. He needs to fix this problem. He needs to undertake a proper review and get to the bottom of what has gone wrong.

Responses

Mr JENNINGS (Minister for Environment and Climate Change) — I have five written answers to matters that were raised by Ms Hartland on 1 September, Mr Kavanagh on 9 March, Mr Drum on 11 March, Mr Vogels on 23 March and Ms Hartland on 24 March 2010.

Before I answer the following matters on the adjournment debate, let me thank Mr Leane and Mr Elasmar for showing solidarity by being in the chamber this evening and not raising a matter on the adjournment debate!

Beyond that, Wendy Lovell raised a matter for the attention of the Minister for Housing asking him to undertake some auditing activities.

Mr Kavanagh raised a matter for the attention of the Minister for Mental Health seeking support and resources for the Remar Australia facility.

Mr O'Donohue and Mrs Peulich raised similar matters in relation to the Minister for Health. I will resist the temptation to dispose of them this evening, even though they effectively asked the Minister for Health to ensure that services achieve their benchmarks and perform in accordance with the benchmarking expectations and the government's expectation of the services in the Eastern Victoria Region and the South Eastern Metropolitan Region. I will provide the opportunity for the Minister for Health to respond.

Mr Hall raised a matter for the attention of the Minister for Police and Emergency Services seeking his assurance that the firearm licensing arrangement will not be outsourced to Australia Post.

Mr Vogels raised a matter for the attention of the Minister for Tourism and Major Events seeking his support to ensure that fire warnings do not prevent people from exercising their discretion or perhaps fully embracing tourism opportunities across Victoria. We try to provide warnings in a way that does not diminish tourism activity; we actually promote tourism across Victoria.

When raising a matter for the attention of the Minister for Roads and Ports Mr Finn gave due credit to a number of agencies that I am responsible for and facilities in the western suburbs, including Werribee Open Range Zoo and others. Good on Mr Finn for recognising the work of those attractions and, obviously by implication, how well they are running. I am very pleased to hear that. He also reminded me of an old Irish joke: if you want to get to somewhere, you

certainly would not start from here! Anybody coming from the south and wanting to go to that precinct needs a bit of assistance. Mr Finn seeks assistance from the Minister for Roads and Ports for elaborate roadworks to assist people coming from the south of Werribee to access those attractions.

Mrs Kronberg also raised a matter for the Minister for Roads and Ports. Her request is for him to undertake an important review of Sherbourne Road in Eltham and to provide assistance to residents of that municipality with additional advice on the road system.

Mrs Coote ultimately almost strayed out of her electorate in seeking the assistance of the Minister for Roads and Ports, but she was on message in her vigilance in relation to shopping opportunities and the obliteration of clearways.

Mr Gordon Rich-Phillips raised a matter for the Minister for Planning. Whilst he seeks some support for the Welsh family in relation to their property, ultimately he wants an assurance in the chamber that due process was undertaken in the Heritage Victoria evaluation of that property.

Mr David Davis asked the Minister for Health to review country ambulance arrangements and to provide greater surety in relation to service provision for regional communities.

Mr Koch was extremely provocative in the way that he described the recent reforms that I have been associated with, which have been designed to support greater environmental outcomes. I refute the imputation in the question that the reforms have not been designed to deliver better environmental outcomes by dissuading people from increasing landfill volumes in the name of waste. The intention of the policy is to reduce the amount of waste that ends up in landfills or in our environment. The funds derived from the increase in landfill levies will in part be used to have a greater enforcement capability and to support local government in reducing the impacts of litter and other waste in the natural environment. That is the intent of the policy.

Mr Koch repeated a somewhat vexatious campaign that is being undertaken by a number of local governments across Victoria in misrepresenting the costs of the landfill levy as it may apply to their rates. A number of local governments have been quite opportunistic in trying to portray in quite a mischievous fashion what the impacts on households may be, and they have launched into a self-serving campaign to try to misrepresent the costs.

Mr Koch — You are coming on a bit strong.

Mr JENNINGS — Mr Koch invited this by the way he described the policy. Mr Koch took the apportionment of cost structures on face value, which may not have any regard to the true impost that may be appropriately put on households. The Victorian government is extremely sensitive to this issue because it exercised its consideration for quite some time before determining the level of the levy, to make sure that there was a very minor impost upon households. Whilst we did not want to add to the cost burden of households, on average the cost of this landfill levy that households will be asked to bear will be in the order of $9 per year.

That is not the figure that local governments are sharing with their communities, including the communities Mr Koch has indicated, and it is my intention to ensure that, firstly, there is not an inappropriate impost placed on households, and secondly, there is support for communities in making the adjustment, which indeed adds to the armoury of local governments to deal with litter and their enforcement capability within their municipality, which leads to investment in resource recovery and reduces the amount of waste going into landfill. That is the cumulative effect of the policy intention of the Victorian government. Despite the allegations in the matter raised, that is what we are committed to ensure is the policy outcome.

The DEPUTY PRESIDENT — Order! The house now stands adjourned.

House adjourned 7.20 p.m. until Tuesday, 25 May.