PARLIAMENT OF VICTORIA

PARLIAMENTARY DEBATES (HANSARD)

LEGISLATIVE ASSEMBLY

FIFTY-SIXTH PARLIAMENT

FIRST SESSION

Wednesday, 24 June 2009

(Extract from book 8)

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By authority of the Victorian Government Printer

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Professor DAVID de KRETSER, AC

The Lieutenant-Governor

The Honourable Justice MARILYN WARREN, AC

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Minister for Mental Health, Minister for Community Services and Minister for Senior Victorians	The Hon. L. M. Neville, MP
Minister for Industry and Trade, 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
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Minister for Gaming, Minister for Consumer Affairs and Minister Assisting the Premier on Veterans' Affairs	The Hon. A. G. Robinson, MP
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 Assembly committees

Privileges Committee — Mr Carli, Mr Clark, Mr Delahunty, Mr Lupton, Mrs Maddigan, Dr Napthine, Mr Nardella, Mr Stensholt and Mr Thompson.

Standing Orders Committee — The Speaker, Ms Barker, Mr Kotsiras, Mr Langdon, Mr McIntosh, Mr Nardella and Mrs Powell.

Joint committees

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Heads of parliamentary departments

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

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

Parliamentary Services — Secretary: Dr S. O'Kane

MEMBERS OF THE LEGISLATIVE ASSEMBLY

FIFTY-SIXTH PARLIAMENT — FIRST SESSION

Speaker: The Hon. JENNY LINDELL

Deputy Speaker: Ms A. P. BARKER

Acting Speakers: Ms Beattie, Ms Campbell, Mr Eren, Mrs Fyffe, Ms Green, Dr Harkness, Mr Howard, Mr Ingram, Mr Jasper, Mr Kotsiras, Mr Languiller, Ms Munt, Mr Nardella, Mr Seitz, Mr K. Smith, Dr Sykes, Mr Stensholt and Mr Thompson

Leader of the Parliamentary Labor Party and Premier:
The Hon. J. M. BRUMBY

Deputy Leader of the Parliamentary Labor Party and Deputy Premier:
The Hon. R. J. HULLS

Leader of the Parliamentary Liberal Party and Leader of the Opposition:
Mr E. N. BAILLIEU

Deputy Leader of the Parliamentary Liberal Party and Deputy Leader of the Opposition:
The Hon. LOUISE ASHER

Leader of The Nationals:
Mr P. J. RYAN

Deputy Leader of The Nationals:
Mr P. L. WALSH

Member	District	Party	Member	District	Party
Allan, Ms Jacinta Marie	Bendigo East	ALP	Lindell, Ms Jennifer Margaret	Carrum	ALP
Andrews, Mr Daniel Michael	Mulgrave	ALP	Lobato, Ms Tamara Louise	Gembrook	ALP
Asher, Ms Louise	Brighton	LP	Lupton, Mr Anthony Gerard	Prahran	ALP
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Blackwood, Mr Gary John	Narracan	LP	Morand, Ms Maxine Veronica	Mount Waverley	ALP
Bracks, Mr Stephen Phillip [1]	Williamstown	ALP	Morris, Mr David Charles	Mornington	LP
Brooks, Mr Colin William	Bundoora	ALP	Mulder, Mr Terence Wynn	Polwarth	LP
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Burgess, Mr Neale Ronald	Hastings	LP	Napthine, Dr Denis Vincent	South-West Coast	LP
Cameron, Mr Robert Graham	Bendigo West	ALP	Nardella, Mr Donato Antonio	Melton	ALP
Campbell, Ms Christine Mary	Pascoe Vale	ALP	Neville, Ms Lisa Mary	Bellarine	ALP
Carli, Mr Carlo Domenico	Brunswick	ALP	Noonan, Wade Mathew [5]	Williamstown	ALP
Clark, Mr Robert William	Box Hill	LP	Northe, Mr Russell John	Morwell	Nats
Crisp, Mr Peter Laurence	Mildura	Nats	O'Brien, Mr Michael Anthony	Malvern	LP
Crutchfield, Mr Michael Paul	South Barwon	ALP	Overington, Ms Karen Marie	Ballarat West	ALP
D'Ambrosio, Ms Liliana	Mill Park	ALP	Pallas, Mr Timothy Hugh	Tarneit	ALP
Delahunty, Mr Hugh Francis	Lowan	Nats	Pandazopoulos, Mr John	Dandenong	ALP
Dixon, Mr Martin Francis	Nepean	LP	Perera, Mr Jude	Cranbourne	ALP
Donnellan, Mr Luke Anthony	Narre Warren North	ALP	Pike, Ms Bronwyn Jane	Melbourne	ALP
Duncan, Ms Joanne Therese	Macedon	ALP	Powell, Mrs Elizabeth Jeanette	Shepparton	Nats
Eren, Mr John Hamdi	Lara	ALP	Richardson, Ms Fiona Catherine Alison	Northcote	ALP
Foley, Martin Peter [2]	Albert Park	ALP	Robinson, Mr Anthony Gerard	Mitcham	ALP
Fyffe, Mrs Christine Ann	Evelyn	LP	Ryan, Mr Peter Julian	Gippsland South	Nats
Graley, Ms Judith Ann	Narre Warren South	ALP	Scott, Mr Robin David	Preston	ALP
Green, Ms Danielle Louise	Yan Yean	ALP	Seitz, Mr George	Keilor	ALP
Haermeyer, Mr André [3]	Kororoit	ALP	Shardey, Mrs Helen Jean	Caulfield	LP
Hardman, Mr Benedict Paul	Seymour	ALP	Smith, Mr Kenneth Maurice	Bass	LP
Harkness, Dr Alistair Ross	Frankston	ALP	Smith, Mr Ryan	Warrandyte	LP
Helper, Mr Jochen	Ripon	ALP	Stensholt, Mr Robert Einar	Burwood	ALP
Herbert, Mr Steven Ralph	Eltham	ALP	Sykes, Dr William Everett	Benalla	Nats
Hodgett, Mr David John	Kilsyth	LP	Thompson, Mr Murray Hamilton Ross	Sandringham	LP
Holding, Mr Timothy James	Lyndhurst	ALP	Thomson, Ms Marsha Rose	Footscray	ALP
Howard, Mr Geoffrey Kemp	Ballarat East	ALP	Thwaites, Mr Johnstone William [6]	Albert Park	ALP
Hudson, Mr Robert John	Bentleigh	ALP	Tilley, Mr William John	Benambra	LP
Hulls, Mr Rob Justin	Niddrie	ALP	Trezise, Mr Ian Douglas	Geelong	ALP
Ingram, Mr Craig	Gippsland East	Ind	Victoria, Mrs Heidi	Bayswater	LP
Jasper, Mr Kenneth Stephen	Murray Valley	Nats	Wakeling, Mr Nicholas	Ferntree Gully	LP
Kairouz, Ms Marlene [4]	Kororoit	ALP	Walsh, Mr Peter Lindsay	Swan Hill	Nats
Kosky, Ms Lynne Janice	Altona	ALP	Weller, Mr Paul	Rodney	Nats
Kotsiras, Mr Nicholas	Bulleen	LP	Wells, Mr Kimberley Arthur	Scoresby	LP
Langdon, Mr Craig Anthony Cuffe	Ivanhoe	ALP	Wooldridge, Ms Mary Louise Newling	Doncaster	LP
Languiller, Mr Telmo Ramon	Derrimut	ALP	Wynne, Mr Richard William	Richmond	ALP
Lim, Mr Muy Hong	Clayton	ALP			

[1] Resigned 6 August 2007
[2] Elected 15 September 2007
[3] Resigned 2 June 2008
[4] Elected 28 June 2008
[5] Elected 15 September 2007
[6] Resigned 6 August 2007

CONTENTS

WEDNESDAY, 24 JUNE 2009

Wednesday, 24 June 2009

The SPEAKER (Hon. Jenny Lindell) took the chair at 9.33 a.m. and read the prayer.

BUSINESS OF THE HOUSE

Notices of motion: removal

The SPEAKER — Order! I advise the house that under standing order 144 notices of motion 97, 98, 167 to 170 and 210 to 218 will be removed from the notice paper on the next sitting day. A member who requires the notice standing in his or her name to be continued must advise the Clerk in writing before 6.00 p.m. today.

NOTICES OF MOTION

Notices of motion given.

Mr HODGETT having given notices of motion:

The SPEAKER — Order! I note that the clerks will have a close look at the last two notices of motion moved by the member for Kilsyth.

Further notices of motion given.

Mr HODGETT having given notice of motion:

The SPEAKER — Order! Before calling the member for Kilsyth to give a further notice, I am finding it difficult to acquaint myself with how the last three notices of motion given by the member for Kilsyth could be debated individually in a substantive debate. The clerks will advise me on this.

Mr Hodgett — We will not need to debate them if the minister funds the school.

The SPEAKER — Order! I will not have that disrespect shown to the Chair!

Mr Hodgett — I apologise, Speaker.

Further notices of motion given.

PETITIONS

Following petitions presented to house:

Students: youth allowance

To the Legislative Assembly of Victoria:

This petition of residents of Victoria draws to the attention of the house the proposal to change the independence test for youth allowance by the federal government.

The petitioners register their opposition to the changes on the basis that the youth allowance changes proposed in the federal budget place another barrier to university participation for students in regional areas; unfairly discriminates against students currently undertaking a 'gap' year; and contradict other efforts to increase university participation by students from rural and regional Australia.

The petitioners therefore request that the Legislative Assembly of Victoria reject the proposal and calls on the state government to vigorously lobby the federal government to ensure that a tertiary education is accessible to regional students.

By Mr CRISP (Mildura) (274 signatures).

Rail: Mildura line

To the Honourable the Speaker and members of the Legislative Assembly of Victoria:

This petition of the citizens of the region known as Sunraysia, primarily in the state of Victoria but including cross-border citizens of New South Wales centred on the city of Mildura, brings to the attention of the house the many promises to return the Melbourne–Mildura passenger train, without delivery.

The undersigned petitioners therefore ask the Legislative Assembly to bring forward the reinstatement of the said Melbourne–Mildura passenger train, especially in view of:

1. the many undelivered promises;
2. the urgent need to promote public transport in a global warming context;
3. the pressing need to connect remote Mildura to both Melbourne and the national rail network; and
4. the geographic distance now requiring a rapid service (very fast train) to be competitive.

By Mr CRISP (Mildura) (123 signatures).

Police: Red Cliffs

To the Legislative Assembly of Victoria:

This petition of residents of Red Cliffs and surrounding communities in Victoria draws to the attention of the house the need to increase police presence in our district.

The petitioners register their dismay after a weekend of vandalism with damage estimated to be in excess of $60 000 to the local bowling club and private and public property.

The petitioners therefore request that the Legislative Assembly of Victoria take action to increase staff levels at the Red Cliffs police station as a proactive step in ensuring that this criminal activity is not repeated.

By Mr CRISP (Mildura) (18 signatures).

Greyhound racing: Wangaratta

To the Legislative Assembly of Victoria:

This petition of the citizens of Victoria, draws to the attention of the house the desperate situation facing the Wangaratta

Greyhound Racing Club regarding its closure on 30 June 2009, which will adversely affect the financial and physiological welfare of owners and trainers in the rural city of Wangaratta and surrounding districts in north-east Victoria, particularly in regard to the welfare of the animals involved.

The petitioners therefore request that the Legislative Assembly of Victoria strongly support the immediate stay of proceedings in relation to the closure of the greyhound racing in Wangaratta, to allow Greyhound Racing Victoria, the Wangaratta Greyhound Racing Club, the Rural City of Wangaratta, Regional Development Victoria and the member for Murray Valley to investigate all options for continued facilities for greyhound racing at Wangaratta.

By Mr JASPER (Murray Valley) (1602 signatures).

Gunbower Island State Forest: Masters Landing

To the Legislative Assembly of Victoria:

The petition of the following residents of Victoria draws to the attention of the house that we strongly object to the state government's eviction of the Masters family from a parcel of land in the Gunbower forest known as 'Masters Landing' to make way for the area to be turned into a national park.

The petitioners therefore request that the Legislative Assembly of Victoria allow the Masters family to continue living and maintaining family homes and heritage at 'Masters Landing' in the Gunbower forest.

By Mr WELLER (Rodney) (1530 signatures).

Tabled.

Ordered that petitions presented by honourable member for Mildura be considered next day on motion of Mr CRISP (Mildura).

Ordered that petition presented by honourable member for Murray Valley be considered next day on motion of Mr JASPER (Murray Valley).

Ordered that petition presented by honourable member for Rodney be considered next day on motion of Mr WELLER (Rodney).

PUBLIC ACCOUNTS AND ESTIMATES COMMITTEE

New inquiry into Victoria's Audit Act 1994

Mr STENSHOLT (Burwood) presented report.

Tabled.

Ordered to be printed.

ECONOMIC DEVELOPMENT AND INFRASTRUCTURE COMMITTEE

Improving access to Victorian public sector information and data

Ms CAMPBELL (Pascoe Vale) presented report, together with appendices and transcripts of evidence.

Tabled.

Ordered that report and appendices be printed.

DOCUMENTS

Tabled by Clerk:

Auditor-General:

Buy-back of the Regional Intrastate Rail Network — Ordered to be printed

Funding of the Home and Community Care Program — Ordered to be printed

International Students: risks and responsibilities of universities — Ordered to be printed

Melbourne's New Bus Contracts — Ordered to be printed.

MEMBERS STATEMENTS

Premier's Active Families Challenge

Mr MERLINO (Minister for Sport, Recreation and Youth Affairs) — I rise to congratulate the 50 000 Victorians who took part in this year's Premier's Active Families Challenge. That represents 15 000 families across the state. The challenge was a fantastic success with registration almost double last year's total of 28 000 people; 93 per cent of respondents to our survey said the challenge saw them increase their activity levels — over 60 per cent increased their activity levels to five days a week; and 99 per cent indicated they would tackle the challenge again.

I would like to particularly congratulate the schools who had the highest percentage of participating families: Sherbourne Primary School in Eltham, Hartwell Primary School in Burwood, Creswick North Primary School, Caulfield South Primary School, and Wesley College. Thanks must go to our partnership councils including Bendigo, Whittlesea, Knox and Casey, and to our terrific sponsors — Leader

newspapers, the *Herald Sun*, AFL Victoria, and in particular Rebel Sport and the YMCA.

I would also like to thank my department and Sport and Recreation Victoria for their many hours of dedicated work on the challenge. The Brumby government is investing heavily in helping Victorians become more active, and this year's Premier's Active Families Challenge has certainly helped us to achieve this goal.

Olinda Ferny Creek Football Netball Club

Mr MERLINO — I look forward to visiting the Olinda Ferny Creek Football Netball Club this Saturday to help open the club's new netball courts. The Brumby government was proud to contribute $60 000 from the country football and netball program towards redeveloping the club's old asphalt courts with a new plexipave surface as well as with the installation of new fencing and lighting. Congratulations to everyone at the Bloods for their terrific work in making this project a reality, particularly the president Peter Hayne, and netball head coach and committee member Helen Wositzky.

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

Planning: Eastern Golf Club

Ms WOOLDRIDGE (Doncaster) — The 47 hectares of the Eastern Golf Club adjoining Doncaster Hill is due to go up for sale very shortly following a decision by members to relocate the club. The pending sale and subsequent development of the land is a huge loss to Doncaster, a huge disappointment to local residents and to the whole community.

Golf Environment Preservation Inc. (GEPI) has been formed to fight for the retention of this important open space. GEPI argues the development of the land will result in a loss of flora and fauna, including the endangered growling grass frog, and will put pressure on existing infrastructure.

The Manningham City Council has established guidelines for any potential buyers, including keeping 20 per cent of the site as public open space. Council will use those guidelines to develop an incorporated plan overlay. There is deep concern in the Doncaster community that a developer will seek to increase the density on the current residential 3 zoning on the land. Already the company managing the land sale has made representations to the state government, seeking changes to the zoning to allow greater building heights. As rezoning proposals and the incorporated plan overlay will be determined by the Minister for Planning, it is important that he also hear and take into account the concerns of the community on the future of this important piece of land before any decisions are made on its use. GEPI is gathering letters from residents which they wish to personally present to the Minister for Planning; I request that he meet with them as soon as possible so that they can convey the feelings of the community as a whole in relation to this land.

Hume men's shed: funding

Ms BEATTIE (Yuroke) — Today I would like to offer my congratulations to the Hume men's shed group which has received a grant of $50 000 from the Victorian government to build a men's shed in Craigieburn. The Hume men's shed group is currently based at the Roxburgh Park Community Church. However, the group has well and truly outgrown this facility, which is also no longer suitable.

With this funding the Hume men's shed will construct a new facility to expand on a range of projects, including woodwork, metalwork, mechanics and computer work, as well as continuing to address men's health and recreational issues. This $50 000 grant is part of round 2 funding for men's sheds across Victoria and is part of over $850 000 that has been allocated to build or upgrade men's sheds all across Victoria.

As members are aware, men's sheds provide an important place for men to meet, make friends and contribute to their local communities, giving men from all backgrounds the opportunity to engage in activities that interest them; I am sure this will be the case for the new men's shed in Craigieburn.

I would especially like to congratulate Peter Raynor and Ray Richards who have worked tirelessly to achieve this fantastic outcome. I know that they, along with all members of the group, are very excited about the opportunities that this funding will provide, and I look forward to celebrating with them at their new facility. I would encourage members of that group to keep the good work up and work with me in Hume to provide better services.

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

Insurance: fire services levy

Mr JASPER (Murray Valley) — I again call on the Victorian government to immediately investigate alternative methods of funding fire services in Victoria to ensure that all property owners contribute to support

the emergency services in this state. The fire services levy is inequitable and is a disincentive to insure as those who are paying fire insurance are carrying those property owners who choose not to insure.

This issue has been further highlighted this year when it has been estimated that at least 30 per cent of the properties destroyed in the disastrous February bushfires were not insured. The need for a review of the fire services levy has been further strengthened when it was recognised that 80 per cent of the costs of running the emergency services is provided from these charges.

Further, next month the fire insurance services levy will increase to 26 per cent for country households and 68 per cent for country businesses compared to lower costs in metropolitan Melbourne.

An additional slug or penalty for those property owners to insure is the method determining the total cost of the insurance. First, there is the actual premium; add to this the fire services levy, then the $20.20 terrorism levy, plus 10 per cent GST, and finally 10 per cent state government stamp duty. The state government has undertaken early investigations and rejected implementing a more equitable system, as has been done in other states.

Now it is time to act. I call on the state government to immediately implement a more equitable system of fire insurance for all Victorians and see that everyone is part of this fire levy.

1st Research Scout Group

Mr HERBERT (Eltham) — I recently had the pleasure of attending the opening of the brand new Research scout hall. The event was attended by many representatives of the wonderful Research community and was also attended by all of the loyal supporters of the scouts. In particular, the chief commissioner of Scouts Victoria, Mr Bob Taylor, was there to officiate, as were regional, district and local scout leaders.

The original Research scout hall was burnt down by vandals in September 2002, when I was a candidate for Eltham, in a series of arson attacks on local community buildings. Whilst it has taken some seven years of effort by the Research scouts to rebuild their hall, we can see that the new building is a wonderful testament to the community spirit and hard work of those involved in the 1st Research scouts.

I would like to acknowledge a huge number of people: committee members, past and present, and many parents who have worked over those seven years to rebuild the hall. I would particularly like to acknowledge the driving force behind this new facility, Garry and Rhonda Steele, who gave up their home and a huge number of hours of their time on weekends to make sure the scouts continued and to make sure their dream of a brand new hall became a reality. It is with a great sense of satisfaction that the 1st Research scouts have a permanent home again, and I wish them well.

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

Multicultural affairs: government report

Mr KOTSIRAS (Bulleen) — Yesterday the government tabled the Victorian government achievements in multicultural affairs report 2007–08. It seems that the government said to its public servants, 'Collect a group of data, find as many programs as you can that could fit under the heading "multicultural" and show it in a positive light'. As a result, this Labor government has once again created a useless report that is meaningless, but in doing so has made many cardigan-wearing public servants spend countless hours and waste precious resources compiling this useless information instead of serving Victorians.

What is needed is an independent audit, review and assessment of all government programs in multicultural affairs to ascertain whether the stated and measurable outcomes of these programs have been achieved. Spending money on vital programs is welcomed, but it is only part of the equation.

Whether the money has been well spent and what has been achieved are also important. The question is: has the money that has been allocated for different programs made a difference to Victorians? It seems that this government finds it difficult to measure outcomes. It refuses to identify and articulate measurable outcomes because it knows it is going to fail to meet targets. Instead we get a report prepared by the government's public servants, checked by those in the minister's office and tabled in Parliament that provides little information about the success of the government's programs. You cannot believe this government's rhetoric and self-assessment. This government simply cannot be trusted. I call upon the commissioners — —

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

Child care: city of Darebin

Ms RICHARDSON (Northcote) — On 17 June it was with great pleasure that I accompanied the Minister for Children and Early Childhood Development when she visited the Clifton Street Children's Centre in

Northcote to announce that it would be receiving $500 000 to establish an integrated children's services hub. This, along with a further $200 000 from the City of Darebin council, means that parents in Northcote will see improved early childhood services and a reduction in the waiting lists for kindergarten and child-care places in Northcote — a welcome outcome indeed.

The Brumby Labor government is responding to the biggest baby boom in 30 years by investing in children and family services. In the city of Darebin alone birth notifications have increased by 23.2 per cent since 2000–01 — there were 2138 births in 2007–08.

The expansion of the Clifton Street centre into an integrated child and family hub will include maternal and child health, long day care, a kindergarten, early childhood integration services, family support, holiday programs, community and supported playgroups and a training facility supporting early childhood professional development in association with the University of Melbourne. Importantly, the expansion will enable the City of Darebin to provide more kindergarten places and create 38 additional long day care places.

The Brumby Labor government is supporting councils to integrate and enhance their early childhood services so Victorian children can enjoy better health and educational outcomes. This project is a great initiative and an investment in our future. The Brumby Labor government's contribution to the project is a practical demonstration of its commitment to families and the importance it places on them. I would like to again thank the minister for her support throughout this project.

Kinglake West Primary School: upgrade

Mr DIXON (Nepean) — The school community in Kinglake West has suffered enough, yet the mismanagement of the Brumby government is adding to their woes. Late last year a major rebuild of Kinglake West Primary School came to a grinding halt due to difficulties with and between the builder and subcontractors.

Following Black Saturday at a community meeting the Brumby government promised that the difficulties would be sorted out and that the project would be completed soon. Many families and staff at the school were affected by the bushfires, and they just wanted their new building completed as a symbol of a new beginning. Their hopes have been raised and then dashed again by the Brumby government; completion dates have come and gone. The latest completion date given to the community was last week, but it was told last week that it will now be in third term — perhaps. That would make it five months after the community was promised the school would be finished.

I urge the Premier and the Minister for Education to put on their hard hats and fluorescent vests and go to Kinglake West without the media in tow and complete the project.

Schools: building program

Mr DIXON — On another matter, I congratulate the school council president of Langwarrin Primary School and the principal of Berwick Lodge Primary School for having the guts to come out and say that the illogical and inflexible Building the Education Revolution project being forced on them by the Brumby government will not work and will be a waste of money. Their preparedness to speak out, despite threats of a funding withdrawal, and stand up to the government's bullying has to be applauded. Their school communities should be proud of them.

Bell Park Sports Club: special event

Mr EREN (Lara) — On Sunday I was very pleased to be master of ceremonies at a special event in my electorate. Approximately 2000 people attended the Bell Park Sports Club to meet Mark Schwarzer, who is the goalkeeper for the Socceroos and also the keeper for Fulham in the English Premier League. It was a fantastic day for many children and adult fans as they chatted about their love for soccer and got to meet one of their idols in the world game. I congratulate Steve Gstalter, president of the Bell Park Sports Club, and all of the people involved organising this event. It yet again puts Geelong on the world game map.

I have mentioned in this place before about Geelong possibly being the most successful regional city in the world in producing world-class players such as Steve Horvat, Josip Skoko, Joey Didulica, Adrian Leijer and Mathew Spiranovic, to name a few.

Among Mark Schwarzer's many talents and achievements, he has co-authored four children's books which highlight issues facing new arrivals in a foreign country and also aim to encourage young people to read by using sport as a backdrop.

I congratulate all involved in organising this great event, and I thank them for inviting me to be a part of it.

Geelong: refugee support

Mr EREN — Last Friday I was pleased to represent the Minister for Community Development at the Cloverdale community centre in my electorate to launch the online internet access program for Geelong refugees. This program is a fantastic initiative which gives local refugee communities training in their own language to help them get online. The program will be run from the Cloverdale community centre, and it will provide 20 hours of public internet access each week as well as providing training and support so people can access the internet in their own language. Thanks to the public internet access program grant which was given to Diversitat, a local — —

The DEPUTY SPEAKER — Order! The member's time has expired.

East Gippsland Marketing: campaign

Mr INGRAM (Gippsland East) — I stand today to congratulate East Gippsland Marketing on its campaign launch, which is happening today at Parliament House. About this time near the front steps a truck will be parked on the forecourt with a banner promoting Victoria's east as the place to relocate, reinvest and reinvigorate. The marketing campaign is an important step in identifying and promoting our region as a great place to visit, and to invest and work in.

The region is a winner for a number of reasons, including climate, nature, lifestyle, cost of living, employment, work, infrastructure, education, health and land. The region is also a centre for tourism, with attractions including the Gippsland Lakes and our coastal estuaries, and opportunities for boating, agriculture, recreational and commercial fishing, and timber.

I congratulate the board of East Gippsland Marketing, including the chairman, Richard Rijs, and the other members of this important initiative, Simon Anderson, Adrian Bromage, Ian Harrison, Anthony Lake, Chris Martin, Russell Needham, Joe Tantaro and Margaret Suplitt. I also thank the Speaker and the President of the Parliament and all members of the parliamentary staff who have assisted in getting this off the ground. I also thank Fiona Weigall, chief executive officer of Victoria's East.

The DEPUTY SPEAKER — Order! The member's time has expired.

Trentham: community developments

Mr HOWARD (Ballarat East) — Last week I was pleased to again visit Trentham neighbourhood house and make myself available for community consultations. As well as hearing from residents, I was able to view plans for extensions to the facility that are soon to commence as a result of both state and federal funding. Afterwards I was also able to drive past the Trentham hospital, where the $8 million redevelopment is now under way, and the new school, which is almost opposite. The final stages of construction of the school are just taking place, and the students will be able to move into their brand-new school building next term.

During my consultations, Chas Curwood, president of the Trentham Bowling Club, reminded me that the state funding received by the bowling club has enabled it to renew its bowling green and again saw its facilities gain no. 1 status in the region. Near the bowling club is the new skate park that was constructed with funding provided by the state government. The old station was renovated by the Trentham Residents and Traders Association, supported with significant state funding. The same applies to the Mechanics Institute building in Trentham which has been recently substantially renovated. This hall is very well used especially by the TRATA group, which held its Easter art and crafts show there again this year and more recently its weekend spud festival. It is great to see so many things happening in Trentham.

Country Fire Authority: trucks

Mrs VICTORIA (Bayswater) — During the devastating fires earlier this year several firefighting appliances were either totally lost or severely damaged. One would rightly think these trucks would be replaced posthaste, but there is a major problem. Most of the nearly 100 fire trucks that were promised after Black Saturday will not be delivered for many years. Given that there are only two trucks on the assembly line at a time and that a build takes up to two months per truck, one does not have to be Einstein to work out that probably less than 10 trucks will be delivered in time for the fire season, which begins again in just 16 weeks.

Trucks are generally changed over from outer suburban stations to 'flat lands' stations after 20 years, where they serve for a further five years before being put up for auction for other states or countries to buy. But some of the trucks in the more than 1200 CFA (Country Fire Authority) brigades in Victoria are nearly 30 years old. Petrol-powered pumps are dangerous and are now illegal, but some brigades still have them because no replacement is available. To add insult to

the situation, when a new $350 000 truck does arrive the brigade has to fundraise to customise its fit-out, although brigade members are not allowed to tin-rattle and are limited to holding two major fundraisers a year. The provision of things like quality nozzles costing around $1000 each has to be self-funded. Even building modifications to fit the more modern trucks have to be funded by the brigade and its community.

This is so wrong. In Victoria equipment provided to the CFA might not be the best equipment for the job or for CFA personnel. This government has had 10 years and billions of dollars in state revenue to use for worthwhile, essential projects, yet one of our most fundamental services is underfunded and operating at dangerously low levels. There is something very, very wrong.

Iran: human rights

Mr FOLEY (Albert Park) — I rise to advise the house of the serious human rights situation in Iran over and above the recent tragedies associated with the internal elections for president of the Islamic Republic of Iran. The specific issue I raise is that of the seven Baha'i community leaders who have been charged with spying for Israel, insulting religious sanctities, issuing propaganda against the Islamic republic and a range of other charges — charges that can bring the death penalty. These Baha'i detainees have not been given access to legal representation and have not been subject to due legal process.

I would lend my voice to those, including members of federal Parliament who passed a resolution on this issue, who are calling on Iran to respect the rights to freedom of religion and the peaceful exercise of freedom of expression and association, in accordance with international human rights conventions. Most immediately of all, I would reiterate calls for Iran to release the seven Baha'i detainees without delay.

I make this call because leading members of the Iranian Baha'i community have been arbitrarily detained since March and May 2008. Latest reports indicate that a trial of some of the leaders is scheduled for early July. Perhaps most disturbingly of all have been reports of new charges against these leaders of spreading corruption on earth — a most serious charge in the Islamic Republic of Iran. These Baha'i community leaders have been subject to official patterns of discrimination and victimisation in Iran over many years. I look forward to the day when this Parliament can welcome the release of these seven Baha'i leaders.

