

One of Labor's promises in *Integrity in Public Life* is that it would restore the independence of the public service. It also promised to 'end the use of commercial-in-confidence in freedom of information'; 'to introduce a code of conduct for MPs' — you only have to see the behaviour of some of the Labor members in this chamber, particularly concerning this debate; 'to restore the credibility of the Victorian Parliament, so that ministers must answer all questions' — all of us, including Mr Finn and others, know about the behaviour of ministers such as Minister Madden in particular in terms of answering all questions; and lastly, 'to reduce highly priced consultancies'. In the last seven to eight years we have seen the government making millionaires of its mates, particularly Adam Kilgour and CPR Communications and Public Relations Pty Ltd.

Coming back to the report, as I said there is a myth being espoused that featured in the debate the other day: that some members of this committee somehow have an alliance against the Labor Party members on it. Anyone who looks at the facts and reads the report, including pages 61, 64 and 65, will see that in a number of divisions the Liberal Party voted by itself, which shows that there is no alliance between The Nationals, the Greens and the Liberal Party. In fact most divisions have been the non-government parties voting together. That is because we believe the Parliament has a right to investigate the matters it is investigating. The Labor Party thinks it does not, but it does. It is the classic thuggery of this government to believe the Parliament has no right to investigate matters involving the government of the day.

As has been shown, the government did not reply to certain summonses for 14 weeks. The government has clearly bullied public servants not to appear before the committee. The government, as I said, believes Parliament does not have a right to inquire into what it does. The Parliament has that right. The people of Victoria have said that the Parliament and this chamber have a right to inquire.

I conclude simply by saying: Labor promised to be an open, honest and accountable government, but the reality is that the government does not believe in accountability. It voted against the committee being established; it voted to hinder it at every opportunity, as these documents show.

**Mr Finn** interjected.

**Mr GUY** — They have absolutely no integrity, Mr Finn, because at the end of the day members opposite have used intemperate language to describe

this committee, as the debate showed in the Legislative Assembly when it was discussing reporting back to this chamber. Government members bagged the committee at every chance. They accused members of the committee of being leakers. At the end of the day the simple conclusion is that one has to ask this government: what have you got to hide?

## MAGISTRATES' COURT AND CORONERS ACTS AMENDMENT BILL

### *Statement of compatibility*

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

In accordance with section 28 of the Charter of Human Rights and Responsibilities, I make this statement of compatibility with respect to the Magistrates' Court and Coroners Acts Amendment Bill 2007.

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

### **Overview of bill**

The proposed bill contains miscellaneous amendments to the Magistrates' Court Act 1989 and amendments to the Magistrates' Court (Family Violence) Act 2004 and the Coroners Act 1985.

The bill contains the following miscellaneous amendments to the Magistrates' Court Act 1989:

Amendments to enable acting magistrates to be assigned to the Drug Court division of the Magistrates' Court by creating a definition of 'magistrate' as including an acting magistrate. As a consequence of this amendment the bill also contains certain necessary and appropriate consequential amendments. These include the omission of the term 'acting magistrate' where that term will become redundant and the insertion of the term 'judicial registrar' where appropriate.

Amendments to clarify that both magistrates who have been assigned to the Drug Court division as well as magistrates who have not been assigned to that division can make referrals from the criminal list to the Drug Court division of the Court.

Amendments to make provision for registrars of the Magistrates' Court to have the power to adjourn criminal proceedings and, where applicable, extend bail on the mention date and subsequent dates.

Amendments to add officers from the Office Of Police Integrity, the Department of Employment and Workplace Relations, the Department of Defence, the Australian Commission for Law Enforcement Integrity,

the Australian Communications and Media Authority, the Department of Agriculture, Fisheries and Forestry, the Therapeutic Goods Administration, the National Offshore Petroleum Safety Authority and the Australian Crime Commission to the list of persons who can witness statements to be tendered in committal proceedings.

The bill includes an amendment to the Magistrates' Court (Family Violence) Act 2004 to extend the operation of the Family Violence Court Intervention Project, which operates in the Family Violence Court division of the Magistrates' Court, until 30 October 2009. The Project provides for family violence counselling for defendants to intervention order applications.

The bill includes amendments to the Coroners Act 1985 to re-establish a long-standing access to coroners' records scheme, pending a full legislative review of the act.

### Human rights issues

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

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

The amendment to the Coroners Act 1985 engages section 13(a) of the charter, in that it provides that before the completion of an investigation or inquest into a death or an investigation or inquest into a fire, a coroner may direct that the coroner's file relating to that investigation or inquest, or any part of that file, is to be made available to any person or class of persons as the coroner directs. It also provides that after the completion of an investigation or inquest into a death or an investigation or inquest into a fire, the coroner's record and the coroner's file relating to that investigation or inquest is to be open to public access unless a coroner otherwise orders. It is likely that the files and records which will be made accessible will contain information of a personal nature regarding any number of individuals and may be capable of identifying such persons. The amendment constitutes a prima facie limitation on the right to privacy.

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

Section 7(2) of the charter provides that a human right may be subject under law only to such reasonable limits as can be demonstrably justified in a free and democratic society based on human dignity, equality and freedom, and taking into account all relevant factors including: the nature of the right; the importance of the purpose of the limitation; the nature and extent of the limitation; the relationship between the limitation and its purpose and any less restrictive means reasonably available to achieve the purpose that the limitation seeks to achieve.

##### (a) *The nature of the right being limited*

The right to privacy and reputation encompasses privacy of information about people and the beliefs or opinions that are held about a person. Under the charter, it may be subject to reasonable limitations that are demonstrably justified.

##### (b) *The importance of the purpose of the limitation*

The purpose of the limitation is to ensure that the quasi-judicial operation of the State Coroner's Office continues to operate on an open and transparent basis and within the principles of open justice. The limitation provides for the discretion of the coroner to be exercised, on a case by case basis, as an independent quasi-judicial officer in determining whether records and files should be released as balanced against the interests of privacy.

##### (c) *The nature and extent of the limitation*

The limitation provides that the coroner is to decide if and when to release documents or files following an inquest. These clauses of the bill will, prima facie, intrude upon a person's privacy and reputation. The coroner is an independent quasi-judicial officer who will consider whether to disclose information on a case by case basis, taking into consideration the principles of open justice.

##### (d) *The relationship between the limitation and its purpose*

The limitation is designed to ensure that the quasi-judicial operation of the State Coroner's Office remains as that of balancing the right to privacy against the right to freedom of expression, whereby the charter provides that every person has the right to freedom of expression which includes the freedom to seek, receive and impart information and ideas of all kinds. The limitation is designed to ensure that information obtained by the coroner, which may have implications for the community, can be released to the community.

##### (e) *Any less restrictive means reasonably available to achieve its purpose*

No other means are considered reasonably available to achieve the purpose of the restrictions placed on a person's right to privacy or reputation.

##### (f) *Any other relevant factors*

The coronial system serves the community by providing independent and open investigations into sudden, traumatic or unexplained deaths. It is expected by the community that investigations will be sensitive to the needs of grieving families and others who are affected by sudden death. They also expect the work of the coroner to be open and transparent.

In order to ensure that the Office of the State Coroner can meet the expectations of the community concerning an open and transparent process, the amendments to the Coroners Act 1985 are demonstrably justified.

### Conclusion

I consider that the bill is compatible with the Charter of Human Rights and Responsibilities because the engagement of s13(a) can be demonstrably justified.

JUSTIN MADDEN, MP  
Minister for Planning

*Second reading*

**Ordered that second-reading speech be incorporated on motion of Mr LENDERS (Minister for Education).**