Students: youth allowance

Mr WELLER (Rodney) — In recent weeks my office has been inundated with inquiries and complaints from students, parents, grandparents and teachers over the proposed changes to the independence test for the federal government youth allowance. Few issues have raised the ire of country families more than this Rudd government plan which effectively blocks country students from accessing university education opportunities which are open to metropolitan students.

I would like to take this opportunity to read from an email I recently received from an Echuca student attending boarding school in Ballarat. The student summed up the sentiments of many of his peers in the following statement:

> These changes are proposed solely due to this government's reckless economic management.
>
> If the government had not spent tens of billions of dollars on stimulus, which has mainly funded splurging on foreign plasma televisions and the pokies, young people might be able to understand why our collective future is being compromised.
>
> The contempt for young Australians that this current government is demonstrating is a national disgrace.

This 17-year-old student, like so many others across the state, is deeply concerned about the impacts of the proposed changes for young people in their senior years of schooling, as well as those currently undertaking a gap year, who have been left stranded.

Country students need all the financial help they can get to go to university. If the Brumby Labor government has any integrity, it should join the Liberal-Nationals coalition in calling for the youth allowance changes to be scrapped.

Nairm Bulluk-Bay Mob 2009 exhibition

Dr HARKNESS (Frankston) — It was a tremendous pleasure to officially launch last Wednesday the Nairm Bulluk-Bay Mob 2009 exhibition at Cube 37 at the Frankston Arts Centre. A fabulous showcase of local artwork from the Stepping Stones Indigenous Art Project is currently on display, which is a diverse exhibition from local Aboriginal and Torres Strait Islander people. Over 30 artists — beginners, emerging and professional, aged from 11 to 65 — are displaying work over this month ahead.

It is tremendously exciting that the Stepping Stones art workshop program held over the last 18 months has been so successful and has not only culminated in the exhibition but has also led to the formation of the

Aboriginal Corporation for Frankston and Mornington Peninsula. An amount of $60 000 from VicHealth and the support of numerous organisations and individuals has contributed to this success.

Mount Erin Secondary College: debutante ball

Dr HARKNESS — On Friday night I had the pleasure of 30 couples presenting to me and my wife, Tawny, at the Mount Erin Secondary College debutante ball. As is always the case, the debutants looked radiant, their partners were both excited and nervous, and all their guests were proud as the students presented and danced so beautifully.

Congratulations must go to the dance instructors, the teachers and the parents who obviously spent enormous time and effort in ensuring the event was the standout success that it was.

These students are very fortunate to be attending Mount Erin college at an exciting time under the leadership of principal Allen McAuliffe. The college is rapidly improving and striving for the highest of standards.

Congratulations to all the debs and their partners. I am sure that over the years ahead their hopes and aspirations will be fulfilled.

Frankston Hospital: infant hearing screening

Dr HARKNESS — Frankston residents now have even better access to infant hearing testing and state-of-the-art medical equipment thanks to a Brumby government funding boost. Visiting Frankston Hospital recently, the Minister for Health saw the hospital's recently established Victorian infant hearing screening program in action.

He also welcomed an $848 000 boost — —

The DEPUTY SPEAKER — Order! The member's time has expired.

Planning: Warrandyte green wedge

Mr R. SMITH (Warrandyte) — I rise with some very serious concerns regarding this government's commitment to the green wedge. Legislation proposed by this government will give the Minister for Planning the power to declare land in green wedges as growth areas. This is especially worrying to me, as Warrandyte's green wedge is held as precious and dear to my community.

I admit that I was not immediately concerned that the government's recent announcements with regard to movement in the urban growth boundary would affect my electorate; however, a recent newspaper article in the *Manningham Leader* on this issue has rung alarm bells.

The paper asked a direct question of the Minister for Planning: 'Is Warrandyte's green wedge under threat from the proposed extension of the urban growth boundary?'. The minister replied that the population forecasts indicated that Melbourne's needs, and the government's draft plan of future extensions of the boundary, seemed to be focused in the west, north and south-east, but he did not and would not rule out an extension of the boundary in the east. In fact, the minister highlighted that the draft plan contained provisions to expand development into other areas in the future.

The Brumby government has a history of supporting unpopular development in Warrandyte's green wedge against public and local council opinion. The planning minister is doing and saying nothing to alleviate fears that this will not happen again. I strongly caution the government against allowing any unsuitable development in Warrandyte' s green wedge. My community would stand firm against any such development and I can assure you, Deputy Speaker, that I would be standing with them.

Refugees: Afghan family

Ms GRALEY (Narre Warren South) — There are many people who have fled from Afghanistan and now make Narre Warren South their home, and we warmly welcome them in our multicultural Victoria. Shokria Hakimi, her husband Abdullah and her family came to Australia over 10 years ago. They work hard and are enjoying their three daughters' exceptional education progress

Last year Shokria lost four members of her family — her brother, sister and two nephews — in a bomb attack in Ghazni, Afghanistan. Her sister-in-law, Nooria Afzali, must now raise five children — Khalid, Susan, Arzoo, Amin and Sohail — on her own. At the family's own expense, remaining family members have escaped to Pakistan — there are no queues in Kabul — and are now receiving the care of the United Nations High Commissioner for Refugees.

Now the family has received more alarming news. They suspect that a male family member was recently kidnapped by the Taliban. Through adversity and through hard times Shokria has remained strong because her family needs her to be. She has said that

she is able to fully support her sister-in-law and her children in Australia.

I have been greatly affected by her determination to take care of the remaining members of her family. I would also like to take this opportunity to express just how fortunate we are to live in Australia. This is a country that is free and peaceful, which is why Shokria is desperately trying to bring her remaining family members over here.

I implore the federal government and associated agencies to do everything possible to protect and assist Shokria's family. I know that many members of the Afghan community are committed to making Australia their home and to supporting others within their community to do the same. I commend the work of the Afghan Australian Philanthropic Association, the Afghan Australian Welfare Association and the Afghan Australian women and youth association, all of whom provide fantastic support. Well done!

Equal opportunity: legislation

Mr WAKELING (Ferntree Gully) — I wish to highlight to the house the concerns of residents of Ferntree Gully over mooted changes to the Equal Opportunity Act. Through consultation with various religious groups and schools in my electorate I have become aware of the serious concerns raised over possible changes to the act which would remove exemptions for religious organisations and schools. The changes being proposed could remove the rights of religious organisations to hire staff and teachers whose views are consistent with the philosophy of their organisation.

I call upon the Attorney-General to reconsider any proposed changes to equal opportunity legislation and to understand the substantial and detrimental effects such changes could have on religious-based schools and organisations.

Schools: integration aide funding

Mr WAKELING — I draw the attention of the house to the plight of students, parents and families who face the day-to-day battle of educating a child with a special need. I am informed that students with special needs are either placed in specialist schools, which can require huge travel times and a disruption to the family schedule, or are schooled in the mainstream system. Students with special needs in mainstream schools face learning difficulties which are hard to overcome.

I have heard concerns from the community over a lack of funding for teachers aides, making learning more difficult for these young students. The lack of funding severely limits the ability for students with special needs to learn effectively in a mainstream school as the time of a teachers aide is extremely limited. Students with special needs receive good results and are apt and able students when given the help they need and deserve.

Knox: stroke survivors support group

Mr WAKELING — I recently had the pleasure to join members of the Knox stroke survivors support group on their visit to Kinglake. This group performs a fantastic job for the local community, and I look forward to working with that organisation in the future.

Dr Bob Birrell

Mr SCOTT (Preston) — I wish to raise the issue of media coverage of antimigration crusader Dr Bob Birrell, who is an academic at Monash University and who publishes in a magazine *People and Place*. Dr Birrell is a longstanding campaigner against migration and does it on the basis of his own environmental beliefs. I have no problem with Dr Birrell's views, although I violently disagree with them, and I have no problem with them being covered in the media.

However, the issue I have is that Dr Birrell's longstanding opposition to migration is ignored when the media covers his reports. He is presented as an independent observer on such matters, making an independent academic contribution. Like many other academics, Dr Birrell holds very strong political views against immigration.

A glance at Dr Birrell's website indicates recent reports and media coverage with headlines such as 'Stop global warning: ban immigrants'; 'A new study calls for the government to restrict the migrant flow of cooks into the country' and 'Experts say migrants with poor English earn far less'. Dr Birrell's reports go back many years and have a singular theme, which is opposition to migration and criticism of migrants. It is legitimate for Dr Birrell to hold such views in a free society, and in fact for the media to cover them.

However, with Dr Birrell and other academics who are crusaders on particular issues the media should acknowledge these crusades and cover their reports in a fair way which acknowledges that they have strong views and their academic work reflects these views and their ideological bias.

St Joseph's College, Pascoe Vale South: closure

Ms CAMPBELL (Pascoe Vale) — Pascoe Vale South's St Joseph's College will be closed at the end of the year by Edmund Rice Education Australia (EREA). I pay tribute to the boys and the local families who have fundraised to build and maintain St Joseph's. Its Pascoe Vale campus is located in my electorate, and the vast majority of its student catchment zone is covered by Moreland council. My personal association with the school and its North Melbourne campus precedes my election, as my grandparents, parents and brothers were involved in the building fund and other fundraising for both campuses.

St Joseph's was built through the efforts of the financial support of local Catholic families who wanted Catholic education for their sons. Through the area's financial sacrifices during the absence of government funding and then during minimal government funding the infrastructure for the school and the Christian Brothers accommodation was purchased and maintained over many decades.

St Joseph's was the local secondary school for boys, and local parents paid for it. The educational site should not be sold off to the highest bidder with future sale proceeds dispersed away from the provision of local education. In my view the site should therefore remain for local Catholic education. If the site is sold, any money should be reinvested back into our local area.

In a spirit of justice I submit for EREA's consideration — —

The DEPUTY SPEAKER — Order! The time for members to make statements has now expired.

MATTER OF PUBLIC IMPORTANCE

Rail: level crossing safety

The DEPUTY SPEAKER — Order! The Speaker has accepted the statement from the member for Polwarth proposing the following matter of public importance for discussion:

> That this house condemns the state Labor government for its inadequate response of 18 June 2009 to the Road Safety Committee's inquiry into improving level crossing safety.

Mr MULDER (Polwarth) — I rise to lead the opposition's debate on this matter of public importance, which is of extreme interest to members of the Victorian community. As was pointed out, we are deeply concerned about the government's response to the Road Safety Committee's inquiry into improving safety at level crossings.

Following the tragic Kerang accident the government announced that it would conduct an inquiry into level crossing safety in Victoria. It was the opposition that pushed through the upper house to have a reference provided to the Road Safety Committee to conduct the inquiry. It is important for this house to note that it is an all-party parliamentary committee dominated by members of the Labor Party. The recommendations that were put forward were supported wholeheartedly by all members of the committee. There was no minority report, and I believe the Labor members of that committee along with the opposition would have every right to be deeply concerned by the government's response to the committee's report.

One has only to look at the manner in which the government's response was handled to get an understanding of its lack of commitment to level crossing safety here in Victoria. The government's response was tabled outside of parliamentary sitting hours, late in the week and late in the day. That was a deliberate attempt to avoid the scrutiny of this Parliament and indeed the scrutiny of the media and the scrutiny of the Victorian public. There is no doubt that that was what was behind the government's timing of the tabling of this report.

It is interesting when you go through the government's response to the Road Safety Committee's report that most of the recommendations that involve the gathering of data and information and liaising with federal departments and other organisations and groups have been picked up by the government, but when you start to get down to the nitty-gritty of other recommendations that involve the spending of taxpayers money to deal with some of the real issues — the nitty-gritty issues that were pointed out in this report — the government's response starts to fade very quickly.

It must be quite clear to the government now, given the acquittal of Mr Scholl, the truck driver involved in the Kerang accident, and Mr Jenkins, the truck driver involved in the Trawalla accident, that to continue to point the finger at motorists in regard to level crossing safety simply does not wash with the Victorian public, particularly in the Kerang case, where it was pointed out throughout the trial that warning after warning of near misses at that level crossing went unheeded by the government. Its approach and the approach of the Minister for Public Transport was simply, 'Let us cross our fingers and just hope that something does not occur'.

We have to be aware that what we are trying to do and what this committee was trying to achieve is the avoidance of another catastrophic level crossing accident in Victoria.

It may well be that we will never get to the point where we have a zero figure for level crossing accidents, but surely every member of this Parliament must and should ensure that we do everything possible to avoid another accident like those at Kerang and Trawalla, or the accident that occurred at Lismore in my electorate. Trains were derailed on each of those occasions. The derailment of a train points to the fact that we could and most likely will have in the future another catastrophic event; we cannot let that happen.

If the driver of a vehicle makes a mistake or if the driver of a heavy vehicle has a lapse in concentration, yet we do not act, we are accepting that we are going to have more of these types of accidents. When members of the Road Safety Committee travelled overseas they found that the attitude in European countries is that we need to engineer dangers out of our road network as much as possible, and level crossings are part of our road network. That is also my view. We should not have multiple deaths as a result of someone having a lapse in concentration or from making a mistake.

All I am saying to the government is that this is a very poor response to a matter that is of significant importance to the community. The government and the minister stand condemned, firstly, for the way this report was tabled. I would have thought that as an absolute minimum the minister would have taken this report back to the Kerang area, called a public meeting and explained to that community exactly what was behind the government's thinking in respect of each of the committee's recommendations, in particular the recommendations the government turned down. There was no such action at all, which I find very surprising and extremely disappointing. The government stands condemned for its inaction following the tabling of its response to the committee's recommendations.

I want to deal with a couple of the RSC's recommendations and the government's response. Recommendation 18 reads:

> That the Department of Transport publishes the results of road safety camera trials, and if the trials are successful, implements a program to roll out the installation of safety cameras at level crossings to detect and enforce level crossing offences.

On the *Stateline* program last week the minister spoke at length about having sat at level crossings and watched people weave in and out of the boom gates; she said that was highly dangerous behaviour. The idea of these cameras was to stop people engaging in that type of activity. Springvale Road is a typical example of where that type of activity has occurred.

The government's response to the committee's report refers to this issue by saying:

> Further rollout of enforcement cameras will subsequently depend upon additional funding being made available for this enforcement activity.

It may well be that the trials have shown the government that, yes, there is risky behaviour at level crossings; that, yes, this technology does work; that, yes, we can detect these drivers; that, yes, we could possibly prevent a very serious accident from occurring again; that, yes, these cameras could possibly save lives; and that, 'No, we are not prepared to spend money'.

An article appeared in the *Herald Sun* of Monday, 8 June, stating that documents released to the Liberal Party under freedom of information (FOI) show an increase in fixed speed camera fines. It points to the drop-off in on-the-spot fines by police on the roads and to the fact that the Premier has budgeted for a 10 per cent jump, of almost $40 million, from speed cameras to $437 million in 2009–10; quite clearly, if these cameras had proven they could pay for themselves, they would have been installed.

What we have been saying all along about this government's approach to road safety is that it is more about revenue raising than it is about saving lives, and you could not get a more stark example than its response to the parliamentary Road Safety Committee's report and recommendation that these cameras, if effective, be used at level crossings. The government is saying no. Why? It is saying the funding is not available, but funding is available for fixed speed cameras. The *Herald Sun* article goes on further to point out:

> To boost revenue there are plans to modernise 50 old-style film red-light cameras and fund an extra 3000 hours a month of mobile speed camera surveillance.

There is one set of rules or one approach for motorists out there on the roads, but when it comes to level crossings and the available technology, we are told that no money is available and that there will be no rollout of that type of technology until funding becomes available. I find that offensive to the families of the victims who lost their lives at level crossings, who know that this type of technology is available.

On another issue, recommendation 19 states:

> That the Department of Transport evaluates the effectiveness of level crossing safety education programs and designs a safety education program that is linked to a campaign of effective enforcement.

The government would want to do a bit better than it did with the brochure it published on level crossing safety. Following an accident at a level crossing, the minister quickly gathered together some resources, got the printers running and put out a brochure on level crossing safety that showed a ute towing an oversized load without the legally required warning signs, flags and lights. That is the type of approach we have seen from this government all along. It is without thought or plan; it is reactive, not proactive. That is one of the great concerns the opposition has in relation to the government's handling of level crossing safety.

I turn to recommendation 20:

> That the Department of Transport investigates improved lighting systems for trains, and undertakes, within 12 months, a trial of low-profile strobe lights on trains. The Department of Transport should publish the results of the investigation and trial.

This recommendation was also knocked on the head. The government does not want to make sure that trains are visible. On Sunday night I was driving down Princes Freeway and was passed by a police car with strobe lights flashing.

An honourable member interjected.

Mr MULDER — I was passed by it. I could see that car kilometres into the distance. It turned around well down the road and came back on the other side. I find it extraordinary that the government is not prepared to conduct a trial of strobe lights on trains. If you can see a train, there is every chance you will not hit it.

It is interesting to look at some of the research. The government said in its response that one of the reasons for not installing strobe lights is:

> … the potential for strobe lights to have negative effects on older road users whose eyes take longer to recover from extremely bright lights; these effects should be investigated before strobe lights are tested in the field.

Strobe lights are out there now on ambulances and police cars. If they are out there now and are being used effectively, why can we not go down the path of trialling them on trains? We will conduct such a trial if we win government. I believe it will be worthwhile. We intend to do that as a matter of priority.

I go to recommendation 21:

> That the Department of Transport enforces the use and condition of reflectors on trains, to ensure that rail providers maintain the rolling stock to the appropriate standard. Penalties should apply if the rail providers disregard the standard.

Once again that is too hard for the government. It just does not want to go down that path, which would involve working with the federal government to require the installation of bright reflectors on the sides of trains so that they can be seen. The government says it is not up to it. It continues to point to the fact that it is an issue to be dealt with nationally. It is interesting that we continue to hear reference after reference to the Road Safety Committee on matters of a national nature from the Minister for Roads and Ports, who is at the table. I am talking about electronic stability control and side-curtain airbags. These issues are totally out of the control of the state government in terms of manufacturing, but the minister is more than happy to push those buttons.

Mr Pallas interjected.

Mr MULDER — The minister says the Victorian government is leading the nation. That is fair enough, but why is it not leading the nation on rail safety? Why is rail safety put aside? I find it extraordinary that we have not dealt with this issue.

I turn to the issue of the livery of trains, in particular their colour. I have in front of me pictures of two types of trains — the Sprinter trains and the new V/Locity trains. Members should have a look at the colours — they blend into the country landscape perfectly. It is a disastrous situation to have trains that cannot be seen by motorists approaching level crossings. This cannot continue. If the government can afford to jazz up trams around Melbourne by putting extensive advertisements on them, it cannot be a matter of cost. This must be addressed as a matter of urgency. Once again, this is something we would do if we were in government. It is very important. If people can see a train approaching, there is a chance they will stop.

Mr HUDSON (Bentleigh) — There is only one question left after the contribution by the member for Polwarth — that is, why did he bother? Why did he get out of bed this morning and propose this matter of public importance (MPI) to the Parliament? Has the opposition completely run out of ideas? Perhaps the member for Polwarth cannot get a question up in question time. That is probably the problem — it is not deemed worthy of a question. Members of the

opposition came into Parliament this week and said — —

The DEPUTY SPEAKER — Order! The member for Hastings has a point of order. It had better not be a frivolous one.

Mr Burgess — On a point of order, Deputy Speaker, and it is not at all frivolous: is it not the call of the minister to respond to an MPI?

The DEPUTY SPEAKER — Order! That is a frivolous point of order. If the member for Hastings continues in that vein, I will deal with him.

Mr HUDSON — Members of the opposition woke up and said, 'Oh dear, it is a parliamentary sitting week and we need an MPI. What will we do? There was a report tabled last week, let's do that'. Or perhaps the member for Polwarth is being set up by supporters of the Leader of the Opposition. Perhaps that is what is going on, because this is an embarrassment. If you have a look at the government's response to the report of the parliamentary Road Safety Committee on safety at level crossings, you will see that the government has supported 51 of the 54 recommendations made by the committee — that is, over 95 per cent of the recommendations. Just four of the recommendations were not supported.

Let us have a look at the recommendations that were not supported, because the member for Polwarth made only a half-hearted attempt at going through them. Recommendation 7 is a recommendation on minimum safety standards at crossings. It recommends the adoption of policy guidelines that set minimum safety standards for the different types of railway crossings. We did not support it because every level crossing is different and every level crossing requires different treatment to make it as safe as practicable. The members of a national subcommittee of Standards Australia agreed that each and every railway crossing is unique and should be treated on its own merits in terms of how the safety management requirements for crossing controls are determined.

That is backed up by the Monash University Accident Research Centre (MUARC), the premier body for doing research into accidents on Victoria's road and rail system. What did MUARC say? Its report says:

> In short, there is no such thing as a typical railway crossing. In other words:
>
> 1. Level crossings are not homogeneous.
>
> 2. Level crossings accidents are not homogeneous.
>
> 3. Different human factors solutions are required at different crossings.
>
> 4. There is no magic wand that will produce a solution to every fatality.

Mr Mulder interjected.

Mr HUDSON — That is what the member for Polwarth would have us believe. He believes that he can come along with fairy dust, sprinkle it over every level crossing and wave his magic wand and that somehow we will eliminate those accidents and fatalities at level crossings. He would have the public believe that he has some magic fairy dust that he will sprinkle over 3000 level crossings across the state that will give us the solution we want. He does not want to do the hard work that we are doing — that is, risk assessment of every single level crossing. He does not want to design individual solutions for every level crossing, which is what we are doing. He wants to set a minimum level standard and believes that will solve the problem. But MUARC says that will not resolve the problem, and that is clearly recognised in recommendation 8 of the report, which is:

> That the Department of Transport publishes an analysis of the results of the Australian level crossing assessment model survey, including an overview of the works required, and whose responsibility it is to resolve the issues identified in the survey.

Mr Mulder interjected.

Mr HUDSON — We are funding it. I will come back to that. Let us go to recommendation 23 of the Road Safety Committee's report, which is the one that the member for Polwarth sought to make some grand statements about. It states:

> That the Department of Transport regularly inspects the livery of trains to ensure that they are painted in high visibility contrasting colours, are well maintained and kept clean. Penalties should be applied if trains are not painted in high visibility contrasting colours, or are not well maintained and kept clean.

Mr Mulder interjected.

The DEPUTY SPEAKER — Order! The member for Polwarth had his opportunity.

Mr HUDSON — The fact of the matter is that we have a national railway system. We have trains that travel from interstate.

Mr R. Smith interjected.

The DEPUTY SPEAKER — Order! I allow a certain amount of discussion going backwards and

forwards, but the member for Polwarth was particularly loud. The member for Warrandyte should not reflect on the Chair in that manner.

Mr HUDSON — They show disrespect not only to the Chair but to this debate, because it is very clear — and the whole-of-government response says so — that we do not have the power to enforce a national voluntary standard or to impose penalties for non-compliance, because it is a national railway system. However, the government supports the livery of trains complying with ARA (Australasian Railway Association) guidelines on train conspicuity. We have said we support the use of reflectors on railway rolling stock. However, we do not believe — and we make it clear in our response — that we should support mandatory compliance at this point until some more research is done.

Honourable members interjecting.

Mr HUDSON — You laugh, but that is what MUARC says in its document titled *A Literature Review of Human Factors Safety at Australian Level Crossings*, which was released in February this year. If you bothered to read the report, you would know about it.

Mr R. Smith interjected.

The DEPUTY SPEAKER — Order! The member for Bentleigh should speak through the Chair. When he says 'you', he is addressing the Chair.

Mr HUDSON — I do not mean you, Deputy Speaker; I refer to the people on the other side who do not read the research that says what should be done in these matters. That research raises a whole raft of issues about paint schemes and about the ability of people to judge train speed and distances and raises a whole raft of questions which require further research.

The member for Polwarth came into this place with his matter of public importance dressed up in some pretty cheap livery and a particular paint scheme. He has jumped on the MPI express, but he did not judge its speed into the chamber. He did not realise he had not done his work and that he was going so fast that he did not have the research to back up his point of view. He has come into this place and now has a train wreck, because he could not produce one piece of evidence to justify the gravity of the MPI that he purported to bring into this chamber. The trouble was that he could not jump off the MPI express before it crashed. He could not jump off, because he was stuck with what he has said today.

Members need to take note of what has been concluded by MUARC, which is:

> This is a major problem at passive crossings, and one for which we cannot develop any suitable countermeasures until we have a better understanding of the human information processing systems involved.

Mr Mulder — Rubbish!

Mr HUDSON — The member for Polwarth says the conclusions of the Monash University Accident Research Centre are rubbish. I reckon the people of Victoria would trust the work of MUARC more than the pathetic stuff dressed up as an MPI that has been brought in here by the member for Polwarth.

Let us also have a look at one of the other recommendations made by the Road Safety Committee. I refer to recommendation 43(c), which is:

> That the Department of Transport investigates:
>
> …
>
> (c) A scheme to fund the technology subsidy through the introduction of a fixed-term crossing safety levy on the railway industry.

The reason the government does not support this recommendation is that the majority of railway crossings are controlled by rail operators who are already subsidised by the state. In fact the program of upgrade we have under way is unprecedented. We are addressing this problem very effectively. You only have to look at the work schedule for the year 2008–09 to see that a total of 82 upgrades will be completed. In the seven years of the Kennett government 75 upgrades were completed. In one year we are making 82 upgrades. Members of the opposition have no shame! They come in here and criticise what the government is doing to address the backlog they left us with in the area of level crossing safety. We inherited a situation in which half of the state's 3000 railway crossings had no lights, no bells and no boom gates.

Dr Sykes interjected.

Mr HUDSON — I hope the bells are ringing for the member for Benalla. I hope he understands the pathetic effort made by the previous Liberal government to do anything about railway crossings. In the last four years this government has upgraded 245 crossings, which is something the opposition could not achieve during its seven years in government, and today we have announced that we have completed our target upgrades for this financial year. We have completed another 46 upgrades — a great achievement.

Members of the opposition constantly complain about the amount of money the government spends on rail. They complained about the $750 million we have spent on the regional fast rail project. Guess what? That project involved 101 level crossing upgrades. Presumably the opposition would like us to spend less on railway crossing upgrades and therefore spend less on the regional fast rail project.

At the last election the opposition promised to extend the railway line to South Morang for $12 million — —

An honourable member interjected.

Mr HUDSON — What does it matter — $8 million, $12 million? If the railway line to South Morang were to be extended for that money, at least another three level crossings would have to be built. The opposition would create more level crossings and more places at which accidents could occur.

The member for Polwarth has been out there criticising the government for the $560 million-plus the government is going to spend on the South Morang extension. Why is it spending that money? Because that will eliminate the number of potential level crossings that would be built in a fast-growing, outer urban metropolitan area. Members of the opposition cannot have their cake and eat it too. They cannot claim to do an el cheapo job on the South Morang rail extension and at the same time bleat about level crossings — when they would have built more of them!

Whatever the member for Polwarth said today about spending money on the elimination of level crossings, there is one thing we can be certain of — that is, that it will not happen. Why? Because the shadow Treasurer has said the opposition will freeze state government taxes and charges for the next four years, which would leave a $6 billion hole in the state budget. The opposition would have no money even for basic services, let alone whatever the member for Polwarth sought to claim in the house today about level crossing upgrades. The opposition has no credibility on this point, not only in the past but in the future in terms of what it does.

Mr WALSH (Swan Hill) — I rise to make a contribution on the matter of public importance today submitted by the member for Polwarth. At the outset, I take umbrage at a couple of the comments made by the member for Bentleigh. The first is the statement about no money. I suppose history proves that at the end of every Labor government in Victoria, the state has been broke. So there will be no money left; that is the whole issue.

The way Labor governments manage money means there is usually no money left for an incoming government. It takes the discipline of a conservative government to sort out the mess that that side of the house leaves every time it goes out of government.

I would like the member for Bentleigh to hang his head in shame for the contribution he made today. It was totally disrespectful to the people who have lost their lives in level crossing accidents, and particularly disrespectful to the 11 people who lost their lives at Kerang two years ago. Deputy Speaker, can I ask the member for Bentleigh and the member for Melton just to pause for a moment, be quiet and remember the 11 people who lost their lives at Kerang because that is what this debate is about? It is about making sure that our level crossings are safer.

An all-party committee of this Parliament has conducted an inquiry into the safety of level crossings; that is what we are talking about. We are talking about human lives, about people who tragically have been killed at level crossings, which was the subject of the parliamentary inquiry; it was about making level crossings safer. The members for Bentleigh and Melton may wish to filibuster about that; but I would like them to pause for a minute and think about the 11 people who lost their lives at Kerang, because it happened in my electorate; I personally attended the accident afterwards. They were not the first fatalities to occur at that level crossing. For a long time that crossing had been at the top of a list of dangerous level crossings, but nothing was done about it until those 11 people tragically lost their lives.

I would like the members on the other side and all members to pause and give a thought to those 11 people who died and to their families. The tragedy still goes on for those families; it is still very present in their minds, and they feel very bitter about this whole issue. The other people I would like to acknowledge while I am talking about that accident are all the emergency services people and the health professionals who became involved in the aftermath to that accident, because they, too, feel very strongly about that whole issue.

It was interesting that at the time of that accident's anniversary just a couple of weeks ago, the media, including the city media, were very keen to try to get some stories out of it. They were constantly faced with the fact that no-one in the community wanted to talk to the media. The scars and the bitterness are still there; and no-one in the community wanted to talk about it to the media because they feel so strongly about what happened.

It is good that the two members who were very noisy earlier have paused to think about the issue we are discussing today.

I want to talk about the report of the Road Safety Committee inquiry into safety at level crossings. The purpose of the MPI that the member for Polwarth has raised today is to condemn the government for its inadequate response to this report. As members know, when they sit on parliamentary committees there is a lot of work put in by the committees. If a consensus report is prepared, it is probably a rare occurrence rather than the norm. The fact that there has been a consensus report produced from this inquiry means that there is endorsement from all sides of the house.

I turn now to the recommendations in the report, and in particular to recommendations 8 and 9. These recommendations mention the Australian level crossing assessment model (ALCAM) issues with level crossings and the fact that there needs to be an analysis of them. In recommendation 9 the committee recommends:

> That the Department of Transport, together with level crossing stakeholders, prepare a funded, three year program to implement the safety issues identified in the Australian level crossing assessment model surveys. The program should be regularly monitored and the results published annually.

The government's response to that recommendation is to support it in part; the government:

> … supports the completion and qualification of a program to mitigate the risks associated with the ALCAM field survey process.

But it:

> … does not support that program being a funded three year program for the reasons outlined below.

Importantly, the government has said that:

> … it will determine the extent to which any additional funding will be provided for this recommendation as part of the normal state budget process.

So it will get lost in the normal budget process and nothing will happen about implementing any ALCAM field survey there. That brings me back to the issue I raised at the start: this MPI is about human life — that is what we are talking about. It is about safety for people.

Another recommendation I would like to talk about is recommendation 11, which talks about reducing the speed limit to 80 kilometres per hour on all crossings. Again, the government supports this in part. The member for Bentleigh keeps saying how the government has supported a whole heap of recommendations, but that support from the government is quite often qualified. The government response talks about having 80 kilometre-per-hour speed limits on all sealed roads, but also says that only sealed roads will be treated because research indicates that on unsealed roads vehicle speeds are usually below 80 kilometres per hour and an 80 kilometre-per-hour speed limit there would tend to encourage motorists to increase their speed. That recommendation treats country people in particular with contempt: to say that you will not put an 80 kilometre-per-hour speed limit on a rail crossing on a gravel road because people will speed up because that is the speed limit. How dumb does the government think country people are? It is absolutely absurd.

Again, if you go to recommendation 17 where the report refers to rail crossings and the ALCAM data and all that, as I see it the issue there is that local government is potentially going to get stuck with a lot of the costs of this. The Buloke Shire Council, which is one of the councils in my electorate, has from memory something like 120 rail crossings in its shire. It does not have the resources; it does not have the money to do the work that is going to be forced on it out of some of these ALCAM recommendations, and there is a need for the government to help there.

In the time I have left the last issue I would like to talk about concerns recommendations 20 and 21. They talk about a trial of low-profile strobe lights on trains. Anyone who travels the highways and byways of this state would see that trucks out there that have high or wide loads have large flashing orange lights on the top and quite often on the back of the vehicle, and that those lights stand out for miles. Why can we not trial simply having flashing orange lights on the tops of trains? Anyone who has an agricultural vehicle on a highway has by law a requirement to have orange flashing lights on it. They stand out, particularly at night, so why can we not have a very low-cost option of flashing safety lights on trains?

After the Kerang rail tragedy I had lot of people coming to my office and a lot of people ringing up, particularly farmers, saying, 'We have orange lights on our tractors. Truckies have orange lights on their trucks. People see those. Why can't we put them on trains?'. It is a very low-cost option to do something, but again the government says it only supports it in part because we need to have further research. How much research do you need to see an orange light on a train?

Mr Nardella interjected.

Mr WALSH — Just put your glasses on!

Then you go to recommendation 21, which talks about making sure you have some bright colours on the train. Again, there is a lot of research out there that says the different colours of cars increase or decrease their safety on the road. Should not the same logic apply with trains? If you have a brightly coloured train, people will see it, but in general train colours are dull. I would have thought that would not be a very high-cost option. You could paint trains in bright colours.

It goes on to talk further about reflectors. For those who travel the roads of country Victoria at night, particularly some of the category C roads and the smaller roads with rail crossings, if the front of the train has gone across in front of you and there are no flashing lights on the crossing, you effectively cannot see the carriages of the train because they are usually painted in dull colours and have insufficient reflectors for the carriages to be seen.

In conclusion, a lot has been said from the other side about how the government has responded positively to this report and how it is spending record amounts of money. This government has had $300 billion in the last decade to spend on whatever it wanted to spend in Victoria, and I do not think we are any better off for it. When this government has gone, the state will be broke.

Mr NARDELLA (Melton) — This matter of public importance before the house is about the inadequate response to the Road Safety Committee inquiry. This is from the prospective Leader of the Opposition, and this is what is going to get him into that position!

Let us deal with the matter once and for all. Out of the 54 recommendations, 51 were supported, in full or in principle or in part. There were three that were not supported for good reason, but the Brumby Labor government will continue working to address the issues identified in the report. If you are going to make decisions, if you are going to lead the opposition, you want to do it on the basis of research, of rationality or of being logical.

You want to do it on the basis of whatever you put in place works, but no, the honourable member for Polwarth criticises this government for wanting to do the research, the hard yards and the hard work to make sure that whatever we put in place works and, more than that, not only that it works but that it saves lives. But no, he comes in here — this pretender Leader of the Opposition — and wants to make a political point. Even worse, the honourable member for Swan Hill tried to further politicise this matter of public importance that has nothing to do with the tragedy that occurred at Kerang, because the government is dealing with that situation.

How does this demonstrate an inadequate response when we are implementing the recommendations and putting in place the rest of the recommendations? The honourable member had 15 minutes to explain it, but he could not do so. He could not put a rational argument to the house. The facts do not demonstrate what the MPI he is putting to the house today is all about.

The Liberals do not have the policies to fix up the rail crossings because their central policy, their plank, is to cut $6 billion from the state budget. Their policy is about freezing all taxes and charges in Victoria if they come into office, which leaves a $6 billion black hole, which means that over four years they will be cutting services, there will not be rail upgrades; they will be closing schools; they will be closing hospitals; they will be sacking nurses; they will be sacking teachers; and they will be doing what they did in the seven long dark years of the Kennett government.

How will they be able to upgrade any railway crossing when they are going to be cutting every single thing under their budget. Let us have a look at the record of the Liberal Party and The Nationals on this, because if you are going to say something, then you want to see what they have done in the past. What is their record?

In the seven long dark years they had in government, did they upgrade 400 railway crossings? No. Did they upgrade 300 railway crossings? No. Did they upgrade 200 railway crossings? No. Did they upgrade 100 railway crossings? No. Did they upgrade — let us get down to this — 80 railway crossings? No, of course they did not. They did a pathetic 75 railway crossings in their time in government, yet they have the gall to come in here today and say this government has done nothing, which is wrong, false and not true and correct.

The Kennett Liberal and National parties government upgraded a pathetic 75 crossings. That is their work record. You only have to see what they have done when they were in government, because that is what they will do if they get back into government some time in the future. And yet they have the gall to come in here and be the champions of railway crossings, for goodness sake! They say they are the champions of looking after country Victorians and motorists.

How does that compare to the Bracks and Brumby Labor governments? Let me go through it. The road local crossing and pedestrian upgrades numbered 218; regional rail upgrades totalled 101. But the house

should remember that the member for Polwarth did not support upgrades of the regional rail crossings. He criticised the railway crossing upgrades, especially the most famous one, being the one at Parwan in my electorate, yet he comes in here and wants to be a champion of upgrades.

Members should remember that people are judged by what they consistently say and do and not by a tool that they suddenly find to attack the government with.

There have been 38 upgrades under the Disability Act and 26 upgrades of automatic advance warning signs. What is the total? I am a bit of a numbers man and I have done my numbers on this. A total of 383 upgrades have already been done. That is five times the number of upgrades done by the Liberals and The Nationals — they did 75 upgrades — yet this MPI says we have done nothing.

To put it another way, let us look at the seven, long dark years of the Kennett government. It spent $3 million a year — $21 million in total — on upgrades. We have spent over $150 million over the last 10 years. There is a serious matter arising from this motion concerning what the honourable member for Polwarth has said and whom he attacks. An article in the *Age* of 17 June 2009 quotes him. It states:

> 'Before Kerang', he says, 'they refused point blank to do anything in relation to level crossing safety'. Too much, he says, had already been committed to higher profile transport projects that could be spruiked more easily than level crossings.

That comment by the member for Polwarth is factually wrong. Worse still, it attacks the workers and contractors who have been upgrading rail crossings since we came to office in 1999. It is absolutely appalling that he should attack these people; it is a slur on these good people who are doing the upgrades. It is outrageous.

On a personal note with regard to my previous comment, the member for Polwarth's comment is an absolute slur on the good men and women who upgraded the Sydenham railway crossing on the Melton Highway. There was a tragedy just before the 1999 state election. A young lad was killed at that crossing. Do members think we could get the then government to listen to suggestions about upgrading that railway crossing? Do members think the then government would send representatives to any of the public rallies and meetings to try to fix up the crossing? Do members think it would commit to upgrading the crossing at all? We could not get anything out of the Kennett government at that time. Would it talk to the family involved? No, it did not talk to the family; I talked to the family. It was an absolute personal tragedy.

There were schools around that intersection in Sydenham on the Melton Highway. We committed to do something about it. The Minister for Community Development, who was the then shadow Minister for Transport, committed to it. One of the first things the minister did after Labor was elected was to upgrade that rail crossing in memory of the young lad who passed away. That is in stark contrast to what this mob on the other side would have us believe it would do. It would not commit to upgrading that dangerous crossing even after a death and even after what had occurred to the young lad.

We are doing other things. Mr Edwards says in the article of 17 June 2009, which members should have a look at, that the vast majority of deaths and injuries occur at railway crossings when people do the wrong thing. What we have done is put in place a fine of $500 for people who go around boom barriers or go through crossings when lights are flashing — the biggest fine imposed anywhere in Australia. We are taking that positive action to try to stop the idiocy. How can people be so idiotic as to go around boom gates or through crossings where signals are flashing? However, there are idiots out there, so we are taking action.

With regard to the rest of the railway crossing upgrades, getting rid of grade alignments would cost around $80 billion. When you have a $6 million black hole such as the Liberals and The Nationals want to have, you cannot do anything about railway crossings. I oppose the matter of public importance.

Mr BLACKWOOD (Narracan) — Today I am pleased to rise to make a contribution to this matter of public importance proposed by the member for Polwarth. It states:

> That this house condemns the state Labor government for its inadequate response of 18 June 2009 to the Road Safety Committee's inquiry into improving level crossing safety.

Level crossing safety is a critical issue for all Victorians, and particularly my constituents. Today in the public gallery we have staff and student representatives from Newborough East Primary School. I am sure this issue is extremely important to them.

Most of what I have to say this morning will relate to the disgraceful failure of the Brumby government to address major safety issues regarding level crossings in my electorate, despite the recommendations of the Road Safety Committee and despite the Lardners Track level crossing fitting the description of a crossing

urgently in need of an upgrade. The Lardners Track crossing clearly fits into all three categories of risk outlined in the government's response to the Road Safety Committee's recommendations. In its response the government indicated quite clearly that the strategic direction for improving safety incorporates three programs, each of which is identified as one of the three categories of risk. These are the government's words:

> Victoria's strategic direction for improving safety at level crossings incorporates three programs:
>
> (a) addressing catastrophic risk;
>
> (b) addressing general risk; and
>
> (c) ensuring basic standards (e.g. sight distance that allows a motorist to see a train in time to stop safely).
>
> …
>
> While detailed research is limited, the most effective treatments appear to be those that either eliminate the crossing through grade separation, or through closure, or those which provide some physical restrictions such as boom barriers.

I repeat part of the last sentence: those which provide some physical restrictions such as boom barriers.

The Lardners Track level crossing is on the Gippsland fast rail line. Before the fast train began operating, the Brumby government promised it would upgrade all level crossings used by V/Locity trains. The Lardners Track crossing was ignored. Every day people's lives are being put at grave risk at this crossing. The Minister for Public Transport stated in a news interview last week that 200 rail crossings around Victoria have been upgraded, yet she continues to ignore the Lardners Track level crossing and thereby allows the safety of many people in the Narracan electorate to be seriously compromised every day. The Lardners Track level crossing clearly fits into the catastrophic risk category. I again quote from the report:

> While loss of life due to collisions between trains and vehicles or pedestrians represents only around 2 per cent of the annual road toll, it is the area of 'catastrophic risk' (a crash in which many people are killed) that presents the highest order concern.
>
> A collision between a high-speed passenger train and a school bus —

for example.

The government response continues:

> Elimination is the only way to truly address catastrophic risk, however, grade separation is an extremely costly and long-term solution, which is unsustainable to the community —

according to the government.

> Other actions which help to reduce catastrophic risk are required.
>
> These can include increased use of treatments such as crossing closures, boom barriers, lower speed limits, active advanced warning signs and rumble strips at level crossings where train and vehicle characteristics indicate a higher risk of catastrophic crash.

Lardners Track level crossing definitely has the potential for an accident of catastrophic risk, such as school buses coming into conflict with high-speed passenger trains. The V/Locity or fast train uses this section of the Gippsland line. School buses with students from Chairo Christian School, Marist-Sion College and Warragul Regional College all use this crossing.

The government response defines general risk as follows:

> Risks at level crossings exist for all road users including motorists, motorcyclists, cyclists and pedestrians of all ages and abilities. While the potential for catastrophic risk is the highest concern, typically level crossing crashes have resulted in the death of one or two people, generally the vehicle occupants. The locations for these crashes have generally been:
>
> …
>
> actively controlled crossings with high numbers of potential conflicts (high volume of road vehicles or pedestrian volumes and high train volumes).

Once again the Lardners Track level crossing has the potential for a fatal accident based on the history of accidents that have occurred at locations of general risk. Potential conflicts at this crossing include the adjacent high-speed road intersection on the Drouin-Warragul Road. This intersection is very busy especially before and after school; it has a speed limit of 100 kilometres an hour and is only 10 metres from the rail crossing. It is very difficult for drivers to concentrate on the road intersection and the level crossing at the same time. It is definitely a recipe for disaster.

The third program of strategic direction outlined by the government in its response is ensuring a basic standard. It states:

> This program is designed to ensure that basic standards are in place to give each road user the opportunity to avoid a collision with a train. Basic standards cover things such as sight distance and road alignment.

Once again Lardners Track has the characteristics which place it in this category. It has major problems with sight distance and road alignment. Vehicles travelling north on Lardners Track can find themselves

on the crossing before they realise it, and once through the crossing they are immediately confronted with the high-speed road intersection. A school bus giving way to traffic at the road intersection will still be partly sitting across the rail line, and the same will apply to a medium-sized truck. Of course larger trucks, especially B-doubles, are placed in extreme risk at this crossing.

The government's response to recommendations 15 and 16 is totally ambiguous. It says it supports both recommendations, but in the fine print it only refers to asking the Department of Transport and VicRoads to monitor these issues to ensure they are accurately incorporated into the ALCAM (Australian level crossing assessment model) field survey process and Australian standards updates as required. There is no direction for immediate action, which is urgently required at the Lardners Track crossing and many other level crossings across Victoria.

In its response to recommendation 16 the government identifies issues relevant to heavy vehicles. These issues of short stacking and sight distance are exactly typical of some of the critical problems at the Lardners Track crossing. Once again I quote from the report:

> The safety issues identified by ALCAM concerning routes used by heavy vehicles are similar to those identified generally (i.e. sight distance, short stacking, signing and line-marking deficiencies). Sight distance and short stacking issues are usually more significant for trucks because stopping distances are longer and because of the length of vehicles.
>
> …
>
> Sight distance deficiencies include situations where a driver finds it difficult to see along the train line due to the geometry at the level crossing or obstacles that block the sight lines, either when approaching or when stopped at a rail level crossing.
>
> In general the operating characteristics … acceleration and braking … of B-doubles are equal or superior to other trucks. The risks are therefore not necessarily greater for B-doubles. However, the additional length of B-doubles will have some impact on their time it takes to clear a crossing … and the likelihood of a short stacking issue where there is a nearby intersection at which they are required to give way to other traffic.

My real concern is that this government response is all smoke and mirrors. It has blatantly avoided recommendations that require funding and immediate action. Despite the public rhetoric from the Minister for Public Transport only 26 of these recommendations have been supported by the government — that is, less than 50 per cent. The rest have all got a 'Supported in part', a 'Supported in principle' or a 'Not supported' tag. To me that means no action will be taken or, if any action is to occur, the government has passed the buck to someone else. It even suggests that local government should take some of the responsibility, once again walking away from its responsibilities and increasing the financial burden borne by local councils.

The Brumby government has had 10 years of record income. Over $300 billion of financial irresponsibility has passed through its fists. Now, when things need to be done, when the safety of Victorians is in jeopardy and when the people of my electorate are crying out for action so lives will not continue to be put at risk, what does this government do? It responds with rhetoric; it pays lip-service to a very serious set of problems. This is the action of a government seriously out of touch, sickeningly arrogant and desperately short of money. The question this government will have to answer one day soon is: where has the money gone? Where has the $300 billion it had at its disposal been wasted?

I have raised the issue of the Lardners Track level crossing in this house on three occasions, I have presented a petition with thousands of signatures, and I have written to the minister, who responded saying the funding of the upgrade will not be considered for at least three years.

In conclusion, the people of Narracan are entitled to expect that the Minister for Public Transport will accept her responsibilities as a minister of the Crown and take immediate action to protect their safety.

Ms DUNCAN (Macedon) — I rise to not support the matter of public importance raised by the member for Polwarth. But before I start my contribution I would also, given the highly charged political nature of this debate, like to extend my sympathy to the families of all those who have died in level crossing crashes, to all those who have been injured and their families, and to all those who have been traumatised by near misses. We must acknowledge the efforts of emergency services personnel and the trauma experienced by train drivers on an almost daily basis as they see firsthand some of the behaviour on our roads. I support the sentiment that was expressed I think by the Minister for Public Transport, which was that we can best pay tribute to all those people by improving safety at all level crossings across Victoria.

Having sat here and listened to some of the debate in the last half hour or so I am again absolutely stunned by members of the Liberal Party and The Nationals. They walk into this chamber, and it is as if they are saying to all of us, 'Don't do what we did when we were in government' — which was zilch — 'but do what we say you should do now that you are in government'. Even the member for Narracan just moments ago said,

'Now, when something needs to be done', as though nothing needed to be done previously. Have railway crossings and road intersections only just become dangerous?

We inherited, as the previous government inherited and as all governments in this state have inherited, a state with a road system which at over 3000 locations cars cross the road at a point where a train also crosses. We inherited that situation, the previous government inherited that situation and all previous governments have inherited that situation. That is not a situation that has changed in the last 10 years, but all of a sudden the Liberal Party in opposition assumes it has some sort of greater merit in this matter.

I go to the points made by the members for Polwarth and Swan Hill. The member for Polwarth suggested that the acquittal of the truck driver at Kerang somehow demonstrates that focusing on driver behaviour, and I quote him 'just doesn't wash'. He has made a range of suggestions indicating that he knows what has to be done to solve these issues. Clearly it is a collective knowledge the Liberal Party has. However, this view conflicts with the Road Safety Committee's report. That is similarly the case with the member for Swan Hill. Listening to them you would swear that these guys had never been in government. All the suggestions we have heard them make this morning are simple, obvious and overdue, but none of those suggestions was implemented during their seven years in government. What did they do about rail safety and about transport generally? They sold the trains, they sold the lines, they sold the network — they handballed them to private operators and said, 'It is no longer any of our consideration'.

I suggest to the members for Polwarth and Swan Hill that they actually read the report. The matter of public importance refers to a report, and I suggest they read it, because it is clear that they have not read it so far. I will quote from the report for the information of the member for Polwarth specifically, as he says he has the solution. We have had suggestions of bells, of whistles, of strobe lights and of flashing yellow lights, none of which, by the way, the Kennett government put on trains. However, the member now says he has the solution. The report states at page 25:

> In 2003, the Australian Transport Council … published the strategy, *National Railway Crossing Safety Strategy*. In an effort to present the major factors of fatal crashes, the ATC concluded that it is difficult to determine contributory causes and factors, as generally there is more than one for any crash. Nevertheless, they considered the factors involved in level crossing crashes are:
>
> 46 per cent unintended vehicle driver error;
>
> 13 per cent adverse weather or road conditions;
>
> 9 per cent alcohol/drug taking by the … driver;
>
> 7 per cent excessive speed by the vehicle driver;
>
> 3 per cent driver fatigue; and
>
> 3 per cent other risk taking by the driver.

On the types of crashes, we have heard the member for Polwarth say, 'Let us not focus on driver behaviour, that will just not wash'. Under the heading 'Types of crashes' the report states:

> At the active crossings the following types of casualty crashes occurred in Victoria from 2002 to 2006:
>
> 21 per cent of vehicles drove through crossings with flashing lights;
>
> 17.5 per cent of vehicles drove through boom barriers;
>
> 11 per cent of vehicles stopped on the railway track; …
>
> 7 per cent of vehicles drove around boom barriers.
>
> At passive crossings, the following circumstances occurred:
>
> 40 per cent of vehicles did not stop at the crossing or give way to the approaching train …
>
> 4 per cent of vehicles stopped on the railway track.

Despite that, the members for Polwarth and Swan Hill say they have the solution to all this. They have ignored the report and its findings. They have stood in this place and tried to politicise what is absolute human tragedy across this state arising from problems this state has faced for many, many years. This government is trying to do something about it. I again make the point that the member Polwarth has said he has all of the solutions. He has said he is just gobsmacked, that it is all so clear in his mind and he cannot understand why we do not just go ahead and do all of this stuff. I again quote from the report:

> Consequently, the committee considers that data that does exist does not assist policy-makers to identify issues except in the broadest of terms.

That is quite contrary to what the member for Polwarth would stand here and say — that this is all simple, that there is a quick fix and that the only problem, and the reason we have any of these crashes, is that this government is not doing anything about it. If you read his matter of public importance, you realise that in essence that is what he is saying. Nothing could be further from the truth. It is just like opposition members never to let the facts stand in the way of a good story or a good debate. They ignore all of the evidence and come up with their own and make broad generalisations that are not based on any scientific evidence. In fact

they ignore the scientific evidence, which suggests that you cannot make broad generalisations. They make generalisations and get political mileage out of human tragedy. I find that abhorrent. They are shameless. They do this time and again, and they are shameless.

Government members who have contributed to this debate have outlined what this government has done, which we know stands in stark contrast to what occurred under the Kennett government. I will refer to some very basic facts on that matter, which the member for Polwarth seems not to have seen or refuses to acknowledge. This is a snapshot.

There were 75 upgrades in the seven years of the Kennett government. Under this government there have been 245 upgrades in the last four years alone. I remember well that when we were upgrading the Bendigo, Ballarat, Geelong and Traralgon lines with the regional rail upgrades, the member for Polwarth came into this house and at every single opportunity criticised and bagged those projects and talked about cost blow-outs and about them being a waste of money. What he calls 'cost blow-outs' is where the government is presented with an alternative about which the experts, the engineers, would say, 'This is better than what you had originally considered purchasing. This will do more for the signalling system. This will improve safety to a far greater extent'. The government then makes the decision to go with the best technology at the time.

Opposition members stood there and criticised us and referred to those upgrades as cost blow-outs. They did not say, 'You are changing the program because there are now better things on the market and you have gone ahead and purchased those to improve safety'. No. They always stand back and politicise, criticise, show no insight and provide nothing useful in this policy debate — in public debate in this state, full stop. I do not know how they have the gall to stand up here and do the sorts of things they do and make the comments they make.

Opposition members never let the facts stand in the way of a good story. They never say what they did in office. Instead they say, 'You do in government what we think you should do. Heaven forbid that you should do what we did', which was zilch. They have no standing on this issue. They seek to politicise human tragedy for their own political gains, and I condemn them for it.

Mr DELAHUNTY (Lowan) — I rise to speak on this very important matter of public importance (MPI). Before I get into my presentation I want to speak to some of the matters raised by the member for Macedon. She talked about facts. I will give her some facts.

In the 10 years this Labor government has been in power it has had buckets of money — absolute rivers of money — coming in. Compare that to the situation that applied when the coalition was in government. I know the member for Bass has had more experience in this place than I have. He reminded me that when this government took over it had a big, big surplus, but when the coalition took over back in the 1990s it had an enormous deficit. The reality is that in 10 years this government has had available to it more money than all other previous state governments have had in total. In 10 years it has had more money than all other governments put together since federation, yet the state still has these problems.

The other fact I want to report to the member for Macedon is that we are talking about evidence and about reports. I will talk about a report which was tabled this week in the federal Parliament. It relates to a committee that was chaired by a Labor member, which highlights the fact that:

> Every year accidents at level crossings all over Australia lead to loss of life —

we have spoken about that because all of us are concerned about it —

> and millions of dollars of damage. The causes of these accidents are complex, and the proposed safety solutions are varied, but the need to reduce their occurrence is clear.

It goes on to say:

> In examining how best safety at level crossings should be improved, the committee endorses the three-tiered … approach …

I think we would all agree that a three-tiered approach includes education, enforcement and, importantly, engineering. That is where the state government has denied the report which was put together by the very powerful and important Road Safety Committee. Where is the Minister for Public Transport in this debate?

Mr Burgess — Gone missing.

Mr DELAHUNTY — Gone missing. The member for Polwarth proposed this matter of public importance and was in here to hear the key speakers, including the Labor members, but the minister has been missing from this debate. She has not given us the courtesy of coming into the house. What is this Labor government talking about? It is all spin and all show. It has buckets of money, but it does not do anything.

I am very keen to support the MPI of the member for Polwarth, which states:

> That this house condemns the state Labor government for its inadequate response of 18 June 2009 to the Road Safety Committee's inquiry into improving level crossing safety.

I want to talk about my experience with rail crossings. Many years ago I had the unfortunate experience of driving around a corner near Dooen, which is close to Horsham, while flashing lights at the crossing were working. Unfortunately, because of where the sun sat in the sky, I did not see them. I was very lucky in that I had reasonable brakes on my car, but I stopped within a car's distance of the railway line. The train stopped because the driver thought it had connected with my car. People came out of a house, and I had to change a tyre on the car because I took out the last white post on the right-hand side. I know about having a close call with a rail crossing, and I support any endeavour to make them safer.

I have the biggest electorate of any member in the Legislative Assembly; it has many hundreds of rail crossings. Numerous letters on this issue have been sent to me in the 10 years I have been in this Parliament, including from Ivor McLean of Edith Street, Horsham, who is concerned about rail crossings there, and from Mrs Pat Beacon of Nhill, who is concerned about the rail crossings.

Kerryn Shade, who is the chief executive officer of Horsham Rural City Council, has many times raised issues about various crossings in Horsham. I have also had letters from Bob and Shirley Meredith of Willaura, which is a great little township in the south-east corner of my electorate. They were concerned about the rail crossing there because they were coming from a hospital and had difficulty getting across it. After many months of lobbying, we got that crossing fixed.

I have also had letters from David Rule, who is the executive officer of RoadSafe Wimmera, talking about advance warnings. RoadSafe is heavily involved with road safety and is calling for the installation of advance warning signals at railway crossings, whether they be lights, warning lights or strobe lights. All these measures would provide advance warning and help at rail crossings.

I have also had a letter from Eddie Smart of Hamilton, who talked about solar lights. If we are going to get lighting for some of the crossings, maybe we should be using solar lights. The Hamilton branch of the Association of Independent Retirees also called for warning lights and boom gates. We know that boom gates cost a lot of money, but warning lights can be installed in a very cost-effective way. I have even had a letter from Belinda Williams, who is the chair of an environmental management forum for Iluka in Hamilton. She was very concerned about Burgins Road near Hamilton. In fact, Iluka ended up paying for the upgrade of the rail crossing there. I could mention numerous other letters from people in my electorate: they all say to me that if money is spent on country rail crossings, country lives will be saved.

This is something this government must do. I refer back to the federal report which the member for Macedon, who has left the chamber, was asking about. She said, 'Where is the evidence?'. The evidence is there. It is not only in the Road Safety Committee report, and I will come to that in a few minutes, but the first key recommendation in the federal report states:

> The committee recommends that Australian Standard 7531 be adapted to include a mandatory requirement for ongoing maintenance of retro-reflective materials on locomotives, as well as strict enforcement of the standard's requirements.

The federal government's equivalent of Victoria's parliamentary Road Safety Committee has as its no. 1 recommendation that we improve reflective materials on locomotives. I have heard the member for Polwarth speak about it, and I have heard the members for Narracan and Swan Hill talk about strobe lights and all those sorts of things.

When we drive our cars we have a responsibility according to the law to make sure that their lights are clean. I am thankful that the western part of Victoria is getting a bit of rain this week, but that leads to the lights on many cars that travel on gravel roads and off-road being covered with mud and the like. At the end of the day a driver is responsible for making sure that the lights on their car — whether it is the headlights or, more importantly, the tail lights — are clean so that other people can see them.

It is important that there be stricter enforcement of the standards in relation to reflective materials and lighting along the sides of trains. I can remember bringing up this matter in this Parliament years ago. We need to make sure that trains can be seen not only in the daylight but particularly at night. There have been numerous parliamentary inquiries and numerous reports on the issue.

Getting back to the contribution of the member for Macedon, she said, 'Where is the evidence?'. There are bucketloads of evidence, and importantly there are many reports sitting on the shelves in the minister's office.

Mr K. Smith — Where is the minister?

Mr DELAHUNTY — She might be in her office, reading them. She is not here now, but she might be downstairs. At the end of the day we need to make sure that we take action on these reports.

I want to highlight that we have a very highly regarded and longstanding Road Safety Committee. The member for Rodney is a member of that committee, and he has told me that its latest report is a bipartisan one. I do not have the time to go through all the details, but one I want to highlight is referred to on page 49 of the report:

> The survey of 1973 road and pedestrian level crossings identified 21 397 issues or potential hazards — 606 of these issues have been resolved.

But it states also that:

> The majority of the safety issues, 13 384, which require resolution are the responsibility of local government in their role as road authorities.

I am disappointed that in its response the government says it does not support recommendation 9:

> That the Department of Transport, together with the level crossing stakeholders, prepare a funded, three-year program to implement the safety issues identified in the Australian level crossing assessment model surveys.

The government has said it will not support that — that is, the Department of Transport does not support a funded, three-year program. I know why it is saying that. As we know and as many of us heard when the budget was brought down in this chamber, the government is running out of money; it is borrowing money and pushing the responsibility of looking after railway crossings onto local government. That is one of the concerns I have with the report — that this government ducked the issue of working on rail safety with other stakeholders such as local government.

There are many things I want to talk about, but unfortunately I do not have time. If members read the executive summary of the report, they will see that it highlights that we must take a step forward in this work.

Mr EREN (Lara) — I stand today to speak against the motion before the house. Obviously members are aware that I wear two hats in relation to this motion before the house. One is as a very proud member of this government and the second is as the chair of the Road Safety Committee.

Members such as the previous speaker have stated, and rightly so, that the Road Safety Committee is a highly esteemed committee in terms of its bipartisan approach to issues pertaining to road safety. As the chair of the Road Safety Committee I am very proud of the reports that the committee has produced in this term of government, and I am very proud of all members of that committee. Certainly everybody has played a part in producing the reports.

The recommendations in this report into improving safety at level crossings reflect a bipartisan approach. One member who took part in the inquiry is no longer with the committee. I was stunned when the member for Polwarth resigned from the committee because he was a good contributor to its investigative work but also because of his credentials as the shadow Minister for Public Transport. I would have thought membership of the committee would have contributed to his enlightenment on road safety issues, but clearly there are other political agendas.

I suspect that the matter of public importance before us today is one of those political objectives and a reason why the member for Polwarth resigned from the committee. I hope that is not the case. I hope he respects the committee and does not continually snipe at every report it prepares because he is now not a member. I consider the member for Polwarth to be a talented bloke. He certainly has ambitions in relation to being leader one day. That might be why he has resigned from the committee — to have more time to plot and further his ambitions. I do not know, and it is beside the point.

As I said before, I am very proud of the report that the Road Safety Committee produced. It certainly goes to the crux of the issues that were put before members of the committee. The investigation resulted in all the recommendations that were made focusing solely on road safety, particularly pertaining to level crossings. I want to put on the record part of the foreword to the report:

> This inquiry was undertaken while the community was still trying to come to terms with and comprehend the level crossing tragedy that occurred near Kerang, in June 2007.
>
> After many months of investigations conducted by the Road Safety Committee, we present this report on improving safety at level crossings. The recommendations are made with the sole objective of reducing fatalities and injury at level crossings.
>
> Having said that, I should also state that safety at level crossings is a shared responsibility and no amount of safety technologies implemented at level crossings is going to prevent crashes unless we collectively take care and pay attention while driving. Importantly, we need to respect and take trains seriously and never underestimate their speed and weight.

> Nevertheless, we are human, and humans are prone to make mistakes, and as governments we should try as much as practicable to make level crossings as safe as we can. The committee also understands that of the total fatalities that occur on our roads, less than 1 per cent of the fatalities occur as a result of level crossing crashes.

Mr K. Smith — That does not matter!

Mr EREN — I take objection to the interjection. I know it is unruly, but it is also absolutely outrageous. It is outrageous that members of the opposition, especially cleanskins who have nothing to do with any of the policies of the previous Kennett government — —

Mr K. Smith interjected.

Mr EREN — I know the member for Bass was part of the Kennett government, which did nothing for level crossing safety in this state. Do not let me get started on the previous government!

Mr K. Smith interjected.

The ACTING SPEAKER (**Mr Kotsiras**) — Order! The member, without assistance! The member for Bass will have his turn next.

Mr EREN — The state government through the Department of Transport specifically asked MUARC (Monash University Accident Research Centre) to research some of the recommendations. I am surprised that in his contribution the member for Polwarth bagged the report, which basically reviews the literature on human factors in safety issues at Australian level crossings, because MUARC is a very respected organisation. It is known worldwide and is acknowledged for the work it does in research pertaining to vehicle crashes. It gave some guidance to the Department of Transport and the government generally and recommended not being hasty about proceeding with certain decisions. As I said, I am surprised that the member for Polwarth attempted to discredit an organisation such as this. It is shameful, because he knows as well as anyone else that its reputation precedes it. MUARC's reputation is well known not only in Australia but worldwide. For the opposition to attempt to discredit an organisation such as this does it disservice.

Mr Burgess interjected.

The ACTING SPEAKER (**Mr Kotsiras**) — Order! The member, without assistance!

Mr EREN — I want to talk also about the government supporting the recommendations that were made by the committee. Earlier the member for Swan Hill said that the state government burdens local government with the cost of some of the issues relating to level crossings. On that matter, I point out for the information of the member for Swan Hill that the government supported recommendation 17(a), which is that the Department of Transport:

> Undertakes a consultative regional surplus level crossing closing program with the rail operators, road authorities and road users.

Recommendation 17(c) is that the Department of Transport:

> Accepts responsibility for the full cost of the surplus level crossing closing program …

This is supported by the government.

The committee also recommended that the Department of Transport accept responsibility for the full cost, including land transfer and legal costs, and ensure cost neutrality for road level crossing closures for all councils and shires on a fair and reasonable basis.

There are a number of other recommendations that I want to get through.

Mr K. Smith interjected.

Mr EREN — Does the member for Bass want to move an extension of time? If so, I say to him, please do so.

Recommendation 27 in chapter 4 of the report reads:

> That the use of low-cost warning technology be used as a supplement, or enhancement, to existing controls at level crossings, particularly at passive crossings.

This is supported by the government.

Recommendation 28(a) recommends that the Department of Transport:

> Consults with accredited rail operators and Public Transport Safety Victoria and develops reliability performance criteria that non-fail-safe technology should satisfy.

This is supported by the government.

Recommendation 28(b) recommends that the Department of Transport:

> Initiates the inclusion of low-cost warning technology into railway safety standards.

This is supported by the government.

Recommendation 28(c) recommends that the Department of Transport:

> Investigates whether legislation is required to introduce non-fail-safe technology as a means of improving safety at level crossings.

This is supported in principle because the government believes it may not need legislation to implement such technologies.

For the information of the member for Swan Hill, these technologies will save lives at level crossings; there is no question about that. I support — —

The ACTING SPEAKER (**Mr Kotsiras**) — Order! The member's time has expired.

Mr K. SMITH (Bass) — It gives me a great deal of pleasure to be able to support the member for Polwarth in his matter of public importance, which relates to the report of the parliamentary Road Safety Committee. I congratulate the committee on its report, and I condemn the government for its response to that report.

I find what has occurred very sad. Victoria has nearly 2000 road level crossings on active railway lines across the state; of those crossings, 936 have give-way signs, 398 have flashing lights with warning bells, and 360 have boom barriers. Members would probably consider the last two of those to be the most important. Some 151 crossings have stop signs and 27 have some other form of protection, such as traffic lights and so forth.

The number of level crossing accidents that have occurred in Victoria — in fact Victoria has experienced the largest number of level crossing accidents right across Australia — must cause great concern to the minister. I would have thought the minister would be in a position to know there was a parliamentary committee that was able to offer good recommendations; I think there are 48 recommendations in the Road Safety Committee's report.

I would also have thought it would be incumbent upon the minister to ask, on behalf of the government, the Road Safety Committee for a report. But no, the minister obviously did not care enough to even think about getting a report from the committee; it was up to members of the upper house. The opposition there, supported by the Greens and the Democratic Labor Party, moved to refer this issue to the Road Safety Committee because of its concern about the number of accidents that have occurred at level crossings and the potential for accidents there.

Earlier in this debate there was a discussion on the Kerang rail disaster. In a list of the most dangerous level crossings compiled by an independent group, Kerang was listed as being the 140th most dangerous. This means that 139 other crossings were seen as being more dangerous than the crossing where that terrible disaster occurred. One has to wonder what action has been taken in regard to the other 139 crossings that were seen as being dangerous.

The government is finally going to do something about the crossing at Springvale Road, Nunawading, by bringing about grade separation. This government has been in office for 10 years, yet that was an issue 10 years ago. For 10 years it has done nothing, and all it has now done is to allocate some money for a review to be undertaken to see how it is going to handle transport, how it is going to get the trains through and how it is going to have to bus people through, how it is going to divert traffic on Springvale Road, which is used by about 120 000 vehicles a day, around that crossing to allow an opportunity to either lower the railway line or put the road over the line.

One would have thought that after having had 10 years and a budget of $300 billion the government might have made some effort to do something about that crossing, which is seen as being no. 1 on the list of the most dangerous crossings in Victoria. This is just common-sense stuff. You start with the worst possible scenario, and you work your way up from there.

I am also quite concerned to see in a media release from Anthony Albanese, the federal Minister for Infrastructure, Transport, Regional Development and Local Government, that the federal government is looking at allocating money for the Boom Gates for Rail Crossings program. The feds are going to put something like $30.3 million into railway level crossings in Victoria. What for? Why is the federal government again looking at putting money into something that is the responsibility of the Victorian government? I cannot see why this is happening.

I cannot see why it is putting money into schools, I cannot see why it is putting money into roads and I cannot see why it is putting money into railway crossings that are the responsibility of the Brumby government that has neglected the 1839 railway crossings across Victoria — the ones which are extremely dangerous and which should be looked after properly.

The Springvale Road, Nunawading, railway crossing has been rated as having a risk score of 14 648. That is the most dangerous one. It is interesting that the next most dangerous railway crossing, with a risk factor of 9783, is the Springvale Road, railway crossing at

Springvale on the Pakenham railway line. A large number of trains pass through that crossing because the Pakenham line is one of the busiest lines. The Mitcham Road, Mitcham, crossing has a risk factor of 8139. The Main Road, St Albans, crossing has a risk factor of 6279. The Furlong Road, St Albans crossing has seen a number of accidents and has a risk factor of 5019.

What does the government do about this? It has installed boom gates, flashing lights, rumble strips and God knows what else at Kerang because it has been shamed into doing so at a railway crossing ranked as no. 140. I wonder what action the government will take regarding the 139 more dangerous crossings in Victoria. From what I have seen regarding what Mr Albanese, the federal transport minister, will put in, a number of railway crossings will be dealt with, many of which are on highways. One would have thought that all the crossings on the Calder Highway would have been upgraded to a decent condition. One would have considered that the Midland, Calder and Murray Valley highways being major roads, any railway crossings on them should have been upgraded by this government with the $300 billion it has had to throw around in the 10 years it has been in power. It is disgraceful that it has taken negligible action on this issue. It always talks about the money it is going to put in, but it never puts it in.

A report was put together by an all-party parliamentary committee, the referral for which was made by the upper house and not by the minister. When the minister got the report she made her response available out of session, at the end of the week and after hours so that it would not get any reaction from the media. I am sure that if it had been brought to the media's attention, the media would have seen that the minister's response was a farce because of the many recommendations the government has knocked back. It has accepted some, but all the recommendations it has accepted are of very little financial consequence to the government. In response to the recommendations that would cost it money, the government has referred those recommendations to other committees to have reviews carried out and more paperwork to be generated.

The fact of the matter is that the government is deferring the saving of people's lives. That is the way it has to be looked at, because there are 139 level crossings that are worse than the Kerang level crossing. I can only say to the people who have suffered and are still suffering as a result of the Kerang disaster that although the government has rushed in and improved one railway crossing, there are another 139 railway crossings that have to be dealt with if we are to avoid a further and larger disaster than what happened at Kerang. The minister and the department have been negligent in the way they have handled this, and they should be held accountable and be required to put up some decent responses.

Ms BEATTIE (Yuroke) — I rise to oppose the matter of public importance (MPI) proposed by the member for Polwarth. He said in the MPI that the government's response has been inadequate. I dispute that claim. I think the government's response has been adequate, because 51 of the 54 recommendations — not 48, as the previous speaker said — were supported in full. That is only the tip of the iceberg of inaccuracies that have been put forward in this debate.

What both sides of the house can agree on is that what happened at Kerang was a tragedy, as is any death at a level crossing or on the roads. I will not say much more on Kerang, because we are still waiting for the outcome of the coronial inquiry, which is impending. As I said, it is a tragedy when human lives are lost. But not only are lives lost, there are also many lives ruined by rail accidents. Lives are ruined not only by accident but also by near misses. Train drivers lives are often ruined by the sight of somebody walking in front of a train, which must be horrific for them.

I want to put some facts back into the argument about this nonsense matter of public importance that there has been an inadequate government response. The government's response has been adequate. I will talk a little about the Labor government's handling of rail matters over the past 10 years. I think I have cottoned on to the coalition's cunning plan — and I know the member for Macedon will be interested in this. The plan of the Liberal Party and The Nationals is to prevent accidents by closing all the railway lines. That is their cunning plan! We know that they will leave their $6 billion black hole and will sack teachers, close schools and sack police, as they did before.

The previous speaker criticised the government for taking federal funding. I would have thought that since the people of Victoria pay taxes to the federal government, we are just getting back what is our due. Some members opposite say hypocritically that the government should not be accepting federal funding. I will be looking with interest at their local papers to see if they are photographed in front of schools for which they claim to have obtained federal funding.

But I digress from the matter in front of me! I am certain the member for Mornington would have his photo taken in front of a school that has federal funding.

The ACTING SPEAKER (**Mr K. Smith**) — Order! The member, on the MPI.

Ms BEATTIE — When this Labor government came to office in 1999 it inherited a rail system with more than 3000 crossings; some 1400 of them had no lights, bells or boom gates. It has upgraded 245 crossings in the past four years alone. Members may be interested to know I have a list of those crossings, which I could table for *Hansard*. I could read out the whole list, but I think that would be a bit tedious. However, I am sure every member who is in the chamber has had at least one level crossing in their electorate upgraded in the term of this government. In my electorate there has been the grade separation of the Somerton Road crossing to accommodate the Craigieburn rail extension.

However, these upgrades need time to be implemented. We do not want them done quickly because we want to be able to take advantage of the latest technologies. Members opposite have referred to some of these technologies, including strobe lights on the top of trains. I will quote the section of the Road Safety Committee's report which mentions strobe lights:

> The Australasian Railway Association, on the other hand, did not support the installation of additional lights on trains arguing that research from overseas and by ARRB indicate that:
>
> > … additional lights such as strobe lights have no significant effect on detection distance, or identification of a safe distance for proceeding across level crossings … strobe lights do not improve the conspicuity of locomotives achieved by standard headlights.

There is disagreement, so we want to take time to look at and consider all the evidence before rushing in with half-baked ideas, such as those put forward by the opposition.

The member for Melton pointed out that a one-size-fits-all approach may not suit all level crossings. You do not go out with a template and overlay it on every level crossing and expect it to fix all the problems, but that is what members opposite would want us to do. It will not fix the problem, because there is a different solution for every level crossing.

At this point I want to make some comments about driver behaviour, which is a large factor in some but not all accidents. One of the submissions to the inquiry said:

> … the failure of the motorist to abide by the traffic control measures at the crossing. Given the operational limitations of trains, the onus to avoid a collision is primarily on the motorist. It is imperative that motorists remain alert, drive to the prevailing conditions and obey the road rules.

But what happens when drivers disobey the road rules? When those drivers are fined, we hear howls from the other side of the chamber that it is revenue raising. I say to you, Acting Speaker, and to those on the other side of the chamber that it is not mandatory to break the law. When a driver breaks the law for any reason whatsoever, it is his or her responsibility. Driver behaviour is a large part of it. We have all been horrified when we have sat in our cars at boom gates or traffic lights and watched somebody disobey the law because they were, perhaps, in a hurry.

This Labor government has done a terrific job. The very powerful Road Safety Committee, ably chaired by the member for Lara, should be proud of the work it has done in a bipartisan way. I wonder why the member for Polwarth has brought this matter forward? Could it be because there is internal strife within the Liberal Party? Does he want his name brought forward as someone who is doing something?

Of all the important matters upon which there is disagreement and which could be brought forward at this time, the member for Polwarth has brought forward this Road Safety Committee's report on level crossing safety. He has failed to mention that the government supports 51 of the committee's 54 recommendations. There is goodwill on the part of the government to address the issues raised by the Road Safety Committee, to work with the industry and with all the stakeholders to improve level crossings and to improve conditions at level crossings so that rail accidents do not happen.

As I said earlier, there is no template to apply at each level crossing, a one-size-fits-all approach does not work, and drivers must be responsible for their actions. If the government works together with all stakeholders and supports 51 of the committee's 54 recommendations, I am sure we can go forward and do the right thing by Victoria. For the reasons I have mentioned, I oppose this MPI.

Mr BURGESS (Hastings) — I rise to speak on the matter of public importance presented by the member for Polwarth. It is difficult to imagine an MPI that is more important than life and death. I have campaigned for my community since 2005 to convince the Bracks government, and now the Brumby government, that spending money to save lives on the Stony Point rail line is money well spent.

In August 2007 I raised a matter for the attention of the Minister for Public Transport and asked the minister to

urgently allocate funding and resources to better protect the level crossing at Bungower Road, Somerville. I informed the minister that there were seven other crossings on the Frankston–Stony Point line in the same dangerous condition. I am perplexed about what the minister must think the word 'urgently' means. The dictionary says 'urgent' means 'immediately; straightaway; at once; without delay; now'.

Why did I ask the minister to urgently allocate funding and resources to better protect the level crossings along the Frankston–Stony Point line, and in particular the crossing at Bungower Road, Somerville? I did so, because on that day, 22 August 2007, Mr Geoff Young, who was a mere 57 years of age, was killed at that level crossing. That tragic collision followed an epidemic of collisions between road vehicles and trains that had occurred across the state, including at Trawalla, Lismore, Cressy and Kerang in the 18-month period of prior to the tragedy at Somerville.

More than one year later, on 10 September last year, I asked the minister in this house why the deadly Bungower Road crossing was not included on the list of upgrades for the government's $23 million program. Now, almost two years later, there has still been no response and no upgrade has been done.

During that time there was yet another death on the Stony Point line. Tragically, on 28 January 2008, Kay Stanley was killed at the Mornington-Tyabb Road level crossing, which is one of the seven listed dangerous crossings that I reported to the minister in August 2007. That same level crossing was mentioned in a 2005 media release from the then Minister for Transport, the member for Thomastown. He announced that the Mornington-Tyabb Road level crossing would be upgraded after tenders had been called by VicTrack for the installation of boom barriers. Yes, it was announced in 2005.

At the time of Kay's accident, boom barriers still had not been fitted at the Tyabb level crossing. They were installed just three weeks later — two years and four months after they were promised, and three weeks too late for Kay Stanley. If this government had acted when it promised it would, Gwen Bates's daughter would still be alive.

The Parliamentary Secretary for Public Transport, the member for Bentleigh, also stands condemned for the way he treated Gwen Bates. After being told she would be meeting with the minister, Mrs Bates turned up at 121 Exhibition Street on 7 February, just days after Kay was killed, to be met instead by the member for Bentleigh. During this meeting the member for Bentleigh told Mrs Bates the boom gates had not been installed at the crossing where her daughter was killed because there were so many problems with the existing lights and gas mains in the area and it was impossible to install gates there until at least the middle of the year. Within three weeks the gates were quietly installed. No explanation was offered to Mrs Bates. She has conducted a great deal of research into the circumstances of her daughter's death and the belated installation of the boom barriers and has concluded that there are many questions that require answers.

Again the minister must stand condemned for deliberately delaying the FOI request that I submitted on behalf of Mrs Bates. Instead of the 45 days that the government had set as the time limit for itself, Mrs Bates had to wait 78 days. For a large number of those days the FOI request sat on the minister's desk; that is an absolute disgrace.

What is even more damning is that the minister and the government are not taking responsibility for these investigations. Instead it is left to the families who are the victims of such tragedies to find the answers. These families are also relentlessly pursuing the implementation of improved safety for all level crossings on the Stony Point line to ensure that the death of their loved ones was not in vain. How long must the community continue to wait before this government understands that immediate action must be taken to respond to such tragedies by installing the simplest of measures to provide far greater protection — boom barriers? Is it too expensive or too hard? For what or for whom?

Victoria has 1872 road level crossings on active rail lines in Victoria. There are several types of crossings, including 936 crossings with give-way signs, 398 crossings with flashing lights and warning bells, and 360 crossings with boom barriers. Why are so few crossings protected when we have it driven home to us on so many occasions that where roads cross railway lines and there is no barrier protection, people die? We have an ever-growing population, which means there is an ever-increasing likelihood that these tragic deaths on Victoria's level crossings will be more frequent.

The Victorian community puts its trust in the government that in its approach to economics when choosing where a scarce resource — in this case, money — should be allocated, it will apply the kinds of standards or morals that best reflect those of the community at large. Unfortunately that is not the case with the Brumby government. Victorians to a man, woman and child would be disgusted if they were aware of just how out of touch this old, tired

government is. For example, a set of boom barriers costs between $300 000 and $500 000 and saves lives, yet this government is leaving literally hundreds of crossings across Victoria unprotected for Victorians to risk their lives on every day, while it spends many times that amount of money on overseas travel and junkets for its ministers every year.

There is no doubt these crossings have been deadly for years and have remained so through successive governments. But let us not lose sight of the fact that for 21 of the last 28 years in Victoria Labor has been in government. During its seven years, the Kennett government was forced to use every cent to drag Victoria out of the massive debt left by the Labor government. The Brumby Labor government has had 10 years and $300 billion, and it has no excuses.

The community could also reasonably expect that if a simple and low-cost solution existed that would without question save lives, its government would implement that solution. Not this government. During the 6.00 p.m. news bulletin on Channel 7 on Tuesday, 28 October 2008, it was reported that the boom gates and warning system at the end of Ryan Road, Pakenham, were no longer in use. The news story stated that the boom gates had been going to waste for years after the road was closed to allow for the construction of the Pakenham bypass. For the previous 12 months V/Line had been responsible for the crossing since resuming control of it from a private operator, Pacific National. The story finished with the reporter stating that V/Line had indicated the boom barriers would be dismantled and removed.

On 30 October 2008 I wrote to the Minister for Public Transport to seek her urgent assistance to have the dismantled equipment immediately transferred to and installed at the dangerous Bungower Road level crossing in Somerville. Five months later I received a response. To refresh your memory, Acting Speaker, definitions of the word ‘urgent’ include ‘immediately’, ‘straightaway’, ‘at once’, ‘without delay’ and ‘now’. But the minister took five months to even respond, and her response was incredible. The minister said in her response:

> V/Line is prepared to decommission and remove the equipment at Ryan Road after the Shire of Cardinia has finalised its local planning deliberations on the future of Ryan Road.

Apparently that is an answer; in some way that tells me what is going to be done with those barriers.

Any opportunity to expedite the installation of boom gates at life-threatening level crossings should be taken. The Minister for Public Transport is in a position to make a simple decision that has the potential to save the lives of motorists using the Bungower Road level crossing. People are dying on level crossings. We can reduce these deaths by installing boom gates, and we can eliminate this particular cause of death by implementing grade separations. The community is justified in asking this government why it has not acted more quickly and more thoroughly. My community is still waiting for the urgent funding that it asked for two years ago. It is still waiting for a firm commitment that level crossings on the Frankston–Stony Point line will have boom barriers installed.

As distasteful as it may be, the facts are very straightforward and they apply to all governments. It is always just a matter of priorities. The simple fact is that level crossings are dangerous; unprotected level crossings are extremely dangerous. Not even the government argues that it cannot fix all of the crossings, nor does the government argue that it does not have enough money to fix all of the crossings. It argues instead that it prefers to spend the money in other areas. That is ugly, but it is the truth.

It took a very successful public rally on Saturday, 20 September 2008, which was protesting against the lack of boom barriers at the Bungower Road level crossing, before VicTrack declared that boom barriers would be installed on the remaining level crossings on the Stony Point line. I say ‘VicTrack’ because at the time of the rally the minister, who was invited to attend, was holidaying in the south of France. It is incredible that the government ranks this crossing as no. 343 on a statewide priority list. At least VicTrack responded.

Regrettably for my community the minister intends to delay these boom gates for as long as possible and the Bungower Road crossing will not be made safe for at least three years. Let us be clear about this: because of pressure from the community the decision has been made that this crossing is too dangerous and that it needs boom barriers. The minister can have them installed straightaway. The minister should have them installed straightaway, but she refuses. The government has belatedly conceded the serious threat that the crossing presents to car and train commuters, train drivers and passengers, but the minister has decided that members of the community will continue to be exposed to life-threatening danger.

Let us not be taken in by the spin of the government. Industry experts say the equipment is available, the manpower is available and all that is required to install the boom barriers at the Bungower Road crossing now instead of in three years time is the minister’s say-so.

The need for urgent funding applies not only to the installation of boom barriers at dangerous crossings along the Stony Point line but also to ongoing maintenance — —

The ACTING SPEAKER (**Mr K. Smith**) — Order! The time for consideration of the matter of public importance has concluded.

STATEMENTS ON REPORTS

Economic Development and Infrastructure Committee: improving access to Victorian public sector information and data

Ms CAMPBELL (Pascoe Vale) — I take the opportunity to compliment the staff and the members of the Economic Development and Infrastructure Committee who have helped prepare the report tabled today entitles *Inquiry into Improving Access to Victorian Public Sector Information and Data*.

We were given the opportunity to look at concepts of open content and open source licensing. We have had the opportunity in this inquiry to home in on exactly what is open content licensing is and how it works and to see that, within the existing copyright laws, there are great opportunities to make copyright materials available for reuse. We found that open content licences are usually standardised and automated, such as through websites, so that they can be granted without requiring parties to negotiate terms. Open source licences on the other hand are used only for licensing computer software. This type of licence makes software source codes available, allowing users to use, change or alter the software and redistribute it in modified or unmodified forms.

It is important for us as members of Parliament and for the wider community generally to have improved access to information and data. Members might ask why this would be important. Internationally and in Australia there is increased recognition that vast repositories of information and data are held by governments and that that could be used principally in three very important areas: firstly, to generate profit for business and hence improve the welfare of our national economy, and of course our state economy as well; secondly, to enhance transparency in public sector management; and thirdly, to improve the engagement of citizens with the government.

I want to highlight four really interesting examples of how greater access to information by the public can assist in a global economy that were given to us in the course of our inquiry. The first was Goldcorp Inc., which allowed free access to its Red Lake gold district databases in Canada and offered a prize of $105 000 for geologists to identify where it would be most likely to find gold. Two Australian companies collaborated to produce 3D models of the mine and won first prize in the competition. Goldcorp has since mined four of the top five sites suggested by geologists through the competition and has struck gold in all of them. Many companies would think it is important to keep their geological information in house. That particular company decided to put it out on the internet and award prizes for innovative and in fact very practical and accurate information.

The second example that came up was Google Australia. People from Google gave evidence about how they used transit information from Perth to provide Google map services and how they used data from the Great Barrier Reef Marine Park Authority to integrate the reef into Google Maps. This may assist scientists to track coral bleaching and assess other environmental issues as wellbeing of very obvious interest and use to tourism operators.

Alan Noble of Google Australia told the committee this was the first time that marine information had been made publicly available on Google Maps and Google Earth and, in the course of the evidence, we bounced around ideas about how Google could improve its mapping here in Victoria by putting on access to bike paths, for example, and marketing that, as cycling is increasingly becoming a tourist operation.

The third example is the United States federal government's data.gov website, which was launched only recently and provides government databases and tools for anyone to use. The databases include statistics on tornadoes, earthquake magnitude of 2.5+ over the past 7 days, annual toxic release inventories by state, and so on. It is really a wonderful opportunity that some of these databases could be used — —

The ACTING SPEAKER (Mr K. Smith) — Order! The member's time has expired.

Environment and Natural Resources Committee: Melbourne's future water supply

Ms ASHER (Brighton) — I wish to make some comments on the report of the Environment and Natural Resources Committee inquiry into Melbourne's future water supply, dated June 2009. This is a good report by this committee. I also note that there were two minority reports attached to that and one minority report was of particular value.

First I want to look at information presented to the committee, as appears on page 75 in relation to Melbourne's so-called Target 155 campaign. The committee found that that campaign in summer in fact failed. The committee found that overall it is too early to judge, but in summer the campaign failed. I quote from the committee's report:

> In the first three months of the Target 155 campaign, daily water consumption averaged 177 litres per person …

The committee notes that that was a decrease from the previous year, but then in the first three months the usage in Melbourne was 177 litres per person. The committee then goes on to refer to figure 3.11, which shows that:

> … Melbourne's average daily residential water consumption over the first 25 weeks of the Target 155 campaign was 162 litres per person.

So far, the 155 campaign has failed in summer. The reason it has failed is that many people in Melbourne have gardens. Had the government acted to secure Melbourne's water supply before now, those people would be able to water their gardens without being made to feel guilty by this government for watering their gardens.

In particular, I want to refer to the committee's excellent recommendations on recycled water. The committee makes the point — and again, if the government read this report it would know how to increase Melbourne's water supply — at page 163 that:

> Melbourne produces approximately 330 gigalitres of sewage a year.

The committee provides, at pages 165 and 167, the outline of what is recycled on site at the western treatment plant and the eastern treatment plant. Whilst the government set itself a target for the volume of sewage which is subsequently recycled, and the government claims to have met that target, these charts — and I have to say the annual reports of Melbourne Water obviously replicate these charts, but the ones in this report are more up to date — simply show that the majority of use of recycled water takes place on site. It takes place on site at the eastern treatment plant and on site at the western treatment plant. The committee of course rightly suggests the government go further. Indeed, what we want to see and what we have been calling for for a long time is for the government to upgrade the eastern treatment plant so that water from that plant can then be substituted for potable water for gardens, sportsgrounds or industrial use and so on.

The government announced this project in 2002 and has done nothing. This project will not be completed, even on the government's own timetable, until 2012. Again I refer to the committee's report. At page 173, the committee recommends that:

> The Victorian government set enforceable water recycling and reuse targets. The primary focus should be to replace the demand for current potable water use.

It is an excellent recommendation, and I urge the minister to take it up immediately and get on with providing water for Melbourne.

Again, recommendation 5.2 — and I urge the minister when he is not reading my newsletters to read some water policy, which is what he is paid to do — is:

> The Victorian government establish new recycling and reuse targets — 50 per cent by 2012 and 70 per cent by 2015. An increased target would reduce demand for potable water, minimise discharges to receiving bodies and promote the importance and value of water conservation and efficiency.

They are good recommendations. I urge the government to look at its own committee's report and act on this report because that would assist the situation significantly.

However, I reject the views in the minority report put forward by the member for Gippsland East, which call on Melburnians to drink that recycled water. That water should be made available for water substitution for potable water.

Environment and Natural Resources Committee: Melbourne's future water supply

Ms DUNCAN (Macedon) — I am pleased to speak in support of the report of the Environment and Natural Resources Committee inquiry into Melbourne's future water supply. I have the privilege of being a member of the committee. I note the position of the member for Brighton and the Liberal Party that somehow this drought could have been avoided by recycling more water and allowing it to be used in people's gardens — I imagine particularly in Brighton! On the other hand the Liberal Party also says that this government's inaction has caused water charges in Melbourne to increase. Obviously, the opposition spokesperson on urban water has not read the full report, because one of the biggest impediments to all of these things — again, the opposition does not let the facts stand in the way of a good story — is the cost.

Had we done what the Liberal opposition said we should have done, I cannot imagine what the cost of Melbourne's water would be. It will already double

over the next few years under the strategies of this government, but the opposition would have us believe that all of the water from treated sewage can be drunk, can be put into dams — it supports that recommendation — and somehow can be distributed to houses and gardens all around Melbourne at virtually no cost. But that is not what I wanted to speak about in my contribution to this report.

I want to commend the committee for all of the hard work it did. It is great to have all-party committees. When we are working together, visiting sites and looking at evidence, it is terrific that everybody receives the same level of evidence, goes to the same briefings and hears the same information. But what is disappointing is that at the end of this committee process, the Liberal Party decided to produce a minority report. In its minority report — —

Mr Wells — It is their right to do that.

Ms DUNCAN — I take that point, it is the Liberal Party's right to present a minority report. It is just a little unusual — I imagine it may be; I have not read too many minority reports — for a minority report to make recommendations that contradict the body of the main report. The Liberal Party claims to have accepted the report, but it then goes on — —

Mr Wells — That is your opinion.

Ms DUNCAN — It is my opinion. If the member will stop screaming, I will read some of the recommendations of the minority report. For a start it states:

> The minority report members don't support the recommendation that there be no additional water storage capacity constructed to supplement Melbourne's water supply.

That is not a bad statement. However, that is not what the recommendation in the report says. It is not a recommendation of the report that there be no additional water storage capacity constructed to supplement Melbourne's water supply, so the opposition's minority report does not gel with the report that it says it supports generally speaking.

There is a pearler in this minority report which is most notable. Members will recall that the opposition went to the last state election with two major water policies, one of which was to build a desalination plant at Hastings. All the evidence we had showed that that would have been an environmental disaster. The member for Hastings is shaking his head. I am sure the constituents in that area will be pleased to know that the member for Hastings supports putting a level of brine in Western Port bay that would destroy it. The opposition was opposed to channel deepening for similar reasons. I suspect the member for Hastings needs to learn a bit of science.

The other point I thought was interesting about the minority report was that the Liberal members never sought to have their suggestions for augmentation — namely, the desalination plant at Hastings and the so-called dam at Arundel — included in any of the evidence the committee received. If I had been standing up only a few years earlier arguing that the solution to Melbourne's water supply was to do X and Y, I would have then wanted to show that X and Y were good ideas and would have resulted in an increased water supply. But no, it is as if the opposition has completely moved away from its two main policy positions at the last state election. It has abandoned the proposal for a desalination plant at Hastings.

All of the evidence suggests that the desalination plant being built at Wonthaggi is the best way to augment Melbourne's water supply in terms of the quantities of water required and the timely manner in which that needs to occur. Despite the fact that the opposition's recommendations completely contradict all of the evidence that was supplied to us, it was and continues to be a great pleasure to serve this committee. I commend the report.

Economic Development and Infrastructure Committee: improving access to Victorian public sector information and data

Mr CRISP (Mildura) — I rise to speak on the report of the Economic Development and Infrastructure Committee on its inquiry into improving access to Victorian public sector information and data. I acknowledge the contribution of the member for Pascoe Vale, who chaired that committee. I am going to build on some of her comments.

In this modern age much information and data are produced, stored and often not made available, which leads to either costly replications or information being lost to the community. We are at an age when we cannot afford to be reinventing the wheel. The committee's inquiry was a response to the increasing international interest in the thinking in the private and public sectors about how information and data held by governments and other organisations can best be used for the public good. The executive summary of the report says:

> … in which it must balance competing demands for and upon the information and data it holds, while ensuring that it

> acts appropriately as a custodian of that information and data. The release of PSI —

public sector information —

> by the Victorian Government for reuse may lead to increased commercial activity, provide primary data to researchers in a wide range of disciplines, and increase transparency of government in Victoria.

The report then says:

> Internationally, governments and the public sector are the largest holders of information of all kinds. With the development of information technology, the potential for information held by the public sector to contribute to a range of economic and socially beneficial outcomes has increased.
>
> …
>
> The committee considered evidence that improved access to and reuse of PSI may assist people to make more informed, and better, decisions about their businesses and activities.

The committee then tried to work out how we need to address public sector information issues and to understand both technical and cultural issues.

The cultural issues are about silos in government and how to engage silo gatekeepers to make information available. It is often said that information is power. It is also contended that the social and economic benefits of siloed information is enormous. This has to be balanced against privacy issues. The report explores the solutions to those issues. Victoria cannot afford to be left behind in adding value to its information and data for the greater good.

The report noted:

> Programs and policies that support improved access to and reuse of PSI —

that is, public sector information —

> will only be effective when government, business and citizens are able to identify what information and data exists. A comprehensive, searchable register of documents and materials held by government is an essential component of any policy to improve access to PSI.

That means we need something called metadata, which is that comprehensive method of searching what is available out there in those silos of government information. So government needs to act on this report if it wants to research another commercial activity based on this data to be a part of the Victorian economy.

Other states are not far behind us. As we undertook this inquiry, we had competition out there. There are competitors out there looking to do this.

The 46 recommendations are the road map to a solution. It is also the map to giving Victoria an intelligent advantage. If we are to be a clever state, then we need to be smart about this issue and get on with looking at some of the ways we can use this data that is siloed away within government for the better good of this community. Particularly at this time, when our economy could use a lift, a road map by this government to access this, beginning with metadata, would be the ideal way to begin this process. I urge government to take the recommendations seriously and not to delay with this particularly in identifying a metadata process to take us forward.

Environment and Natural Resources Committee: Melbourne's future water supply

Mr PANDAZOPOULOS (Dandenong) — It is a pleasure to rise today to speak on committee reports. I want to talk about the Environment and Natural Resources Committee inquiry into Melbourne's future water needs. I spoke briefly about this at the last opportunity, and today I will focus on the discussion and debate about a new dam and the dishonest campaign by those who advocate for a new dam. They are being dishonest in that they are not actually saying what they mean about new dams. They are not actually going to do the hard work and say exactly where any dam should be.

I particularly want to take a swipe at the Institute of Public Affairs and particularly at Alan Moran's article in the *Herald Sun* a few weeks ago. He took a swipe at the minority and majority reports of the committee. It is fair to say about the minority report that the only major difference between the government and the opposition parties was this issue of a dam. The opposition did not support only one of the 48 committee recommendations. In his article Alan Moran suggests:

> Accepting guidance dutifully provided by ministerial officials and advisers, the committee's ALP majority … swung behind the irresponsible policies adopted by the Brumby government.

Unlike what that article says, the committee certainly had no advice or demands from the minister or government about what it should be saying in this report. I have never had much time for the Institute of Public Affairs, and this is the first time I have had any involvement with it; I think it is a lot worse than I realised. I thought the IPA was atrocious in the past, but it is even worse now. The article goes on to say:

> The government members who formed the majority on the committee heard what they wanted to hear.

> When told that building a dam is expensive, the politicians did not ask 'compared with what?'

That is absolute rubbish. Members of the committee compared all those sorts of things. The issue was not about the cost of a dam being cheaper, the issue for us was that we do not believe a dam is viable. We believe that Victoria's water supply needs to be diversified. We cannot be dependent on dams as we are at the moment — getting 80 per cent of our water supply from dams that at this stage are 26 per cent full. We have enough dam capacity. But the article says:

> They turned their fears to advice that a new dam is —

a cheaper solution. We did not do that at all. Those who advocate for dams — including the opposition, the IPA, the Victorian Farmers Federation, and some of the people from the north–south pipeline group — are not really saying where a dam should be located.

When we considered where a dam should be built — if ever one were to be viable — there is no doubt that that would be on the Mitchell River. But no-one in this debate is honest enough to say it should be on the Mitchell River. That is exactly where the most viable dam would be, if you believed there would be enough rainfall to make that investment worthwhile. If you made the decision to build a dam now, the reality is even if you had good rainfall, it would take 20 years before you could get the water. That is not what Melbourne and Victoria need at the moment.

The thing that gets my goat when people refuse to say where they want to build a dam, and do not say 'the Mitchell River', is that there is no mention that what they are really saying is a dam on the Mitchell River would wipe out the Gippsland Lakes. As a former tourism minister, I would simply not accept that. I do not believe you can have a discussion about a dam in Gippsland without also having a discussion about wiping out the Gippsland Lakes.

In the Legislative Council committee room earlier today there were members from all sides of politics supporting a new campaign being funded by the government for East Gippsland called 'Look at us now'. What are they going to look at if we build a dam on the Mitchell River? Would it be silted-up Gippsland Lakes, the end of the fishing industry and recreational boating in that region, let alone all the environmental impacts? So people are being dishonest in the dam campaign, like the Institute of Public Affairs — which you would think would be much better at this because it purports to be a bunch of well-researched and non-opinionated academics rather than a bunch of ideologues. It needs to be honest.

They need to be honest that though we said a dam is not viable — the majority of the committee said that we did not believe it was viable; there is no ideological argument about that — we agree we can have extra storage capacity. We have made recommendations in relation to stormwater harvesting and looking at opportunities of below 20 gigalitres. We are talking about more storage options. We are really saying that argument about putting all our eggs in the dam basket argument is all over and that if you were to build a dam, you would wipe out the Gippsland Lakes. A majority of members of the committee do not want to be in that position.

Public Accounts and Estimates Committee: budget estimates 2009–10 (part 1)

Mr WELLS (Scoresby) — I wish to speak on the Public Accounts and Estimates Committee report on the 2009–10 budget estimates part 1, volume 2. I spoke on this during the last sitting week, and my concern was how when we went through the public hearings we were trying to get a straight answer from any Labor minister.

It became more and more frustrating that although we asked straightforward questions we were not able to get answers. When I looked at my notes I remembered that I had made a point about the transport minister, for example, when we asked some questions about the myki contracts. We asked how many alterations or contract variations there had been. The minister gave a number, and it was only two or three. But later, as we went through the hearing, we found that there had been a change in scope on numerous occasions. Whilst the contract was being altered here and there, there was different wording for a change in the contract, whether it be a contract variation or a change in scope. It is very dodgy. Instead of just saying, 'Look, there are 20 changes', or 30 changes or 40 changes, the government breaks it down into different components, so that when you are making an FOI application and are looking for a change or contract variation, you might come up with only three or four examples; but if you also put in 'change in scope', there will be another grouping.

I want to turn to the Minister for Planning's contribution, at which we are still completely amazed. The planning minister claimed that he did not know at any time about the duties or conduct of his electorate officer Hakki Suleyman. What he believed, or what he told the committee, was that he only found out about his dealings when the Ombudsman brought out his report. He did not know anything about the standover tactics, he did not know anything about the intimidation

on the Brimbank council — he did not know anything — even though it was a regular point of contention in the local newspapers.

The report refers to a question asked at the hearing by Mr Dalla-Riva, a member for Eastern Metropolitan Region in the Legislative Council:

> Minister, the Ombudsman has reported that in relation to the property issue at 76–78 Biggs Street, St Albans, the property was provided free of charge to your … staff … Hakki Suleyman, who then used it for the purpose of ALP recruitment and meetings, and in particular it became the address of the Maribyrnong North Turkish branch of the ALP.

As blatant as that was and as blatant as the big coloured picture in the local newspaper was, with the address being clearly marked as that of the Maribyrnong North Turkish branch of the ALP and being used for ALP recruitment, in this case the committee's chair just ruled the question out of order. No matter how much we tried to bring the minister back to answering this question, he would not answer it, despite the Premier having given a commitment on 3AW to Neil Mitchell that ministers were accountable to the PAEC and also saying that 'Justin Madden is going to be before the committee in the next couple of days and all will be revealed there'.

There is no accountability when it comes to the Minister for Planning. On the one hand the Premier gave a public assurance on 3AW that the minister would be held accountable but on the other hand, when the minister was before the committee its chair believed that because the issue was not in the forward estimates, the minister would not have to answer those questions.

I go on to the question asked by Mr Rich-Phillips:

> Minister, the Ombudsman has reported that a member of your staff, Mr Suleyman, used his position to inappropriately influence a planning decision involving leasing Cairnlea Park to the Cairnlea Soccer Club. Did you direct Mr Suleyman to act on this issue; if not, who did? When did you first become aware of this conduct by your staff member? Given that you have employed this crook for 10 years, why do you expect us to believe that you did not know about the corruption in —

his office. Once again the committee was shut down and the minister was not made to answer that question. Then Minister Madden went on to say, when he did make a short comment:

> … Chair, I was … aware of Mr Suleyman's involvement in these matters and the extent of those matters through the Ombudsman's report.

The ACTING SPEAKER (**Mr K. Smith**) — Order! The time set aside for statements on parliamentary committee reports has concluded.

STATUTE LAW AMENDMENT (CHARTER OF HUMAN RIGHTS AND RESPONSIBILITIES) BILL

Second reading

Debate resumed from 12 March; motion of Mr HULLS (Attorney-General).

Mr CLARK (Box Hill) — The Statute Law Amendment (Charter of Human Rights and Responsibilities) Bill amends provisions in seven acts of Parliament in a way which the government considers is necessary or desirable to remove inconsistencies with the Charter of Human Rights and Responsibilities Act 2006. It is a bill which the coalition parties are not opposing but which shows, yet again, how the Attorney-General is tangling up not only himself but also the rest of the community in his convoluted charter requirements in terms of both what is in the bill and what is not in the bill.

Furthermore the process by which the bill reached this house was one of secrecy and limited consultation with selected parties, with no involvement of the public whatsoever. It is a process that reveals the increasing contempt with which the Attorney-General is treating the community.

The bill as it has reached this Parliament amends, as I have said, seven acts in quite limited respects. It amends the Australian Grands Prix Act 1994 to require that the defendant in relation to various vehicle and parking offences need only provide evidence that what they were doing was not in breach of the legislation rather than provide proof, as at present.

The bill amends the Education and Training Reform Act 2006 to remove the right of former teaching service employees to return to teaching service after holding various government offices provided that they are under the age of 65 years. The intention, so the government says, of this amendment is to remove the limitation based on age. However, it replaces an unqualified right to return where the statutory criteria are met with a right to return provided that the person satisfies the criteria set out in a ministerial order, has not been found guilty of a sexual offence and, if necessary, is registered as a teacher.

The latter two requirements are perfectly reasonable. But if a person applies and is rejected for a right to re-enter, although they are provided under the bill with an ability to apply to the Merit Protection Board for a review of a decision on re-employment, it seems there

is no obligation on the secretary to give effect to the order of the board.

In relation to the Fair Trading Act 1999 the bill will convert what is currently a legal onus of proof on an individual defendant into an evidential onus in relation to whether or not there was a lack of reasonable grounds for making representations about future matters and false testimonials. Let me say that this is one of the patent absurdities of the law — that there are going to be two different legal tests depending on whether the defendant is an individual defendant or a company. If the individual defendant is John Smith, plumber, there will be an evidential onus on John Smith the plumber, but if the defendant is John Smith Plumbing Pty Ltd, there will be a legal onus. What a nonsense of the law that creates.

In relation to the Forests Act 1958 the bill repeals the obligation of a defendant to prove that the area from which the defendant took a tree was not a protected forest or that a tree cut down was not a reserved tree. The bill also amends the confidentiality provisions of the Victorian Urban Development Authority Act 2003 and the Project Development and Construction Management Act 1994 so that it will only be an offence to communicate information obtained in confidence because of a person's connection with a relevant agency or particular development rather than it being an offence to communicate any such information, as is currently the case. The bill defines 'in confidence' to include circumstances in which the person knew or ought to have known the information was confidential.

The bill amends the Transport Act 1983 to require that a defendant need only provide evidence that an officer's direction was unreasonable rather than prove that that direction was unreasonable. If the defendant produces that evidence the burden is then on the prosecution to prove that the direction was not unreasonable. A similar situation applies in relation to the offence of not providing a business address. However, under the bill the legal onus will still remain on a defendant to prove a defence that an officer's direction was outside the scope of the defendant's business or other activities.

In relation to that latter matter, the Scrutiny of Acts and Regulations Committee raised with the Attorney-General the question of whether or not that provision was a reasonable limitation on the right to be presumed innocent until proven guilty, and whether an analysis of that clause should have been included in the statement of compatibility, which it was not. The minister replied to that inquiry by SARC, and his reply is published in *Alert Digest* No. 7. But those critical questions about whether or not the limitation is reasonable were simply avoided by the Attorney-General's response. He simply asserted:

> The court may conclude that the direction was reasonable, because in the circumstances the transport safety officer could not reasonably have known that the direction was outside the scope of the business or other activities of the accused. The accused could then still seek to rely on subsection 228ZL(5) and argue that the direction's scope was outside his or her business or other activities but would need to prove the defence on the balance of probabilities.

The Attorney-General has simply repeated what the bill itself provides and has not responded to SARC's concerns.

But beyond the issue of what is actually in the bill as it arrived in the house is the issue of what is not in the bill. This gets back to the secret process by which the government has carried out its review of legislation. I should remind the house that this is supposed to be a key element of the government's so-called human rights platform — that having enacted the Charter of Human Rights and Responsibilities Act in 2006 it was going to go right through the statute book and identify all the legislation that might trespass on human rights and amend it to ensure that Victoria was a standout for human rights.

When you see the collection of miscellaneous minor bits and pieces that are in the bill that has come to the Parliament you may well say, 'Is that all there is? Is that all the government has been able to come up with despite this huge trumpeting about human rights that the Attorney-General has been engaging in for years on end?'.

When one probes deeper one has further concerns about what has disappeared in the course of this secret consultation process. This review should have been out there in the open for the public to have input into. If a government is considering a new policy initiative, I have no objection to it talking in confidence with various groups, at least to the point where it thinks its ideas are going to stand up. But this is not an example of such a thing. This is an implementation of a preannounced public policy that there was to be a review of legislation as to its compatibility with human rights.

However, the government did not go out publicly with a discussion paper canvassing all the potential acts that might need amendment to comply with the charter of human rights. As I said, it went through a secret consultation process; it had a discussion paper but showed it only to selected people.

What has become apparent from what is out there in the public arena about the discussion paper that the government has circulated is that it has gutted many of the proposals that were originally proposed for the legislation. The government may have taken them out for good reason, and I am not expressing any view on the merits of the decisions that it has made one way or another. We are not in a position to judge because we do not have a copy of the secret discussion paper that the government put out. But let us just look at some of the provisions that, from what is out there in the public arena, are known to have been dropped from this bill.

There was a proposal to remove the reverse onus provision in section 70(2) of the Road Safety Act 1986 about tampering with vehicles or equipment. We do not know why that one has gone. We know there was a proposal to change the reverse onus provision in section 9(1A) of the Summary Offences Act 1966 about wilful destruction of or damage to property and the obligation on the defendant to prove certain matters about the owner-occupier of the place where the destruction or damage occurred. We know that in relation to section 10 of the Summary Offences Act 1966, which relates to posting bills and defacing property which in many instances would involve graffiti, not only was the government proposing to change the onus of proof of consent by the occupier but it was also talking about lowering the penalty for that offence.

Heaven help us if in the midst of an outbreak of graffiti — an escalation of graffiti — across the community the government is proposing to lower the penalty for this offence. However, that appears to have been its intention, and there was no explanation as to what its thinking was behind the proposal.

We know there was a suggestion that changes be made to the burden of proof in section 71D of the Drugs, Poisons and Controlled Substances Act 1981 dealing with the possession of precursor chemicals. Again, that has disappeared from the radar screen without any explanation. There are legion examples throughout the statute book of instances where there are continuing reverse onus obligations. There is no assessment of or explanation by the government as to why those reverse onus provisions remain whereas the modest handful in this bill are to be deleted. I will cite one example that is very topical in relation to cyberstalking.

Sitting suspended 1.00 p.m. until 2.04 p.m.

Business interrupted pursuant to standing orders.

QUESTIONS WITHOUT NOTICE

Water: Target 155 campaign

Mr BAILLIEU (Leader of the Opposition) — My question is to the Minister for Water. I refer the minister to his personal attack on radio this morning on the member for Brighton — —

Honourable members interjecting.

The SPEAKER — Order! Government members will come to order.

Mr BAILLIEU — I will start again. I refer the minister to his personal attack on radio this morning on the member for Brighton, the shadow minister for urban water, because she stated in a newsletter:

> The Target 155 campaign is voluntary and neither the government nor the water corporations can force the community to comply with the target.

I further refer the minister to a signed letter from him dated 2 January 2009, which states:

> The Target 155 campaign is voluntary and therefore the government and the water corporations cannot force the community to comply with the target.

Mr Batchelor — On a point of order, Speaker, the Leader of the Opposition in his question said he was quoting from a document. I would like him to make that document available to the house.

Honourable members interjecting.

Questions interrupted.

SUSPENSION OF MEMBER

Member for South-West Coast

The SPEAKER — Order! Under standing order 124, I ask the member for South-West Coast to leave the chamber for 30 minutes.

Honourable member for South-West Coast withdrew from chamber.

QUESTIONS WITHOUT NOTICE

Water: Target 155 campaign

Questions resumed.

The SPEAKER — Order! I warn the member for Kew for deliberately ignoring the Speaker. I will hear the Minister for Community Development in silence.

Mr Batchelor — The Leader of the Opposition was quoting from a document. I would like him to table that document in the house.

Mr BAILLIEU — Do I have to ask the question again, Speaker?

Honourable members interjecting.

The SPEAKER — Order! I believe the question was directed to the Chair. The Leader of the Opposition may ask the question again.

Mr BAILLIEU — I refer the minister to his personal attack on radio this morning on the member for Brighton because she stated in a newsletter:

> The Target 155 — —

Mr Herbert interjected.

The SPEAKER — Order! I warn the member for Eltham!

Mr BAILLIEU — I refer the minister to his personal attack on radio this morning on the member for Brighton because she stated in a newsletter:

> The Target 155 campaign is voluntary and neither the government nor the water corporations can force the community to comply with the target.

I further refer the minister to a signed letter from him dated 2 January 2009, which states:

> The Target 155 campaign is voluntary and therefore the government and water corporations cannot force the community to comply with the target.

I ask: is it not a fact that the shadow minister for urban water was simply repeating the minister's own statement and that the minister has engaged in a disgraceful Labor smear, and will he now apologise to the member?

Mr Wells interjected.

The SPEAKER — Order! I warn the member for Scoresby.

Mr HOLDING (Minister for Water) — Let me thank the Leader of the Opposition for the opportunity to provide information to the house about the claims that the honourable member for Brighton has made about the Target 155 campaign.

Honourable members interjecting.

The SPEAKER — Order! I will not have a minister shouted down by the opposition.

Mr HOLDING — The member for Brighton has said that the Target 155 campaign is unnecessarily harsh. She has made it very clear that she believes it is unreasonable. She has made it very clear that she believes the residents of Brighton and Hampton should not have to keep the Target 155, the voluntary target, but that some — —

Honourable members interjecting.

The SPEAKER — Order! I once again advise all members that the minister will not be shouted down.

Mr HOLDING — Let me make it clear what I was quoting and what I want all Victorians to hear. All Victorians should know what the shadow minister for urban water has been saying while the people of Melbourne and the people of other parts of Victoria have been going to extraordinary lengths to save water, to keep to Target 155 and to reduce their water use.

I refer to a newsletter article, which is just above an article about the member for Brighton opening the Porsche Centre Brighton on the Nepean Highway in Brighton, where she goes on to talk about the Target 155 campaign and basically says that the government is endeavouring to transfer responsibility for providing water supplies for Victorians from the government to — —

Honourable members interjecting.

The SPEAKER — Order! I remind opposition members once again that the minister will not be shouted down.

Mr HOLDING — The message is clear: to the people of Brighton and to the people of Hampton the shadow minister for urban water is saying, 'Use as much water to wash your Porsche as you want'!

Honourable members interjecting.

The SPEAKER — Order! I will provide protection for the minister from what I believe are unnecessary interjections. I will not provide protection for the minister to debate the question and attack the opposition.

Mr HOLDING — The member for Brighton has this morning in this place called the Target 155 campaign a failure. That is what she called it; she called

it a failure. The Target 155 campaign, according to the opposition, is a failure.

Ms Asher interjected.

Mr HOLDING — The member for Brighton interjects and says, 'Look at the numbers for summer'. We say, 'Look at the numbers for the Target 155 campaign since it was introduced'. Every week for the last 15 weeks the people of Melbourne have reached and achieved and exceeded Target 155. Since this campaign was introduced at the end of last year the people of Melbourne have saved almost 10 billion litres of water by working to comply with the Target 155 campaign. Through the introduction of this campaign we have reduced the water use of Melburnians to the level it would have been if we had introduced stage 4 water restrictions.

While members of the opposition go around regional Victoria saying that Melburnians should be on stage 4 water restrictions, the urban water spokesperson comes into this place and says that Target 155 is too harsh. Members opposite want to be all things to all people. They want to say one thing in regional Victoria and another thing to the people of Melbourne, and they have been caught out.

The SPEAKER — Order! The minister will come back to the question.

Mr HOLDING — We say that this campaign has been a great success. We say that Melburnians are keeping to the target and saving billions of litres of water as a consequence. I have to say that everybody should have their attention drawn to the article put out and circulated by the member for Brighton amongst the residents of Brighton and Hampton. We say that all Victorians should have their attention drawn to the claims made by the Leader of the Opposition — —

Honourable members interjecting.

The SPEAKER — Order! I ask the Deputy Leader of the Opposition to cease interjecting across the table. I also ask the member for Rodney and the member for Benalla not to interject in that manner.

Mr HOLDING — Every resident of Melbourne and every resident of regional Victoria, as they continue their fantastic efforts to reduce their household water use and their great efforts to reduce their water consumption, should know that according to the member for Brighton the Target 155 campaign is a failure and residents should choose whether or not they comply with this campaign based on their own circumstances — one rule for Brighton and Hampton and one rule for everybody else, according to the member for Brighton.

Multicultural affairs: Greek community

Mr PANDAZOPOULOS (Dandenong) — My question is to the Premier as Minister for Multicultural Affairs. I refer to Victoria's internationally recognised multiculturalism and the Brumby government's ongoing commitment to supporting cultural diversity, and I ask: what support has the government given to the local Greek community to protect and promote its culture?

Mr BRUMBY (Minister for Multicultural Affairs) — I thank the member for Dandenong for his question. I think all members of this house are proud of what we have achieved as a multicultural society. I believe we stand out as an example to the rest of Australia and to the rest of the world. In this state 42 per cent of the population were born overseas or have a parent who was born overseas. Overwhelmingly we work together as a cohesive yet diverse community in a way, as I said, which is the envy of many people around the world.

Earlier this year the United Nations High Commissioner for Refugees, Mr Antonio Guterres, visited Melbourne and praised Victoria for its welcoming attitude to migrants and refugees. He said:

> Melbourne's experience was proof that welcoming outsiders enriched societies.
>
> This is an example that should be copied by others.

One of the communities we are very proud of in our multicultural mix is our Greek community. We have one of the largest Greek-speaking communities anywhere outside Greece: 156 000 Victorians identified Greek ancestry in the 2006 census. In fact Victoria has almost half Australia's Greek-born population. Those members of the Greek community are proud of their Greek heritage, but they are also proud to be Australians.

Through grants over the period of years that we have been in government we have strongly supported our Greek community. Since 1999 we have in fact provided something like $6 million to Greek community organisations, $680 000 for festivals and events, including the Antipodes and Thessaloniki sister city festivals, and something like $440 000 for projects and activities that support Greek community heritage, language and culture. In addition we have provided something like $800 000 in funding to 38 Greek

community language schools this year and $1.4 million to support Greek welfare and seniors programs.

Just this year we have supported the publication of the first book to examine the sacrifice and courage of Greek Australians during the Vietnam War. I met the author of that book and many of his comrades at Treasury Place, and I know that many members of Parliament were present at the launch of the book here at Parliament House. I also announced at the recent Antipodes festival $2 million from the Cultural Precincts Enhancement Fund for the Antipodes Centre for Greek Culture, Heritage and Language. This is a project we have announced in partnership with Melbourne City Council, one which I note was also strongly supported by the Leader of the Opposition.

Having said all that, I can also say today that the Victorian government has been proud to support the Greek community in other ways, such as in its ongoing struggle to have the Parthenon marbles returned to their rightful home in Athens. I am aware that many members of this house are very passionate about this issue. I have always been passionate about this issue and a strong supporter of the return of the Parthenon marbles. As opposition leader in 1996 I met in Athens with then President of the Hellenic Republic, Constantinos Stephanopoulos, and discussed with him, amongst other matters, the importance of seeing the Parthenon marbles returned to Athens.

You may recall, Speaker, that in this house in the year 2000 my predecessor, Premier Bracks, urged the United Kingdom government and the British Museum to do the right thing and gives the Parthenon marbles back to Greece. He said:

> It is a tragedy that such a large part of this collection is still being held in London when it should be in Athens where it comes from and where it belongs.

We reiterated that view, as honourable members will recall, in 2002 when this Parliament hosted a visit by President Constantinos Stephanopoulos, who was at that time was President of the Hellenic Republic, in a historic joint sitting of Parliament.

I raise this today because another milestone has been reached in this debate — that is, on the weekend the Greek government opened the new $226 million Acropolis Museum in Athens. Built into that museum is an area that is especially designed and designated to accommodate the Parthenon marbles. This is an important fact because the British Museum has claimed, amongst other things, that Greece has always lacked an appropriate location to protect and display the marbles. I think with the construction and now the opening of the new Acropolis Museum, with the space being put aside specifically for the marbles, that argument can no longer be sustained. There is no longer any excuse for retaining the marbles in Britain and not returning them to their rightful home.

I will be writing to our Prime Minister and to the Prime Minister of the United Kingdom, Gordon Brown, about this issue. I will make very clear the views of our state, our Parliament and the Victorian Greek community in relation to this matter. As I said, this is a matter that many members of the house have been passionate about. It is a matter that I have been passionate about and that my predecessor was passionate about. It is a matter I raised with the Greek President in Athens in 2006. Now that the magnificent new museum has been built in Athens with the space available for the marbles there is no longer any excuse. I will therefore be raising this matter again through the federal government and through the United Kingdom government to see if justice can finally be done.

Hospitals: intensive care beds

Mrs SHARDEY (Caulfield) — My question is to the Minister for Health. Is it not a fact that according to the Australian Institute of Health and Welfare, Victoria has the lowest number of hospital beds per capita of any state in Australia, and that on Thursday, 18 June, a chronic shortage of intensive care unit (ICU) beds in Victoria prevented the late Mr Anthony Splatt from receiving the critical intensive care treatment that he required and forced him to spend 3 hours in an ambulance seeking an ICU hospital bed?

Mr ANDREWS (Minister for Health) — I thank the member for Caulfield for her question. The first thing I will do is extend my deepest sympathies to the Splatt family. This is a great tragedy, and I am sorry for their loss, as I am sure are all members. What I would say in relation to the member for Caulfield's question about intensive care unit capacity is that this government has expanded ICU capacity across the state in terms of adult intensive care bed equivalents, paediatric intensive care bed equivalents and neonatal intensive care unit cots. We are proud of that investment, and we will continue to invest in the bed stock — critical-care capacity, subacute beds and acute beds — that the state needs. That is our record, and we will continue to do that.

I remind the member for Caulfield again that it was only at Christmas last year that I had the great privilege of announcing the biggest beds boost this state has seen in a very long time. We allocated $321.5 million in additional funding — a measure, might I say, that was

criticised by those opposite — for 276 additional beds, including critical-care capacity expansions.

It is my judgement that our ambulance paramedics, intensivists, retrievalists and all those who support them do a fine and outstanding job and that the very best care was provided to Mr Splatt as well. The criticism of the care provided to this person is ill founded. As I have made clear in relation to this matter, this was a challenging case. The challenges presented by this patient related more to transportation and his unique circumstances than the ill-informed criticism of those opposite around the availability of a bed.

Swine flu: control

Ms MARSHALL (Forest Hill) — My question is also to the Minister for Health. Can the minister update the house on the Victorian response to H1N1 influenza?

Mr ANDREWS (Minister for Health) — I thank the member for Forest Hill for her question. It is with some sadness that I report to the house a second death in Victoria as a result of H1N1. Sadly, at 3.00 a.m. today a 50-year-old woman, who was a patient at the Peter MacCallum Cancer Centre, passed away. She was a multiple myeloma patient in an immuno-compromised state. Sadly she has passed away, and we offer to her family and her loved ones our deepest sympathies.

However, in the context of this it is important to remind members and the community more broadly that, as a strain of flu, H1N1 is presenting in the main no different from the ordinary winter seasonal flu. There is no need for people to be panicked by these things. There is a need to be cautious, but there is no need for people to be overly alarmed, because our dedicated health professionals and our public health experts, including the acting chief health officer Dr Rosemary Lester, are putting in place appropriate processes to support the small minority of flu cases who this year, as is the case every year, will require hospitalisation and specialist support — and sometimes critical-care support — as a result of their flu or the aggravation by their flu of underlying medical conditions.

I can confirm for members that there are 1406 laboratory-confirmed cases across Victoria, 2920 cases of confirmed H1N1 across Australia and over 55 000 cases worldwide. My latest advice is that 18 people with H1N1 are in Victorian hospitals, eight of whom are in intensive or critical-care settings.

I take this opportunity to thank all of our dedicated health professionals across the board, including the work done by our public health officials and bureaucrats, for the outstanding work that they are doing in partnership with general practitioners, community pharmacists and many others. They are doing an outstanding job, and we are very grateful to them in terms of public health, but we are also targeting appropriate care and support to those patients who need that dedicated and extra help and effort.

In relation to intensive care capacity, for some weeks we have been planning to ensure that our system can flex up to the inevitable demand that winter places on us each and every year. That is why we had a beds package, which I alluded to in an earlier answer. That is why senior officials at my department have been working with health services across the board — those with critical-care capacity in the first instance — to ensure that we monitor daily the amount of bed stock that is available for people with flu or complications of flu.

Over the last couple of weeks we have been looking at expanding capacity — an additional bed was opened at the Austin just last week — but in broader terms I draw the attention of members, particularly the member for Forest Hill, to the fact that today in our state we have 193 bed equivalents in ICUs (intensive care units) and 76 bed equivalents in NICUs (neonatal intensive care units). That compares respectively to 109 in 1999, and 42 in 1999 for NICU beds, so it is very substantial growth.

Honourable members interjecting.

Mr ANDREWS — Listen to the noise from those opposite. It is very substantial growth. It is about giving our dedicated doctors and nurses the support that is needed to treat the most seriously ill patients not just for flu in winter but throughout the year.

Another way of expressing that unprecedented growth in critical-care capacity in our system is to remind members of the 500 000 more hours of critical care in our system in 2009 compared to 1999. We make no apology for providing to our dedicated staff the resources that they need throughout the year, but most particularly in relation to winter. We are grateful to and appreciative of our staff for the work they are doing and will do to support those in our system who need care as a result of H1N1.

My congratulations go to all involved. The community needs to be concerned about these matters, but there is no need for alarm, because those who are trained to provide critical care and support are doing just that.

Rail: government performance

Mr RYAN (Leader of The Nationals) — My question is to the Premier. I refer to the Auditor-General's report, which highlights that the government paid $70 million more to buy back the regional rail system than it originally announced and that it did so with, and I quote — —

Honourable members interjecting.

The SPEAKER — Order! The member for Mordialloc is warned. I suggest to members of the government that, as ministers will not be shouted down in their answers, members of the opposition will not be shouted down in asking questions.

Mr RYAN — My question is to the Premier. I refer to the Auditor-General's report, which highlights that the government paid $70 million more to buy back the regional rail system than it had originally announced and that it did so with 'the lack of a robust and agreed business case', and I ask: given that this government's financial incompetence has blown out the cost of the fast rail project by more than $800 million, the myki ticketing system by $850 million and the M1 upgrade by $360 million — figures totalling more than $2 billion — does the Premier now acknowledge that his government's demonstrated inability to manage major transport projects is nothing less than a national disgrace?

Mr BRUMBY (Premier) — I can tell you one thing about this and the rail freight network: it is a Nationals disgrace. The fire sale that occurred in the 1990s under the Kennett-National Party coalition set this state back years and years. There would not be a commentator anywhere who said that was the right decision for the state, the right decision financially, the right decision for our farmers or the right decision for our rail network. It was wrong on every single conceivable count.

The worst part of it, and the hypocrisy that comes from this question today, is that the people in the then government parties who you might have thought would have stood up for country Victoria — the then National Party — just fell over, caved in and allowed this sale to proceed.

Honourable members interjecting.

The SPEAKER — Order! I ask the Premier not to use question time as an opportunity to attack The Nationals, the Liberal Party or the Independent.

Mr BRUMBY — It is instructive to note the framing of the question asked by the Leader of The Nationals. They opposed the fast rail project. Presumably they opposed the M1 upgrade, as they did the buyback. It took our government, a Labor government, to buy this network back.

Honourable members interjecting.

The SPEAKER — Order! I warn the member for Kilsyth! I will not have interjections of that nature.

Mr BRUMBY — As I said, it took our government, a Labor government, to buy back this infrastructure for country Victoria. It took our government, a Labor government, to make the huge investment in regional rail to make this into a 21st century rail system from the antiquated wreck we inherited from the Kennett government.

The Leader of The Nationals said in his question that in his report the Auditor-General said that the government paid $70 million too much. The Auditor-General did not say that at all. I do not think the Leader of The Nationals even understands the issues.

Mr Ryan interjected.

Mr BRUMBY — You did not understand them in the 1990s and you do not understand them now. The government was provided with a range of excellent advice in relation to this matter from government departments — —

Mr Mulder interjected.

The SPEAKER — Order! I warn the member for Polwarth. I warn all members in this chamber that there will be no more warning of any member.

Mr BRUMBY — We had advice from government departments, including the Department of Treasury and Finance, and from outside consultants. The price that we paid was the right price that represented value for money for the state. The Leader of The Nationals confuses a number of issues. In relation to the purchase of this asset, he confuses the related but different issue of rail access fees. The fact is that rail access fees are the price the government charges for any person or any company to use the rail network. If the fees are set too high, guess what? No-one uses the network. If you want to encourage competition, and particularly competition in this network amongst rail and with road, then the appropriate thing to do is to set those fees at a level which encourages competition. That is what we did.

We bought the network back and we reduced the fees to create competition, and those fees apply to Pacific National and to any other company that wishes to use the network. But I will make another point, and that is that without us buying back this network we would not have seen the investment that we have seen in the system since that time, we would not have been able to deal with the company concerned.

Yet again, guess which government has made record large investments in rail freight in this state? Guess which government? It is our government. Far from selling the network off — the gold lines recommended by the committee headed by Tim Fischer, the silver lines recommended by the committee headed by Tim Fischer, and the north-eastern rail standardisation worth $501 million — we are seeing a renaissance in rail in this state. It is happening under our government. It is happening despite the opposition and the dishonesty of The Nationals in Victoria. The fact is they flogged the network off. They could not care less about farmers and they could not care less about country Victoria — —

Honourable members interjecting.

Questions interrupted.

SUSPENSION OF MEMBER

Member for Keilor

The SPEAKER — Order! Under standing order 124, I ask the honourable member for Keilor to vacate the chamber for 30 minutes.

Honourable member for Keilor withdrew from chamber.

QUESTIONS WITHOUT NOTICE

Rail: government performance

Questions resumed.

Mr Weller — On a point of order, Speaker, the Premier is quite clearly debating the question rather than answering it. I ask you to ask the Premier to answer the question.

The SPEAKER — Order! I uphold the point of order. I ask the Premier to conclude his answer.

Mr BRUMBY (Premier) — I am advised by the Minister for Public Transport that there are rail projects worth more than $900 million currently under way in Victoria, funded by the Victorian government and the federal government. I think that is a great thing. It is always easy to knock. It is always easy to pull things down. It is always easy to criticise. That is what we hear every day in this place from The Nationals. We are in the business of building assets. We are in the business of building up capacity in this state. We are in the business of building and investing in assets to create jobs. That is exactly what we have done with rail freight.

Water: Melbourne supply

Mr FOLEY (Albert Park) — My question is to the Minister for Water. I refer to the government's commitment to make Victoria the best place to live, work and raise a family, and I ask: can the minister update the Parliament on recent developments to augment Melbourne's water supplies?

Mr O'Brien interjected.

The SPEAKER — Order! Before the minister commences his answer, I suggest to the member for Malvern that he cease interjecting in that manner.

Mr HOLDING (Minister for Water) — I thank the member for Albert Park for his question, because as all members would know, today has been a day that has amply demonstrated the vast difference that exists between the two parties here in Victoria in terms of how we manage our water arrangements. I was very pleased to join the Premier today at the new Tarago treatment plant to announce the commencement of the reconnection of the Tarago Reservoir to Melbourne's water supplies and the opening of the treatment plant, which will provide an additional 15 billion litres of water for Melbourne's water supply. At the same time as we are providing additional water to augment and supplement Melbourne's supply, the member for Brighton is encouraging the residents of Hampton and Brighton to use as much water — —

The SPEAKER — Order! I will not allow the minister to attack the member for Brighton. If he does so again in his answer, he will be sat down.

Mr HOLDING — So this reconnection is a very important step. It is in fact the completion of the first of the measures that the government announced in the next stage of the government's water plan, which was released in June-July 2007. As part of that process not only have we now completed ahead of schedule — —

Mr Ryan interjected.

Mr HOLDING — I note the interjection by the Leader of The Nationals. Not only have we completed

this project months ahead of schedule, but also under budget, providing an additional 15 billion litres of water to Melbourne.

Mr Ryan interjected.

Mr HOLDING — The Leader of The Nationals interjects, 'What about the desal plant?'. Again, we would say that the desalination plant — —

The SPEAKER — Order! I ask the minister to ignore interjections, and I ask the Leader of The Nationals to cease interjecting.

Mr HOLDING — We would make it very clear that these augmentations to Melbourne's water supply are the Tarago reconnection that we celebrated the completion of today and the north–south pipeline, which is now months ahead of schedule. It is now scheduled to be completed, on a revised completion date, in February 2010, months ahead of schedule. It will bring Melbourne's share of the food bowl modernisation savings to the Sugarloaf Reservoir and supplement Melbourne's water supplies by an additional 75 billion litres in calendar year 2010.

The food bowl modernisation project will provide 425 billion litres of water savings. It is the biggest water savings project in Australian history, with $2 billion worth of investment in updating irrigation infrastructure in northern Victoria to provide additional water for stressed river systems, for irrigators and for urban communities. It took a Labor government to do it; it took a Labor government to commit to the biggest infrastructure upgrade in Australian history for our farmers in northern Victoria.

There is, of course, the desalination project, a non-rainfall-dependent source of water. We need to diversify our water supplies, and I am very pleased to inform the house today that the desalination project continues on track to be completed by the end of calendar year 2011, delivering 150 billion litres of non-rainfall-dependent water to Melbourne and to communities within Western Port, South Gippsland and Geelong.

We welcome the debate about water policy in Victoria. We have made it very clear that, by the great efforts that Melburnians and all Victorians have made to reduce their water use, we have been able to make sure we have the buffer of water that we require to get us through to the period when the major augmentations kick in.

We celebrated the completion of the reconnection of the Tarago Reservoir today — 15 billion litres of additional water. We celebrate the fact that the north–south pipeline is ahead of schedule. We celebrate the fact that the desalination plant is on track to deliver additional water for Melbourne, South Gippsland, Western Port and Geelong by the end of calendar year 2011.

We have a comprehensive plan to provide water security for all Victorians — water for irrigators, water for stressed rivers, water for regional communities, water for Melbourne, water for households and water for industry. We have a real plan. We are getting on with the job of delivering vitally needed water augmentations to supplement Victoria's water supply.

Oakwood Park Primary School: closure

Mr DIXON (Nepean) — My question is to the Minister for Education. I refer to a letter from Mr Phillip Malone, the former vice-president of the school council of the now closed Oakwood Park Primary School, which states:

> I was a council member … and we were definitely forced to close. The school was the hugely successful Oakwood Park … was miles ahead of neighbourhood schools in the area of literacy to the point where we won back-to-back national literacy awards in 2006 and 2007 … the department … made clear that no funding outside of the very basic —

would be provided. I ask: why did the minister betray parents of Oakwood Park, starve this school of funds and resources and force it to close by merging it with Yarraman Park Primary School?

Ms PIKE (Minister for Education) — I thank the member for his question. It is not that many years ago that students woke up in the morning one day and found that their school had been forcibly closed. It is not that many years ago that around 300 schools here in Victoria — without any negotiation, without any consultation, without any discussion — were forcibly closed. Not only that, of course, but their properties and their facilities were sold to the highest bidder.

The SPEAKER — Order! I suggest to the minister that she address the question that has been asked today.

Ms PIKE — What this government has been doing is investing in the capital infrastructure of our schools. We have been building many, many new schools right around Victoria. We have been renovating; we have been rebuilding; we have been modernising. We have been spending billions of dollars on infrastructure so that our young people get 21st-century quality facilities. We have been investing; we have been building. We have not been closing; we have not been sacking.

Honourable members interjecting.

The SPEAKER — Order! I ask members of the opposition to not attempt to shout down the Minister for Education. The member for Kew, the member for Warrandyte and the member for Hastings are all far too loud in their interjections across the chamber.

Ms PIKE — Since 1999 this government has had a very clear policy when it comes to decision making about the future of schools. What we have said is that we allow local school councils to make the decisions about their schools. We do not ride roughshod over the aspirations of local school communities. If school councils sit down together and make decisions about the future of their school community, we support that decision.

That is a completely different policy from the one that existed in the past. I was very interested to hear that just yesterday the member for Nepean was suggesting that you could not trust school councils with these decisions. The member for Nepean was saying that they should not be making any decisions about their future, that it was unfair. In other words, he lacked confidence in the capacity of school councils and local school communities. I completely reject that notion. I believe school councils are made up of intelligent and capable people who can make decisions about the future of their school communities.

The other suggestion by the member in his question regarded funding for schools. Quite frankly, the student resource package is the most transparent funding model that there is regarding the funding of schools. Schools right across this state are given an allocation on the basis of their school population and particular loadings for equity, rurality and other characteristics of those schools. Every single child in this state in a government school is eligible for a student resource package. It is open and transparent funding and the schools get that money.

This government is about investing in education; it is about supporting our schools; it is about providing new facilities; and it is about hiring more teachers. It is not about closing 300 schools and sacking 8000 teachers. It is about building a modern education system in partnership with local school councils, and students right around the state are benefiting from that system.

Rail: regional freight network

Mr HARDMAN (Seymour) — My question is to the Minister for Public Transport. I refer to the government's commitment to making Victoria the best place to live, work and raise a family, and I ask: can the minister outline to the house the Brumby government's ongoing commitment to the upgrading of rail freight across the state?

Ms KOSKY (Minister for Public Transport) — I thank the member for Seymour for his question and for his great interest in regional rail freight across Victoria. As every member in this house knows, in this term we have spent and invested an enormous amount of money in our regional rail freight network. We bought back the network. We are not the only side of the house that believes that that is important. I will quote from the Auditor-General's report. He said on page 3:

> There is little doubt that the buyback unwound a lease which was ineffective in maintaining the asset. It also mitigated financial and other impediments to the state's capacity to carry out major investments in upgrading the network.

Buying back the network has allowed us to invest and continue to invest in and upgrade the regional rail freight network right around Victoria. As the Minister for Water — —

Honourable members interjecting.

The SPEAKER — Order! I quite sincerely ask the Leader of The Nationals and the Leader of the Opposition for their cooperation.

Ms KOSKY — This question time is distinguishing this side of the house from the opposition in terms of — —

The SPEAKER — Order! The minister will not lecture members of the chamber. The minister is to address the question.

Ms KOSKY — We bought back the network, and that has enabled us to invest considerably in regional rail freight right around this state. As the Premier said, we have invested — and this includes the federal government's contribution — in excess of $900 million in the regional rail freight network right around this state; 75 per cent of the regional rail network has been or is in the process of being upgraded by the Brumby government. This is a huge investment that only this side of the house will make in the regional rail freight network; only Labor would do this.

What is this investment delivering? We have completed works on the Dunolly to Korong Vale line; the Korong Vale to Charlton line is complete; the Murtoa Vale to Warracknabeal line is complete; the Shepparton to Tocumwal track work is complete; Warracknabeal to Hopetoun is complete; and at this moment as we speak, Korong Vale to Quambatook is under way; the sleepers are in place on the Mildura to Yelta line and final works are under way; sleepers are now being laid on the Swan

Hill to Piangil line; last week the contract was signed for the Benalla to Oakland line, to ensure that that line is connected to the north-east rail corridor and ensuring that that remains linked — it has been rehabilitated and the gauge will be converted.

These works are under way at the moment. We have made major investments. We have great support right around the state for the investment we are making. This also helps to secure jobs right across the state and to boost local economies.

In relation to the north-eastern rail corridor upgrade, there are more than 200 jobs as part of that project. There are work crews that are working right along that line who are also obviously investing in local economies as they move those track works along the line. But it is not only jobs that are being provided by the north-eastern rail corridor. Wherever we invest in rail freight, we are creating jobs in those communities. Two weeks ago the headline on the front page of the *West Wimmera Messenger* said 'Railway upgrade booms Kaniva's economy'.

Local economies are supportive of the regional rail freight network that the Brumby government is investing in. We are committed to supporting farmers; we are committed to investing in the agricultural sector; we are committed to regions right across Victoria; and we have acted on the very good report of Tim Fischer, a former Deputy Prime Minister, which made good recommendations. He has been supportive of our actions and the fact that we have acted so quickly to invest in the regional rail freight network right around Victoria. We thank him for his support — and we would welcome the support of the other Nationals.

Springview Primary School: merger

Mr DIXON (Nepean) — I direct my question to the Minister for Education. I refer to the fact that the minister has forced Springview Primary School to close by merging it with Nunawading Primary School; and further, that the outraged parents of Springview, who were not consulted about this forced closure, learnt about it only from the school newsletter. Will the minister now release the secret hit list of further planned school closures instead of continuing to betray Victorian parents?

Mr Donnellan interjected.

The SPEAKER — Order! Before calling the minister, I ask the member for Narre Warren North to withdraw that comment.

Mr Donnellan — I withdraw.

Ms PIKE (Minister for Education) — I reject the basis of the member for Nepean's question. This government leaves the decision about the future of provision for local schools with school councils.

Country Fire Authority: volunteers

Ms GREEN (Yan Yean) — My question is to the Minister for Police and Emergency Services. I ask the minister to inform the house how the government is continuing to support the Country Fire Authority and to detail initiatives to help the CFA grow its magnificent volunteer base.

Mr CAMERON (Minister for Police and Emergency Services) — I thank the honourable member for Yan Yean for her question. I also thank her for being one of the magnificent Country Fire Authority volunteers. I am well aware that there are other CFA volunteers in this house, and we thank them all for the work they do when they are out with the CFA.

The CFA is about people — 99 per cent of the CFA membership is its tremendous volunteer base of nearly 60 000 over 1200 brigades across the state, which makes it one of the largest volunteer-based emergency services. It also gives it an enormous surge capacity.

Yesterday I was pleased to join the Premier at Federation Square to launch the new community partnership between AFL Victoria — that is, the Victorian Football League — and the CFA. The CFA and football are core components of many communities; they are core parts of the fabric of a lot of rural and regional and suburban communities. We hope that partnership will help promote the work of the CFA and help promote volunteerism.

As a government we are proud to support the CFA, and that is why we have allocated record funding to the CFA with an increase of 200 per cent in the budget since we came to government. We have the Valuing Volunteer program and the Community Safety Emergency Support program to provide additional assistance to brigades.

But while record budget and equipment is one thing, the CFA is about its people and about that very important volunteer base. That is why the government has been working with Volunteer Fire Brigades Victoria and emergency services to have a campaign this year to promote emergency services volunteer recognition. We recognise, the community recognises and honourable members in this house recognise that it is important to have CFA volunteers for the future, because they are going to be the people we will rely on

in future generations. Post Black Saturday there has been a large interest in people wanting to join the CFA. The CFA clearly wants to convert that into active volunteerism, and we want to be able to work with the volunteers to make very sure that we have those volunteers for the future.

The government recognises the important work that all CFA volunteers play in their communities and across the state. I am sure that all honourable members recognise and appreciate that work and want to see an expansion of it with additional volunteers in the future.

STATUTE LAW AMENDMENT (CHARTER OF HUMAN RIGHTS AND RESPONSIBILITIES) BILL

Second reading

Debate resumed.

Mr CLARK (Box Hill) — Before the lunch break I was referring to some pieces of legislation that have reverse onus provisions in them that are not addressed in this bill. I was referring to the legislation related to cyberstalking, which is section 21A of the Crimes Act. That has been topical in recent times because of instances of cyberbullying, which this legislation was said by the Attorney-General to address when he introduced it in 2003 but which recent events show has failed, either in its drafting or in its implementation, to provide the protection against cyberbullying that the community is entitled to expect.

Subsection 4A contains a provision that is a defence for the accused to prove that certain conduct was engaged in without malice, in the normal course of business for the purpose of an industrial dispute, for the purpose of engaging in political activities or discussion or communication with respect to public affairs. There may be perfectly good reasons why the obligation continues to be imposed on the accused to establish the defence rather than being treated as an evidentiary onus only or indeed to put the obligation on the prosecution. But I raise the example because it is yet another instance of a reverse onus offence which is not addressed by this bill, nor has the public been given any explanation for why it has not been addressed by this bill.

I refer also to section 30 of the Summary Offences Act 1966 which relates to possession of the skin or carcasses of stolen cattle and provides that:

> (1) If the skin or carcass or any part … stolen from any person is found in the possession of any other person or on the premises of any other person with his knowledge —

if that person does not —

> satisfy the court that he came lawfully by such skin carcass or part thereof … shall be guilty of an offence.

That in its terms is very similar to an offence of theft or possession of stolen property, yet it is being treated differently to other similar offences. There may be a perfectly good reason, but again the public has been given no explanation as to why that offence also is not dealt with in this bill.

It is not only established acts about which the question can be raised. We can also look at various bills that have recently been before this house. We can look at the Road Legislation Amendment Bill 2009 which proposed to insert section 286 into the Road Safety Act 1986. Section 268(1) states:

> In any proceeding for an offence against this Part, proof that the person complied with all relevant standards and procedures … is evidence that the person took all reasonable steps to prevent the contravention.

There may be perfectly good reasons why it continues to be framed in those terms but there is no explanation from the government.

We have a couple of acts and bills which put a further twist on the situation. The Long Service Leave (Preservation of Entitlements) Act 2006 amended the Long Service Leave Act 1992 by inserting new section 91, 'Reversal of onus of proof in certain circumstances', which states:

> In proceedings for a contravention of section 90, if the employee proves —

certain things about long service —

> the onus of proving that the termination, threat or prejudice was not actuated by the reason alleged by the employee lies on the employer.

That is a clear infringement of the charter principles that people are supposed to be presumed innocent until the contrary is demonstrated to a court and they are proven guilty according to law.

The Occupational Health and Safety Amendment (Employee Protection) Bill 2008, which has just recently been dealt with by the other place, also imposes an obligation on the defendant to bear the onus of proving the reason alleged in the complaint was not a substantial reason for the conduct.

In these latter two instances, the government will no doubt say that the charter does not apply because these are not criminal offences; they involve civil penalties. I must say that if that is the argument it persists with, it makes an even greater mockery of the charter. What it is saying is that you can bankrupt someone, confiscate all their property and leave them destitute by process of law because they have not been able to prove something which you have put the onus on them to prove. The charter does not apply because that action is deemed not to be a criminal offence; it has been given the label 'civil'. That is yet another example of the nonsense direction in which this charter is taking us.

There has been turmoil in the government's ranks. Clearly it set out with a discussion paper that proposed a far greater range of changes to the law than it has ended up bringing to the house. The public has been kept entirely in the dark about this process and has been treated with contempt and disregard by the Attorney-General. This is yet another demonstration of how flawed the whole charter idea is and why Victoria is worse off for the direction the government has chosen to go in and, in addition to that, why Australia as a nation should avoid all the arguments and suggestions that we should have national human rights legislation.

I refer to no better authority than the New South Wales Attorney-General, John Hatzistergos, who, despite all the manifest failings of the New South Wales Labor Party, is absolutely right on this score. I refer to his submission to the national human rights inquiry in which he lists nine reasons why there should not be a national human rights act. Reason no. 1 is that it is antidemocratic; no. 2: it undermines parliamentary sovereignty; 3: it involves the politicisation of the judiciary; 4: it creates legal uncertainty; 5: it is an erosion of the federal system; 6: it is unconstitutional; 7: it is costly and inefficient; 8: it creates a stagnation of rights; and 9: democratic, responsible, decentralised government is enough. He is very sound in the observations he makes in support of all of these propositions. He says in particular:

> Where the division of duties between parliament and the judiciary is blurred, both institutions suffer.

Later on he says about the Victorian and Australian Capital Territory acts:

> Even at face value, the Victorian (section 7) and ACT acts provide that the rights are limited to the extent that is demonstrably justified in a free and democratic society — a notion open to any number of judicial interpretations with a dearth of jurisprudence.

In relation to uncertainty, he says:

> For business and government, legal uncertainty means increased risk and more money allocated to legal budgets. This ultimately benefits lawyers because it makes them even more indispensable in the everyday speculations about what would and would not be human rights compliant, yet ultimately only litigation will determine the effect of a human rights act.

In relation to cost, he says:

> Obvious costs include: research and formulation of the legislation and consequential amendments; administration costs (including funding and resources for organisations); compliance costs (training and monitoring public bodies subject to the act); training for lawyers and judges; education for the public to avoid the misperceptions that plague the UK act; and legal costs.

Later he quotes Bob Carr, who is reported as saying that the 'most obvious effect of the charter is to add opportunities to defence lawyers in criminal matters'.

We have seen in Victoria the huge amount of cost, time and effort and diversion of resources that has been put into the implementation of this so-called Charter of Human Rights and Responsibilities of which this bill before the house and the secretive consultation exercise that has preceded it are a part. How much more value could the public servants involved be contributing to the citizens of this state if they were applying their legal skills to help meet the chronic shortage of legal aid lawyers, experienced prosecutors and court administrative staff that is creating such huge backlogs and waiting lists in the Victorian court system, instead of embarking on these massive exercises that have led to such minimal proposed changes ending up in this house?

As the New South Wales Attorney-General has made clear, at the end of the day so many of these so-called rights that are being created are dependent on judicial interpretation. Section 7 of the Victorian charter provides scope, at least at a parliamentary level, for the government to come to this house and justify whatever it likes as not infringing human rights because it says the limitations that are being placed on those rights are reasonable.

Despite the best efforts of the Scrutiny of Acts and Regulations Committee, time and again we are seeing legislation brought to this house that appears to violate the rights that the Attorney-General purported to establish just a few years ago. When it gets to the courts we are into the unknown in terms of the interpretation that they are likely to place on the legislation when charter issues come before them. Certainly we had Bob Carr's very firm view that the most obvious effect of

the charter will be to add opportunities to defence lawyers in criminal matters, and one very much fears that a number of those opportunities that will be taken up will not be meritorious but will simply impede the proper implementation of the law and of the intentions of Parliament.

When it comes to what is appropriate and what complies with the charter in relation to this legislation, we are getting very divergent views from different sources. We are getting a view from the government, we are getting another view from the Scrutiny of Acts and Regulations Committee, and we are getting a third view from the Victorian Bar Council, in its submission which it published on its website.

The view of the Attorney-General reflected in the second-reading speech is that by and large an evidential onus is going to be acceptable. He says:

> An evidential onus on the defendant is much more likely to be compatible with the right to be presumed innocent than a legal onus.

That is about the only explanation he offers because he goes on to say simply:

> There are many reverse onus offences scattered throughout the statute book and in many cases they will be justifiable as a reasonable limitation on the presumption of innocence because of the nature of the offence. However, in some cases, the existence of the reverse onus may be less justifiable.

What on earth does that tell us as a test that we are trying to apply in judging any particular piece of legislation? Then the Attorney-General is bold enough to say the proposed amendments will:

> … ensure compatibility with the right to be presumed innocent by making amendments which change reverse legal onus provisions to reverse evidential onus provisions where appropriate, or removing the reverse onus altogether.

It is pretty bold to claim he is going to ensure compatibility. Certainly the Scrutiny of Acts and Regulations Committee has not agreed with him on this occasion in relation to at least one of the provisions of the bill for the reasons I referred to earlier. But more broadly SARC adopts a significantly different approach from that of the Attorney-General. At page 11 of *Alert Digest* No. 4 it says:

> The committee accepts that the question whether it is justifiable to place an evidential burden on a defendant is one to be considered on a case by case basis. The committee has previously accepted that a reverse onus provision may be justified whether the offence —

and I think it means 'when the offence' —

> is regulatory in nature, and where the penalty is a relatively low level fine and does not involve imprisonment and where the evidence to be adduced by the defendant is more easily within his or her knowledge and that evidence would be unreasonably difficult for the prosecution to prove.

Those are a range of criteria. For fairness I point out that SARC makes that statement outside of the charter report and on general principle, but it would seem that equally it carries it through to charter questions.

The third range of views are those put by the Victorian Bar Council in its submission on the consultation draft dated 5 March, which is on its website and signed by G. John Digby, QC, who is the chair of the Victorian Bar Council but which expresses appreciation for the assistance of Ms Deborah Mortimer, SC, chair of the human rights committee, a standing committee of the Victorian Bar Council. I presume it is Ms Mortimer who had the main role in preparing the submission. I must say that as a work of jurisprudence and analysis it is very well written indeed.

The bar council takes a different approach. At paragraph 5 it states:

> Reversal of the prosecution's onus of proof in a criminal proceeding involves limitations on the presumption of innocence, the privilege against self incrimination, the right to silence and the right to a fair hearing. If there is a reversal of a legal onus, then the degree of affectation is greater.
>
> In the jurisprudence of countries with similar democratic systems founded on the rule of law the imposition of a reverse legal onus on an accused person has been difficult for a state to justify on human rights grounds. While the lesser burden of a reverse evidential onus may be justifiable in certain circumstances, it too must satisfy the criteria of being demonstrably justified as reasonably necessary in a free and democratic society based on human dignity, equality and freedom, which is the test that 7(2) of the Victorian charter imposes for all Victorian laws.

The submission then cites a Canadian Supreme Court decision of *R v. Whyte* (1988) 51 DLR 4th 481 per Dickson CJC, which states:

> The real concern is not whether the accused must disprove an element or prove an excuse, but that an accused may be convicted while a reasonable doubt exists. When that possibility exists, there is a breach of the presumption of innocence.

The submission goes on to make the very sound point that:

> The bar considers that the government should identify all those 'reverse onus' provisions that it has assessed as being compatible with human rights and particularly identify those that are regularly prosecuted. This is especially important in a context in which the paper justifies retention of 'reverse onus' provisions that impose a legal onus on a defendant based on 'the nature of the offence'.

At paragraph 9 the council says:

> There can be no blanket protection from incompatibility for these provisions and so long as they do reverse a legal or evidential onus in a criminal matter, they risk being found to be incompatible with the charter.

The submission is then critical of the requirements about the defendant:

> … to give the prosecution notice of evidence that he or she intends to rely on to satisfy the onus and names of witnesses

on the grounds that it could involve a limitation on the immunity of an accused person undergoing trial.

Time and again the bar council points out potential pitfalls for this charter and for the due administration of justice if and when the charter-based claims ever get to court. It shows the bill is taking us into uncharted territory that does not substantially improve the operation of the law and protect human rights. To add insult to injury, from paragraph 15 of its submission it appears the government was actually planning to reduce penalties for graffiti, and also that:

> the provision may well engage the right to freedom of expression, depending on the content of the 'writing', 'painting' or 'defacing' — —

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

Mr CARLI (Brunswick) — It is with great pleasure that I rise in support of the Statute Law Amendment (Charter of Human Rights and Responsibilities) Bill. I am pleased to follow the member for Box Hill because, while I disagree with a lot of what he says, he is an avid reader of SARC's (Scrutiny of Acts and Regulations Committee) *Alert Digest*. He has taken on board a lot of the commentary made by SARC. It is worth noting that SARC has been dealing with the human rights charter for two and a half years and that the human rights charter has been in place in Victoria, certainly in the courts, for a year and a half. What that demonstrates is that a lot of what the member for Box Hill has said would result from a human rights charter has not occurred in Victoria.

The principal issue is the idea that the human rights charter will add to the work of defence lawyers, that there will be a lot of activity in the criminal justice system and we will be swamped by it, and that it will be the courts and not the Parliament that will determine and alter law in this state. Clearly that has not been the case; there have been very few cases, certainly in the criminal justice system, involving the charter. If we look at what has happened in the Victorian experience, we see that the courts have not become responsible for legislation, that there is no lack of clarity in the separation between the courts and the state, and that in fact the Parliament has remained sovereign. Clearly the dialogue model that has been followed in Victoria is the one that ensures that Parliament is the body that legislates and that the courts do not tell the Parliament what it should do.

When we look at the Victorian charter we should judge it by what has happened in Victoria, where we are seeing cultural change within government organisations and public authorities and a dialogue between the executive government and the work of the Scrutiny of Acts and Regulations Committee. There are positive elements in that. It is already coming out in the work that the Victorian Equal Opportunity and Human Rights Commission and a number of pro bono lawyer organisations have been doing — that is, we are seeing cultural change and the defence of human rights. What we see increasingly taking place in Victoria is a dialogue and debate about what are human rights and how they should be protected.

One basis of protecting human rights in Victoria is modernising our legislation to ensure that the Charter of Human Rights and Responsibilities is compatible with that legislation. We now have a series of laws — seven laws — which will be amended to make them compatible with the charter. No doubt that will be the beginning of a lot more changes as we go through the statute book and look at legislation and at questions of where there is incompatibility or possible incompatibility with charter rights as we seek to protect, enhance and promote human rights in Victoria.

Despite all the things the member of Box Hill has said about the work of SARC, the Victorian Bar Council and all the other proponents, supporters or people who deal with the charter, we are seeing change, but it is gradual change and it is not causing a rush to the courts and a rush to shoot down Parliament. That can only be said to be a positive thing. We have in Victoria a charter that protects the rights of Victorians and essentially ensures that they are the same as those in the international covenant on civil and political rights. More importantly, we are seeing changes moving through the provision of services in terms of legislation and in other ways to promote and ensure that rights are enhanced.

In the case of this bill we have seven pieces of legislation being amended. They are the Australian Grands Prix Act, the Education and Training Reform Act, the Fair Trading Act, the Forests Act, the Project Development and Construction Management Act, the Transport Act and the Victorian Urban Development

Authority Act. I will go through them. The Education and Training Reform Act is being amended to remove the potential for discrimination on the grounds of age and to ensure compatibility with the right to recognition and equality before the law. These are rights contained in the charter. It is a fairly small amendment, but again it is an enhancement of people's rights.

We have the right to freedom of expression. That right will be ensured by amendments to the Victorian Urban Development Authority Act and the Project Development and Construction Management Act. At the moment we have a situation where it is possible that the communication by employees of government authorities of information which is currently in the public domain could be the subject of criminal charges. The bill amends the legislation to ensure that no offence is committed by communicating that non-confidential information.

They are small changes, and they demonstrate not the failure but the success of the charter as we begin to protect rights in a fairly small sense. Clearly as legislation gets scrutinised through the charter process, through compatibility statements and through the work of SARC, we will see those sorts of infringements on rights being essentially eradicated from the statute book.

There is also the issue of reverse onus offences. I heard the member for Box Hill, and he is right to point out there are other reverse onus provisions in the statute book. This bill does not deal with all reverse onus provisions; it deals with a certain number of limited ones in which it makes an improvement.

In support of the dialogue model and the work of SARC I note that SARC has come back to the Attorney-General with some concerns about those changes, one of which is the fact that while SARC recognises the importance of the presumption of innocence as a right, it acknowledges that the reverse onus will continue to exist in current proceedings and that there is no retrospectivity in the case of current proceedings under particular legislation. Generally retrospective legislation is not seen as a positive, but in a case where it enhances people's rights in human rights terms it is generally seen very much as a positive. SARC wrote to the Attorney-General pointing this out and suggesting that there should be some retrospectivity for cases that have commenced and that have human rights issues associated with them, as those cases will not be given the same rights that will be given to cases that have not commenced.

SARC has received a reply from the Attorney-General which says that the preservation of the status quo for proceedings that have commenced is there to avoid confusion and to clarify the time in relation to the commencement of the new provisions. That was something that was absent from the compatibility statement. That is an issue which SARC has some concerns with and had some concerns with in the original *Alert Digest*.

Another concern relates to issues of reverse onus. There was concern about the changes to the level of the reverse onus under the Transport Act in terms of a failure to obey a direction from a transport safety officer. That was also communicated to the Attorney-General. As in the case of the dialogue model, SARC and the Attorney-General do not necessarily agree. That information is provided to Parliament to debate and consider. The importance of the dialogue model for the charter we have in Victoria is that the work of SARC and the scrutiny of the legislation ultimately provides information to members in the context of debates. It is there to highlight human rights issues so that when we consider legislation in this Parliament we refer back to human rights. There is nothing untoward about that.

Most countries in the world, certainly modern democracies, have some sort of charter of rights or bill of rights or some sort of enshrining of rights in a constitution in the legal sense. Victoria now has that too, and that ensures that we highlight human rights as part of the discourse and debate of this Parliament. It is something which is leading to improvements in terms of both legislation and the provision of services. Clearly this will all be part of the review of the Victorian human rights charter which will be undertaken. That will look at what has occurred.

We should not be carried away by the Bob Carr arguments or the arguments of the member for Box Hill, which are basically putting up furphies and red herrings — things that are not occurring and things that are not distorting the system. There is no case to say that the criminal justice system will exploit the human rights charter. There is no evidence of that in Victoria. There is no evidence in Victoria that the courts have taken dominance over the charter and over the Parliament. That is clearly not true. Bob Carr is wrong, and the member for Box Hill is wrong.

Mr JASPER (Murray Valley) — I am pleased to join the debate on the bill before Parliament this afternoon. I pay tribute to the contribution made by the member for Box Hill, who gave an excellent explanation of the legislation before the house. I also

listened to the contribution from the member for Brunswick, who chairs the Scrutiny of Acts and Regulations Committee (SARC).

I start by indicating that when the Charter of Human Rights and Responsibilities Bill came before the Parliament The Nationals opposed it because we believed that it might possibly be going too far in extending rights and responsibilities. We considered that perhaps we did not need a bill to implement what was already included in legislation. As everybody knows, the charter became law and therefore part of the responsibilities of the Scrutiny of Acts and Regulations Committee.

I was a member of the Regulation Review Subcommittee in the late 1970s and through the 1980s. In fact I have been a member of a number of committees through that time up to the current day, and I have seen the changes that have been implemented to the operation and scrutiny of regulations and acts of the Parliament. I have also seen the workload the implementation of the Charter of Human Rights and Responsibilities has brought to the Scrutiny of Acts and Regulations Committee. Members need only look at the bills that come before the Parliament and the explanation that is provided by the minister presenting the bill to see that the response to the matters covered by the Charter of Human Rights and Responsibilities is often longer than the second-reading speech. It has become a huge issue for some departments.

I noted the comments made by the member for Box Hill who quoted the concerns of many people about this legislation and how far we go in implementing the Charter of Human Rights and Responsibilities. He also quoted a former Labor Premier of New South Wales and took him to task on his opinion. The chair of the Scrutiny of Acts and Regulations Committee would clearly know that often different opinions are put before the committee. I would say that the former Premier of New South Wales has every right to put forward the view that he believes there is no room for a charter of human rights and responsibilities. These are the sorts of differences you will get, and committee members are finding that the length of time we are spending in scrutinising the acts that come before us has been greatly extended. It is the same for members of the Regulation Review Subcommittee, which I chair. Looking at all the regulations that come before us and deciding whether they match up and they fit within the Charter of Human Rights and Responsibilities is becoming a bigger issue than ever before.

I am not opposed to people having rights and responsibilities, but when they are brought into an act of Parliament — and we are still getting an interpretation of that act — there are varying opinions as to how we should interpret the legislation and how we should implement it. This means that the committee has more correspondence than ever before with government departments. I should say that the departments respond positively; we usually get responses to the issues that are raised. The officer who handles the human rights and responsibilities component of the bills and regulations that come before us does an excellent job. Jeremy Gans is very clear in what he says. He does an excellent job in seeking to guide the committee while making sure that he is fair and balanced in what he says and in what he recommends we do.

This has become a big issue for committee members. I believe that in the future the Parliament will take it upon itself to separate the committee's responsibilities. We have one committee that handles both the bills and regulations that come before the Parliament. It is becoming a much bigger job for the committee to handle all the bills that come before it for assessment as well as the regulations. I think we will find that subsequent parliaments will divide the work of SARC and have two committees, as we had in the late 1970s and early 1980s when we had a scrutiny of regulations committee which operated very effectively under the provisions we had to work with at that time. As I said, I believe that will happen because of the extra burden which is being placed on the committee.

Added to that, now the government is considering extending the provisions which will be reviewed by SARC as a regulation committee. Not only will we have the usual regulations which come through the Parliament but a lot of other things which councils and others will be putting into law will be brought before us, and we will have to review them through our Regulation Review Subcommittee. Reviewing all the provisions outside the purview of the Parliament — that is, in the regulations made under the bills we debate — will extend even further the committee's work. I think we will see that a lot more work will have to be done. The regulations will still be reviewed under the provisions of the Subordinate Legislation Act, which they need to meet. Disallowance provisions will also be part of that review.

As I said, the member for Box Hill went through the bill in great detail. His contribution to the debate on the legislation was worth listening to, and I trust that the government will take note of the comments he made. As the member for Brunswick said when giving an overview, the bill amends seven acts of Parliament and addresses a range of issues related to those acts so that

they can meet the criteria set out in the Charter of Human Rights and Responsibilities.

Members of SARC had certain concerns about some of the provisions contained in this bill, particularly clauses 4, 9, 12 and 16, which contain transitional provisions for those seven acts. Clause 14, related to the Transport Act, was another great concern to committee members and the committee decided to write to the Attorney-General. An extremely detailed response came back from the Attorney-General. I am not legally trained, but I have read through the information provided and there is no doubt that we needed to get specialised advice because of the representations we made to the Attorney-General and the detailed response provided by him.

I turn to the last of the recommendations made by the committee — that is, that some of these issues be referred to Parliament. As I have indicated, three questions were referred to Parliament. The first of those relates to the transitional provisions in clauses 4, 9, 12 and 16. It refers to the reverse onus provisions and the problems which are foreseen for these acts with the amendments that are being brought forward. This will cause difficulties not only for Parliament but also for the legal profession when it comes to interpreting the legislation.

Another question referred to Parliament is about clause 14, which relates to the Transport Act. The question asked by SARC is:

> whether … clause 14, by replacing the word 'establishes' with the phrase ' proves on the balance of probabilities', is compatible with the charter's rights against retrospective criminalisation.

That takes some understanding, I can tell the house. I tried to analyse that so that I could indicate how I believed it should be interpreted. The critical issue is that we still have concerns in relation to the representations we made to the Attorney-General and his response to those. The committee commented that it still had concerns about the information provided by the Attorney-General.

The other issue also relates to clause 14. It is:

> whether … clause 14, by preserving a reverse onus on the issue of whether a direction was outside of the scope of the defendant's business or other activities …

Again, this is an issue that will need to go to the courts for appropriate interpretation.

Finally, as far as I am concerned the Charter of Human Rights and Responsibilities is a further burden on us in Parliament and in particular on the committees, and it will provide further complications in the future.

Ms D'AMBROSIO (Mill Park) — I wish to join in the debate and support the Statute Law Amendment (Charter of Human Rights and Responsibilities) Bill. In 2006 Victoria was the first Australian state to introduce a charter of human rights and responsibilities bill, which occurred after extensive and comprehensive community consultation. I was fortunate to be the chair of the Scrutiny of Acts and Regulations Committee at the time. I recall that through the able leadership of both George Williams and Haddon Storey — the two sides of the political divide, if you like — the proposal was steered through a comprehensive community consultation process. This resulted in the human rights consultation community discussion paper, which was put to the government and subsequently adopted. This is quite salutary, because its main focus is the educative functionality of Victorian policy being developed through the prisms of human rights and responsibilities, maintaining all the while the supremacy and sovereignty of Parliament to develop law. The bill is a spin-off of that act, that important milestone in this government's pursuit and promotion of the enhancement of human rights in Victoria.

Since the inception of the charter, the Brumby government has undertaken a review of existing laws to bring about consistency, where appropriate, with the principles of the Charter of Human Rights and Responsibilities. Through this process the government has identified several acts which are recommended for amendment to achieve greater compatibility with human rights. Under the charter a court can determine that a law is inconsistent with the Charter of Human Rights and Responsibilities Act; however, it cannot strike down laws that are made by this Parliament. That may arise if a court believed that an interpretation of a law could not be read as consistent with a human right identified in the charter.

In order to avoid possible uncertainty and to promote human rights in existing laws, the bill proposes amendments to seven existing acts so that the provisions in question can be read as consistent with human rights as identified in the charter. The seven acts are the Australian Grands Prix Act, the Education and Training Reform Act, the Fair Trading Act, the Forests Act, the Project Development and Construction Management Act, the Transport Act and the Victorian Urban Development Authority Act.

The amendments proposed in the bill fall under three broad categories of human rights — the right to the presumption of innocence, with the reverse onus

offences, the right to freedom of expression and the right to recognition and equality before the law. Under the broad category of reverse onus offences, four acts will be amended to enhance human rights in Victoria. In these instances the government considers it reasonable to make these provisions easier to read as consistent with the right to presumption of innocence. For example, the Australian Grands Prix Act, the Transport Act and the Fair Trading Act will be amended to change the reverse legal onus provisions to reverse evidential onus provisions in certain cases.

Specifically and by way of example, in respect of the Australian Grands Prix Act, in any legal proceedings arising from the contravention of parking regulations or owning a vehicle left in a declared area, the applicant will no longer be required to satisfy the reverse legal onus but only to meet the lesser burden of reverse evidential onus. The lesser burden of reverse evidential onus is more compatible with the right to the presumption of innocence than the more burdensome reverse legal onus.

A second example in this category of reverse onus offences is in the Transport Act. Currently the act imposes a reverse legal onus on a defendant to show that a transport safety officer's direction to the defendant was unreasonable. Under the proposed amendment a defendant will need only to satisfy a reverse evidential onus that a direction issued by a transport safety officer was unreasonable.

I turn to the second category of human rights that will be enhanced by the bill — that is, the right to freedom of expression. Amendments are proposed to two acts to enhance the freedom of expression. Those acts are the Victorian Urban Development Authority Act and Project Development and Construction Management Act. These two acts contain confidentiality provisions which impinge on freedom of expression. Under the current law vis-a-vis the Project Development and Construction Management Act it is a criminal offence for a person connected with a development to disclose information which is not confidential, even if this information is in the public space or the public domain. Similar provisions in the same vein exist in the Victorian Urban Development Authority Act. The amendments in this bill will lift the unreasonable limitation on freedom of speech by specifying that it is an offence to disclose any information that is confidential. That certainly would have been the intent of the original provision, and it is very important to remember that.

The third broad category of human rights to be enhanced by this bill relates to the right to recognition and equality before the law. Here I wish to comment on the amendments to the Education and Training Reform Act. The amendments will remove the exclusion from the right of equality before the law for people aged over 65 years for eligibility to be re-employed by the secretary of the department in the teaching service. Re-employment will be based on matters to do with competency and other criteria that are not underpinned by age-discriminatory criteria. That is very important for us, and it is an important move towards a better alignment of compatibility with human rights within the charter.

Those are some of the amendments that have been put forward through this bill. We must remember that the Charter of Human Rights and Responsibilities Act fairly and squarely maintains the supremacy of Parliament in the development of statute law and the like. It is important for us to remember that the charter also plays a very important educative role in cultural change with respect to promoting a greater appreciation of human rights in Victoria and, where possible and desirable, greater compatibility with the human rights identified in the charter. It is sometimes the case that that is not appropriate. Sometimes human rights can compete against each other, so it is important and vital for any Parliament and government to maintain a supreme role in determining the fine balancing act that is often required in developing good public policy. Human rights instruments such as the charter cannot and should not be used as blunt instruments to bring about human rights laws.

Humans rights should underpin all good laws and must be seen through the prism of balancing out what is required in a community to maintain vital democracy and human rights that can sometimes compete with one another. It is important that we emphasise and recognise the educative and cultural functionalities of the charter. This government is wasting no time in ensuring that, where possible, reasonable and desirable, existing legislation is revised and where appropriate brought before the Parliament through amendments to achieve a greater compatibility with human rights. That is very important.

There is no doubt that the government is also charged with ensuring that future laws are looked at through the prism of human rights and, where appropriate, reflected in good policy. At the end of the day it is laws that pass through the Parliament that are open to public scrutiny, and the Scrutiny of Acts and Regulations Committee is a very important instrument of the Parliament in protecting and enhancing human rights, so it is important that we continue on this road. This government wants to deliver better outcomes in the area

of human rights, and we stand here quite proudly in support of this bill.

Mr R. SMITH (Warrandyte) — I rise to make a few comments on the Statute Law Amendment (Charter of Human Rights and Responsibilities) Bill. The bill amends provisions in seven acts which the government considers inconsistent with the charter. I note that, as required by the charter, the Attorney-General has tabled a statement of compatibility. I must say that I always derive some amusement from the statements of compatibility tabled by the Attorney-General, because I often wonder how seriously he takes them.

I am a member of the Scrutiny of Acts and Regulations Committee, which reviews these statements in conjunction with the relevant bill. It never ceases to amaze me how often the committee and the committee's human rights adviser flag the fact that statements of compatibility do not address the charter in a range of different ways. It seems that time and again ministers do not understand the requirements of a statement of compatibility, they do not get which parts of the charter they are supposed to address or maybe they just do not care. I ask rhetorically: who is the biggest offender? The answer to that question is the Attorney-General.

The most recent *Alert Digest* shows that in the year 2008–09 the Attorney-General was responsible for fully one-third of the problems that the committee had with statements of compatibility. It amazes me that the champion of the charter continues to wrestle with putting together a statement that addresses the human rights issues that he purports to be so zealous about. This bill is no exception. The Scrutiny of Acts and Regulations Committee once again had to request some clarification and some answers from the Attorney-General on a number of issues relating to this charter. His response to the matters raised by the committee, as the member for Box Hill pointed out, did very little to clarify the issues raised or answer the questions. That shows us that the reality is that the Attorney-General feels that the practical application of the charter does not matter as long as he makes what he feels to be all the right noises.

The Attorney-General said in the second-reading speech that the bill:

> … is another step by the government to fulfil its commitment to provide better protection for human rights for all people in Victoria.

He made a similar point in the second-reading speech on the Charter of Human Rights and Responsibilities Bill, saying it would champion your rights 'whether you live in Mildura, Moe, Melton or Mordialloc'. I have some other places in mind that the Attorney-General should have mentioned, where the charter has proven to be especially helpful to local residents. In keeping with the Attorney-General's theme, these also start with the letter 'M'. They are the Marngoneet Correctional Centre, the Melbourne Assessment Prison and the Metropolitan Remand Centre. I mention these because the charter has, as reported in the *Herald Sun* of 18 January:

> … been used by some of the state's worst criminals to frustrate the legal system, further clogging our courts and costing taxpayers tens of thousands of dollars.

Many in the legal fraternity have said that criminals rather than law-abiding citizens have been the beneficiaries of this law. It is interesting that the Attorney-General continues to ignore this fact while amending existing legislation to ensure compatibility with the charter such as he is doing with the bill before us.

The second-reading speech of this bill also says:

> … this government is demonstrating a strong commitment to the charter and its key purpose of protecting the human rights of all Victorians.

The Attorney-General makes this statement as though the charter is the only thing protecting human rights in Victoria. That certainly is his view, and he is entitled to it; however, another view was put in the *Herald Sun* editorial of 18 January. It states:

> It is now difficult to see this charter as anything more than the misguided indulgence of a civil libertarian Attorney-General.
>
> The reality is that protection of human rights has never required a charter. Honest Victorians, whose rights should be protected under common law, are not any better off.

We can all clearly see who the charter is protecting. Police Association secretary Greg Davies summed it up quite succinctly when said the charter had 'demonstrably favoured' one group — criminals.

There have already been a number of examples of criminals making frivolous claims in response to the charter, and I am sure all members will agree that this number is sure to grow. How anyone on the government benches can see the likes of killers, drug manufacturers and other criminals using the charter to frustrate the courts and waste taxpayers money and be proud of what they have brought into this Parliament is beyond me.

There is also the issue of the cost to taxpayers of the administration of this charter, and that cost is growing.

Some 30 extra lawyers have been employed in the Victorian Government Solicitor's Office just to cope with the extra work that has been caused by the charter, and there is also the cost of employing all the other public servants who are required for the charter's administration. The *Herald Sun* reported that the Department of Justice had employed three extra full-time staff to ensure that existing legislation complied with the charter, and an example of what results from that work is the bill before us. I would like to know how many hours went into finding the seven acts detailed in this bill, how many hours went into scouring the statute book to find legislation that is incompatible with the charter and how much time went into making the necessary adjustments.

How much more taxpayer funded time will go into ensuring the compatibility of future bills that are brought before the house with the Attorney-General's onerous charter? My belief is that this charter is open to abuse by criminals, as has been shown. It has increased the amount of red tape. It is an enormous waste of taxpayers funds. If anyone on the government benches can give me one example of a time in this state where an individual's rights have been protected, I would like them to let me know during this debate.

The member for Box Hill has pointed out that the opposition will not be opposing this bill. But it will be on the government's head if any of the changes in this bill unfairly allow offenders to escape conviction.

Mr FOLEY (Albert Park) — It gives me great pleasure to contribute to the debate on the Statute Law Amendment (Charter of Human Rights and Responsibilities) Bill. I thank the committees of the Parliament, particularly the Scrutiny of Acts and Regulations Committee, for their extensive work in this regard. I also note in particular the contributions in the second-reading speech of the Attorney-General.

As the Attorney-General pointed out, this bill demonstrates the Victorian government's ongoing commitment to the legislative framework for establishing not only a human rights culture in law but also a human rights culture in practice. That continues the great and proud tradition of Australian governments at state and federal levels around a culture of human rights, remembering that it was an Australian government and a national Labor Attorney-General who after the First World War led the whole process in the United Nations around the United Nations declaration of human rights, which stands as probably one of the most important documents setting out the human rights qualities and standards that the world applies.

That proud tradition has continued over the years, if one ignores the sad 11 years of the destruction of human rights at a national level by the former Howard government: the trampling of the rights of refugees and the trampling of the rights of any number of different communities as the systems of law were subjugated to the short-term interests of that government. But whilst that was going on, the Victorian government was taking a best practice approach to how human rights are recognised internationally and delivered into legislative frameworks.

For those who were attuned to the debates at the time, models such as those in the United Kingdom, New Zealand and a range of other countries were considered as mechanisms that would give rise to the best processes to deal with human rights legislative frameworks in such a way as to make sure that the practice in both law and, more importantly, in the interface between citizens and their government and the services derived from government, respects and builds their rights to justice, freedom of speech and a whole range of other particular arrangements that this Charter of Human Rights and Responsibilities demonstrates.

Against that background, this side of the house supports the human rights agenda that the Charter of Human Rights and Responsibilities legislation sets for us in this state. More importantly, I submit that we would support the culture and practice changes that are required to go with that to integrate the human rights and responsibilities charter into the lives of ordinary Victorians, and this bill supports that process.

Whilst we have heard that the opposition will not oppose this bill, you would not necessarily realise that from listening objectively to the contributions of opposition members. Whether they were referring to the rolling over to drug-crazed criminals and power-crazed lawyers and judges or to the primacy of the Parliament their position of not opposing the bill would be unfamiliar if you were to simply rely on their contributions in this debate.

This bill seeks to continue arrangements around how a human rights culture and an efficient method of changing the focus from legislative to practice arrangements can be delivered with the legislative arm of government taking its rightful role in the process that has been set out by the original act. The seven acts that are proposed to be amended by this bill demonstrate that this can be done in practice; that the arrangements for how government sets its broad policy framework and then delivers in practice the arrangements about such specific measures as are dealt with under these acts can be seriously proposed and respected and can

deal with the tensions that arise between existing legislative frameworks and commitments to a human rights culture and practice.

This bill is the sensible and practical next step in the Parliament keeping its part of the bargain and supporting the review of these seven pieces of legislation which, as we have heard, are the Australian Grands Prix Act, the Fair Trading Act, the Forests Act, the Project Development and Construction Management Act, the Transport Act and the Victorian Urban Development Authority Act. As the member for Mill Park and others have discussed in their contributions, collectively these acts bring up a number of issues and tensions as to how the human rights charter is applied.

The right to be presumed innocent is specifically dealt with in four of the acts. As the member for Murray Valley has pointed out, the issues that that creates about tensions between the reverse onus of proof provisions of some of those acts and the right to be presumed innocent are dealt with to make sure that the primacy of the charter is respected. The right to equality and the right to freedom of expression are the other two major areas of the bill that seek to deal with different aspects of those particular acts, which the member for Mill Park set out in quite some detail in her contribution.

To put this in the context of the second-reading speech by the Attorney-General, essentially the government's reviewing of the legislation is seeking to ensure in these acts the consistency of the provisions of the charter. T work undertaken by the Scrutiny of Acts and Regulations Committee, by the Department of Justice and by a number of advocates who support the application of this human rights charter to Victoria's legislative environment has shown that this ongoing piece of work does show up from time to time provisions which are potentially incompatible with human rights and which therefore are appropriate to amend. What this bill does, I would submit, is continue that part of the Parliament's bargain.

What it also demonstrates, I submit, is that the process of legislative amendments will be an ongoing one and that the arrangements indeed reflect the fact that it is the primacy of the Parliament that is dealt with through this process; that we do not have judges and lawyers out there determining these arrangements for the people of Victoria but that there is nonetheless a legitimate role for each arm of the justice process to bring debates to bear around this particular issue of how human rights can from time to time clash, how they can cause tension and how a mature legislative arm of government and a mature society that is committed to ensuring respect for human rights can deal with those in a considered, fair and balanced manner and can resolve those in an appropriate way.

I listened to the contribution of the shadow Attorney-General, the member for Box Hill, in which he made a number of criticisms of the process. I will just conclude my remarks by suggesting, in particular, that the suggestion that the Attorney-General may have shown contempt for the community by not involving the public in the development of the bill by conducting a secret consultation process does not behove the member for Box Hill, whose contributions are normally much more well considered.

There was, as the member well knows, an extensive consultation process undertaken as part of the development of this bill with such reputable organisations as the Law Institute of Victoria, Victoria Legal Aid and the Victorian Bar Association — indeed, the courts were extensively considered — and that the submissions from these significant stakeholders were carefully considered. Indeed the same can well and truly be said for some of the other comments from the member for Box Hill, but time has got away from me, and I wish the bill a speedy passage.

Dr SYKES (Benalla) — I would like to commence my contribution by acknowledging the outstanding presentation by the member for Box Hill, who in his usual form provided a sound overview of the situation and identified some areas of concern.

The main objective of the Statute Law (Charter of Human Rights and Responsibilities) Bill 2009 is to amend provisions in some seven existing Victorian acts that are potentially incompatible with the human rights contained in the Charter of Human Rights and Responsibilities Act.

It was intended that the amendments would ensure each of those provisions could be read compatibly with the human rights contained in the charter.

I would like to concentrate on two aspects. Firstly, there is the issue of reverse onus of proof; and, secondly, the issue of human rights and the abuse of the charter. If we look at the issue of reverse onus of proof, there is a challenging issue of when that should be applied instead of the more common application of the law, where a person is innocent until proven guilty.

It was interesting that yesterday in the Parliament during question time we had what appeared to be an application of reverse onus of proof when the Minister for Water, under the privilege of the Parliament, launched an attack on a number of anti-pipeline

protesters and implied — in fact, strongly suggested — their guilt under the privilege of Parliament. He was very critical of a particular individual, Mike Dalmau, and a number of other people.

It is my understanding that, whilst the minister said that some charges have been laid against some protesters for alleged inappropriate activity, no case has been before the courts and no ruling has been made by the judge on those situations; therefore, the minister in that situation has applied the reverse onus of proof in suggesting very strongly that those people are guilty until proven innocent.

If members on the government side of the house stand up and highlight the importance of the limited use of reverse onus of proof and also the importance of the charter of human rights, then I suggest they should do as they say and not malign innocent people who are exercising their democratic rights.

The other issue that has been raised by the member for Box Hill and expanded upon by the member for Warrandyte is how the charter of human rights has been used since it came into effect, and clearly there is an issue for debate there on how that is being used, with the member for Brunswick suggesting that it is being used appropriately. However, as the member for Warrandyte indicated, the major users of the provisions of the charter of human rights have been hardened criminals with sharp legal advice, who have been intent on frustrating the application of law — and I am pretty sure that was not the intent of the legislation when it went through the Parliament. The provisions of the act, as I understand it, have been rarely used by the ordinary citizens whose rights may have been at risk and whose rights were the intended subject of this piece of legislation and the underlying principles.

I suggest again to the government that it have a look at the fundamentals of the charter of human rights and determine whether it is achieving its objectives for protecting ordinary citizens from abuse of their human rights in our democracy, or whether, as was suggested by the member for Warrandyte and the member for Box Hill — I think the member for Warrandyte was quoting the secretary of the Police Association — the main use of the charter of human rights has been by hardened criminals seeking to frustrate the application of law.

The other issue I would like to make a brief comment on is referred to in the second-reading speech in relation to the issue of the leaking of confidential information. The second-reading speech says:

> The offence provision currently criminalises the disclosure of all information. The bill will be amended so that it will be an offence to communicate confidential information, rather than all information.

That is an interesting provision, which is obviously seeking to protect the interests of organisations that may have important confidential information that is of commercial or other relevance but which is equally intended, I believe, to ensure that people who perhaps make a general comment about what is going on in their workplace over a beer or some other situation will not be the subject of prosecution and charges.

It has been interesting that, Acting Speaker, as you would probably understand, the issue of the north–south pipeline is often spoken about in many forums in much of Victoria.

Ms Beattie interjected.

Dr SYKES — I take up the interjection from the member for Yuroke. Can I indicate to the member for Yuroke that repeated surveys or repeated polls have shown that 95 per cent of people are against the north–south pipeline — full stop! We have the situation where this controversial issue is debated, and there are concerns about the information that comes from people who are working on the pipeline project and into the hands of other people. For example, I had one piece of information passed on to me where a person had put in an expression of interest in a particular contract for a job on the pipeline; he quoted $60 an hour. He was asked to reconsider his quote. He said, 'I cannot cut it any finer; times are tough and that is the lowest I can go'. The message back from the alliance was, 'No, your price is far too low. We want you to put in a quote for $300 an hour, because that is what we are paying people doing that sort of work'.

Is that leaked information confidential and going to be subject to the provisions of this modified legislation or is this putting something out into the public forum which highlights, yet again, the incompetence of this Labor government in managing projects and jacking up the prices to look after its union mates as it did with the West Gate Bridge, where union turf wars pushed up the cost of that project so much?

Ms Duncan interjected.

Dr SYKES — In relation to the confidentiality part of this legislation — for the information of the member for Macedon, who is not in her seat and is interjecting but whose interjection I will take up — I refer to the second paragraph of the second page of the second-reading speech, which clearly outlines the issue

of confidentiality. As I said, we need to think clearly about what constitutes confidential information and other generally available information.

I will move off the controversial issue of the pipeline. Interestingly, we had other situations where the government was reluctant to release information on the basis of confidentiality and that the release of the information would endanger the wellbeing of the public. We sought under freedom of information the operating rules of Lake Nillahcootie, which was linked to the disastrous decommissioning of Lake Mokoan. The government told us that that information could not be released, it was in confidence and the release of it may endanger people who live downstream and make them vulnerable to acts of terrorism. What a lot of rot!

I ask the minister, when summing up this debate, to explain what 'confidential' is and whether he can cover off any suggestions that the use of confidentiality has been abused.

I highlight another case which is before the Victorian Civil and Administrative Tribunal at the moment and which is being led by the Leader of The Nationals, seeking information on the food bowl modernisation project and the business case that underpins it. Lo and behold, we have government agencies saying, 'That information is not available and is confidential. If the information were made available to the public, it is in such a form that it would not be understood by an ordinary person'. I say to the minister that the government needs to look at its charter of human rights; it needs to look at this whole process and see whether it is doing what it says.

Ms BEATTIE (Yuroke) — I rise to support the Statute Law Amendment (Charter of Human Rights and Responsibilities) Bill 2009. It was introduced to the house by the Attorney-General.

The real focus of the bill is to amend provisions in seven existing Victorian acts that are potentially incompatible with the human rights contained in the Charter of Human Rights and Responsibilities Act 2006. The proposed amendments in the bill will ensure that each of these provisions can be read compatibly with the human rights contained in that charter. The amendments will: amend a discretionary provision within the Education and Training Reform Act 2006; amend confidentiality provisions in order to comply with the right to freedom of expression covered in the Victorian Urban Development Authority Act 2003 and the Project Development and Construction Management Act 1994; change reverse legal onus provisions to reverse evidential onus provisions in the Fair Trading Act 1999, the Australian Grands Prix Act 1994 and the Transport Act 1983; and altogether remove a reverse onus provision in the Forests Act 1958.

At this point in time I would like to congratulate the Scrutiny of Acts and Regulations Committee, so ably chaired by the member for Brunswick, for the work it has done. These acts contain provisions that were potentially incompatible with human rights contained in the charter. The primary objective of this bill is to ensure that each of these acts can be read compatibly with the charter. By taking these proactive and positive steps to amend the existing legislation, to ensure that compatibility with the charter, the Victorian Labor government demonstrates its strong commitment to the charter's key purpose of protecting and promoting human rights.

As usual, the Labor government consulted widely with the Office of Public Prosecutions, Victoria Police, Victoria Legal Aid, the Law Institute of Victoria, the Victorian Bar council, the Criminal Bar Association, the Supreme Court of Victoria, the County Court of Victoria and the Magistrates Court of Victoria. I congratulate the government on the extensive consultation that has taken place.

When there is anything to do with human rights and responsibilities, we see the opposition standing up and making all sorts of false claims, such as that criminals use the charter all the time. Criminals do not use this charter all the time. Criminals do not lose their human rights when they go to prison. They go to prison; they do their time; but they are still humans. They still are entitled to human rights. Where does the opposition get this notion that when someone is incarcerated, they forgo all their rights? That is absolutely a nonsense.

I saw Victorian opposition members standing by idly while the Howard government trashed human rights in this country. I did not see them picking up on the claims that were made regarding the children overboard crisis. I did not see them defending any human rights in regard to that issue. What were they doing? They were the champions that said, 'Yes, these people throw their children into the water'. Did I see one of them use a hand to pick up the phone and call the federal government, and say, 'This is not on — you are trashing people's human rights'? No, I did not. They were spineless then, and they are spineless now.

It was also said that the charter would lead to a lawyer's picnic. There has been no lawyer's picnic at all — no evidence that the charter has led to any increased litigation or has in any way undermined the law or the

role of the Parliament. It is not the courts but the delivery of services, the development of the law and the making of the decisions that are affected most notably by the charter. Of course opposition members also said that the charter would transfer power to unelected judges. Again, that is just not so, and there is no evidence to prove that. For opposition members to stand up in Parliament and wave their hands around about the diminution of rights is just not on.

The charter does not create any new avenues of appeal, nor has any criminal successfully used the charter to avoid conviction. Instead, the charter has codified existing common-law rights, and it ensures that these rights can be understood and shared by all. Defendants have always been entitled to argue on the basis of a right for a fair trial in Victoria. Most Victorians, except those on the opposite side of the chamber, would expect nothing less from a legal system that has recognised such rights in one form or another for centuries. The Labor government is very proud indeed that the charter enshrines long-held fundamental rights. This bill does not create any new rights. Therefore the charter strikes the right balance between protecting the individual rights of Victorians and ensuring that the community is protected from wrongdoers. It helps with the proper delivery of justice for Victorians. We are very proud of our justice system here in Victoria.

With those few words, once again I commend the members of the Scrutiny of Acts and Regulations Committee on the work they have done on the Statute Law Amendment (Charter of Human Rights and Responsibilities) Bill, and I commend the bill to the house.

Mr BURGESS (Hastings) — It is a pleasure to rise to speak on the Statute Law Amendment (Charter of Human Rights and Responsibilities) Bill 2009. I will start by saying that the coalition is not opposing this bill. The purpose of the bill is to amend provisions in seven acts which the government considers are inconsistent with the Charter of Human Rights and Responsibilities Act 2006.

The main provisions of the bill make amendments to, first, the Australian Grands Prix Act 1994. That amendment requires the defendant, in relation to vehicle and parking offences, to provide only evidence, instead of proof, that what they were doing was not in breach. If they do not provide such evidence the burden is then on the prosecution to prove all elements of the offence.

The amendments to the Education and Training Reform Act 2006 remove the right of former teaching service employees to return to teaching service after holding government office of a type specified by ministerial order, provided they are aged under 65 years. This is replaced with a right of such former employees of any age to return to the teaching service, provided they satisfy the criteria set out in a ministerial order, have not been found guilty of a sexual offence, and if necessary are registered as a teacher. It allows applications to the merit protection board for review of decisions on re-employment. If an application is successful, the board may order the secretary to reconsider the application.

The amendments to the Fair Trading Act 1999 convert a legal onus into an evidential onus for an individual defendant, but not a company, in relation to lack of reasonable grounds for making representations about future matters and false testimonials.

The amendments to the Forests Act 1958 repeal the obligation of a defendant to prove that the area from which the defendant took a tree was not a protected forest or that a tree cut down was not a reserved tree. The bill amends the confidentiality provisions of the Victorian Urban Development Authority Act 2003 and the Project Development and Construction Management Act 1994, so that it will be an offence only to communicate information obtained in confidence because of a person's connection with the relevant agency or a particular development, rather than an offence to communicate any such information, as is currently the case. It defines 'in confidence' to include circumstances in which the person knew or ought to have known the information was confidential.

The amendments to the Transport Act 1983 require the defendant only to provide evidence that an official's direction was unreasonable, rather than having to prove it. If the defendant produces such evidence, the burden is then on the prosecution to prove the direction was not unreasonable, and similarly for the offence of not providing a business address. However, the legal onus still remains on the defendant to prove a defence that an officer's direction was outside the scope of the defendant's business or other activities.

These changes are all being made on behalf of legislation that is fundamentally flawed, not in wording so much as in existence. In support of that view, I would like to quote a few passages from a speech delivered by John Hatzistergos, the Attorney-General of New South Wales. The speech was entitled 'A charter of rights or a charter of wrongs?' and was given to the Sydney Institute on Thursday, 10 April at the Parliament House theatrette. After an introduction, the author, the Attorney-General, said:

> Deprived of the protection of a human rights charter, Australia descends into tyranny.
>
> The M5 and federal highways become clogged with refugees from the other states fleeing to Victoria and the ACT … the last oases of protection against the cruel abuses of the governments without a charter.
>
> The only things standing between totalitarianism and the Australian people … are the paper-thin texts of the Victorian charter of rights and the ACT's Human Rights Act.
>
> This is, of course, a fantasy.
>
> But it is not far from the vision of the future contained in the new orthodoxy propounded by those who tell us that Australia must have a charter of rights.

Moving to the conclusion, the author said:

> In summary … There are several reasons why adopting a charter of rights is a wrong decision for Australia to make.
>
> A charter is wrong because it moves debate about rights out of the political arena and places it into the judicial sphere.
>
> It is wrong because it removes it from democratic parliamentary processes and distancing ordinary citizens from an important part of political life.
>
> It is wrong because it threatens judicial independence and blurs our institutional governance.
>
> It is wrong because it generates uncertainty about the meaning of laws and deprives legislation of its finality.
>
> It is wrong because, rather than being a simple educative tool, it creates a new level of interpretation over and above the vernacular meaning of the legal text.
>
> This distances non-lawyers from the legal and political process, depriving them of the ability to read and understand a law without applying the complex apparatus of the court's interpretation.
>
> I have stated at the outset that I have no objection to a consultative process subject of it being a fair and honest consultation with the public in general.
>
> The consultation process must look at alternative models to the charter, including ones that recognise the principle of parliamentary sovereignty and seek to better inform it of potential human rights violations.
>
> Lawyers bear the scars of litigation.
>
> To suggest that that advancement can come about through adversarial litigation where community values are converted to legal battlefields is — with respect — both ludicrous and dangerous.
>
> We do not live in a perfect society and never will.
>
> There may well be laws perceived by some to be unjust in our community. It is however wrong to suggest that they can be remedied by enacting charters with wide ranging values and all will be well.
>
> The remedies and accountability should rest with the democratically elected Parliament preserving and respecting the traditional role of the courts and the balance between our institutions of governance.

I say again that the piece of legislation that we are debating at the moment is not really the issue. The bill makes relatively insignificant changes to pieces of legislation that have been put together over a period of time. What is at question is the value of the underlying legislation, the charter, for which we are making these changes.

Ms DUNCAN (Macedon) — I take it that is a 'no' from the member for Hastings. I speak in support of the Statute Law Amendment (Charter of Human Rights and Responsibilities) Bill. This is a pretty straightforward bill which again shows the government's ongoing commitment to ensuring all of our legislation is compatible with the charter.

This bill will amend seven existing acts which contain provisions that are potentially incompatible with the human rights contained in the charter. That includes the Education and Training Reform Act 2006, which currently provides that only people under the age of 65 are entitled to be re-employed on an ongoing basis in the teaching service. The bill amends the act to provide that re-employment will now be based on competence, capacity and satisfaction of the criteria for registration as a teacher rather than on age.

The bill also amends the Victorian Urban Development Authority Act 2003 and the Project Development and Construction Management Act 1994, which contain confidentiality provisions that limit freedom of expression by making it an offence for a person to communicate any information at all obtained because of their connection with the relevant agency or a particular development except when carrying out their official duties. The offence currently prohibits any information being disclosed. These acts will be amended so that it will be an offence to communicate confidential information rather than all information.

The bill also amends reverse onus provisions in a number of bills. 'Reverse onus offence' is an umbrella term for offences which require the defendant to prove a defence, disprove a presumption or disprove an element of an offence in order to escape liability. There are many reverse onus offences throughout the statute books. The bill will ensure compatibility with the right to be presumed innocent by making amendments which change reverse legal onus provisions to reverse evidential onus provisions where appropriate or remove the reverse onus altogether.

The Australian Grands Prix Act 1994, the Fair Trading Act 1999, the Forests Act 1958 and the Transport Act

1983 contain reverse onus provisions which potentially limit the right to be presumed innocent under the charter. Those three acts will be amended to change reverse legal onus provisions to reverse evidential onus provisions, and the proposed amendment to the Forests Act will remove the reverse onus in two sections so as to require the prosecution to prove all of the elements of the offences. I commend this bill to the house.

Mr THOMPSON (Sandringham) — In looking at the question of rights in this chamber, we need to look at the right of appeal to the Supreme Court. I would like to make a general comment on that. During the 1990s the Labor Party made great play of the removal of the appeal right to the jurisdiction of the Supreme Court. It claimed that the right of appeal in over 200 cases had been removed by the then Kennett government, unaware that there were a comparable number of cases where that right had been removed during the tenure of the Cain and Kirner governments. At a Law Institute of Victoria luncheon in the late 1990s, a then member of the Labor Party stated that it was an unfettered attack on the rights of Victorian citizens. Comparable remarks were made later on by the then Leader of the Opposition.

On multiple occasions in this chamber I have called on members of the Labor Party to turn up to a law institute luncheon again and apologise to the legal profession for having misled it in relation to the jurisdiction of the Supreme Court. Over the last 9 or 10 years in this place, the Labor Party has continued to fetter the right of appeal to the jurisdiction of the Supreme Court in myriad cases. I think that is unfortunate.

The honourable member for Prahran is in this chamber, and I welcome his comment at some stage once he has had the opportunity to turn his mind to the question, look at the public statements which were made at the law institute luncheon and then examine the legislative record of this chamber over the last 20 years.

There are examples where it is appropriate to remove the jurisdiction of the Supreme Court. In the case of a doctor taking a blood sample at the Alfred hospital from a person who was admitted after being injured in a motor vehicle accident, the law has been amended to enable a doctor to take a blood sample without facing the likelihood of being charged with assault through the taking of that sample.

A range of other smaller tribunals have been set up, including the Small Claims Tribunal, the Residential Tenancies Tribunal and other consumer tribunals where this place in its wisdom has decreed that there are other processes that should be followed first before resort is made to appeal to the Supreme Court. A great mantra has been used here, but the Labor Party has misled not only the law institute but also the people of Victoria as newspapers editorialised on misleading and misrepresentative information in relation to the jurisdiction of the Supreme Court.

There is example after example where section 85 clauses have been introduced into this chamber. One of the reasons why it was problematic, and one of the reasons why the Labor Party thought there was something wrong, was that the then Kennett government introduced a requirement for that matter to be noted in any bill that was to be passed before the house — that if the jurisdiction of the Supreme Court was to be limited, then that was to be brought to the attention of this chamber.

During the Cain and Kirner years, if the jurisdiction of the Supreme Court was being limited, that was not a matter that was brought to the attention of the house and therefore it escaped public scrutiny. What the Kennett government did at that stage was to put it on the public record, and yet the Labor Party used that very fact to mislead the law institute, to mislead the members of the legal profession who attended the president's luncheon and to mislead the wider Victorian community.

I made overtures to the Attorney-General on multiple occasions in this place to go back to the law institute and address the president's luncheon, to say, 'I was wrong. The Labor Party was wrong on this particular issue'. I think that would improve the level of objective debate. We rely on the key minds of people to present information fairly to the Victorian community rather than to be based on misinformation and misrepresentation.

The Labor Party has been a great champion in the realm of rights. There was an Australian High Court judge — one of Australia's greatest High Court judges. A former member of this place noted that Sir Harry Gibbs had pointed out that rights are best protected by a proper separation of powers in which the executive, the legislature and the judiciary save their respective parts and do not encroach on the functions of the others. Sir Harry said:

> If society is tolerant and rational it does not need a bill or rights. If it is not, no bill of rights will preserve it.

In the last 100 years there have been examples overseas of where tyranny has reigned, and where totalitarianism has reigned. There are examples within — broadly — the lifetimes of people within this chamber and perhaps

of those in the gallery who have seen the totalitarian regime that occurred in Nazi Germany.

Every member in this chamber would have been around at the time of the totalitarian regime of the Soviet Union. Under Josef Stalin the Soviet Union had a bill of rights, but it was not very effective in protecting the legitimate interests of the people and preventing a tyranny that, in the words of Solzhenitsyn and Walesa, had taken the lives of over 100 million people during the course of the 20th century.

The bill before the house today is the Statute Law Amendment (Charter of Human Rights and Responsibilities) Bill 2009. Its object is to amend provisions in seven acts which the government considers are inconsistent with the Charter of Human Rights and Responsibilities Act 2006. It addresses reforms in relation to the Australian Grands Prix Act 1999, the Education and Training Reform Act 2006, the Merit Protection Board, the Fair Trading Act, the Forests Act, the Victorian Urban Development Authority Act, and the Transport Act.

The opposition has a range of concerns in relation to these provisions. One issue relates to a concern regarding the extent of the improvements in legislation the charter can produce following a detailed and extensive government review. Will the government make public the review, showing what provisions it has decided not to change?

Another concern relates to keeping the legal onus of proof on defendants for some provisions yet not for others, and on company defendants but not individuals, showing there are no issues of high principle involved. These are just pragmatic judgements about balancing considerations disguised in high language about human rights. It is also not clear whether the changes in onus will make prosecutions unreasonably difficult or cause delays in cases proceeding. The final concern relates to the removal of the existing rights of government office-holders to return to teaching. Even the Merit Protection Board cannot compel the employment of former government officeholders who qualify.

The opposition is concerned that the changes before the house are in fact extremely limited. After all, the rhetoric in relation to human rights follows the parallel of the Labor Party as it dealt with section 85 clauses. There was a lot of noise, but in the case of section 85 clauses, which I alluded to before, there was misrepresentation to the people of Victoria about what was capable of being achieved.

Recently the Attorney-General made a submission to the National Human Rights Consultation Committee. An argument was put forward to Fr Brennan in relation to a human rights act that there should not be such an act for the following reasons: it was regarded as being antidemocratic, and it gave abstract human rights principles to unelected judges, which involved an additional layer of subjectivity and discretion. I think that is a very important point which echoes my words earlier about Sir Harry Gibbs — that is, it is important there be an appropriate separation of powers, and it is important that legislators have the responsibility to define legal changes rather than being unelected officials or bodies that can apply their own interpretation and overlay and accord rights where once rights did not exist. Therefore, the opposition is particularly concerned about elements of the reform agenda of the Labor Party.

Ms MARSHALL (Forest Hill) — It is with great pleasure that I rise tonight to speak on the Statute Law Amendment (Charter of Human Rights and Responsibilities) Bill. There was much talk yesterday in this place regarding democracy. It was being discussed in the context of what our democratic rights are and the implications of a person taking the law into their own hands, putting the personal safety of another person at risk and justifying their actions as being somehow necessary to protect their own freedoms. That would involve the failure of that person — or of any group — who ventures down this road to understand that a democratic right of an individual does not extend to politically motivated protesters who believe that threats of violence or violent actions have a place in community debate.

This government embraces democratic ideals and, by extension, is committed to providing Victorians with protection of those rights that are commonly considered to be essential to an open and free democracy under the Charter of Human Rights and Responsibilities Act 2006. These rights include equality before the law; the right to life; protection from torture; privacy; and freedom of thought, conscience, religion and beliefs, all of which are designed to enable Victorians to live with freedom, respect, equality and dignity.

Freedom is the right to act according to one's will without being held up by the power of others. From a philosophical point of view, freedom can be defined as the capacity to determine your own choices. Respect is esteem for or a sense of the worth or excellence of a person, personal quality, ability or manifestation of a personal quality or ability. In certain ways respect manifests itself as a kind of ethic or principle.

Dignity is a term used in moral, ethical and political discussions to signify that a being has an innate right to respect and to ethical treatment. It is an extension of the belief that individuals have God-given rights, and thus it is closely related to concepts like virtue, respect, self-respect, autonomy and human rights. Dignity is generally proscriptive and cautionary. In politics it is usually synonymous with human dignity and is used as a measure to critique the treatment of oppressed and vulnerable groups and peoples, although in some cases it has been extended to apply to cultures and subcultures, religious beliefs and ideals. In more colloquial settings it is used to suggest that someone is not receiving a proper degree of respect or even that they are failing to treat themselves with proper self-respect.

Equality before the law, or equality under the law, is the principle that each individual is subject to the same laws, with no individual or group having special legal privileges.

Under the Charter of Human Rights and Responsibilities Act 2006 legislation is required to be reviewed to ensure consistency with the charter of human rights. This bill will amend seven acts that have been found to be possibly inconsistent with that charter, thus ensuring continued and improved protection of the human rights of all Victorians.

One of the acts this bill will amend is the Education and Training Reform Act 2006. Currently a section of this act stipulates that people above the age of 65 are unable to be re-employed on an ongoing basis in the teaching service. This section enshrines ageist attitudes in our law. My electorate of Forest Hill has a high proportion of persons aged over 65 — more than 18 per cent of the electorate, to be exact — and we want to ensure they are able to have unlimited involvement in our community and that all legislation supports that. Many of the senior Victorians I have had the pleasure of meeting in my electorate are active, capable and still working full time. With an ageing population this will only become more common. Age should not be a barrier to employment, and we all know how much employers value the contribution and experiences of senior staff members.

I received a wonderful email from a constituent of mine, Claire, who gave me a number of reasons to smile. I will quote in part from her letter.

> Now about this seniors card. I would not mind so much if it is was called something else.
>
> I attend the gym, dye my hair and look nothing like either of the ladies in the senior information brochure by the Victorian government.
>
> Just joking, of course. I would like to thank you and the Victorian government for looking after senior members of this state.
>
> …
>
> Let's have some younger looking 60s like me, doing aerobics or walking the dog, just as an example.

Claire is indicative of the changing face of seniors in Victoria. My own parents, Ron and Anne, are seniors by definition.

Mr Crutchfield interjected.

Ms MARSHALL — The interjection that they look 40 is funny. Thank you. I am worried about whether I look older than they do already, but thank you very much! Their vitality and energy would have many believe they are in their 50s!

I would like to praise the government for honouring its enduring commitment to human rights in this state and, through this bill, amending the Education and Training Reform Act 2006 to stipulate that re-employment will be based on competence, capacity and satisfaction of the criteria for registration as a teacher and that age will no longer be a factor.

This bill will also amend the Victorian Urban Development Authority Act 2003 and the Project Development and Construction Management Act 1994. These acts contain provisions which make it an offence for a person to disclose any information obtained due to a connection with an agency or a development. Upon review of these provisions it was clear that the confidentiality provisions limit freedom of expression. I am pleased that this bill will make amendments to ensure that the right to freedom of expression is upheld by making it an offence to communicate confidential information as opposed to any and all information.

It has previously been outlined by the Attorney-General that the other four acts that this bill will amend contain reverse onus provisions. These provisions shift the burden of proof onto the individual by requiring them to disprove that element of the information. Generally reverse onus provisions shift the burden onto the defendant in either a criminal offence or a tort claim.

This bill is a wonderful representation of a government that has shown time and again its commitment to a fairer Victoria. An essential part of this is ensuring that we have a responsive and accessible justice system — that is, one that is safe and fair. This can be achieved

obviously through crime prevention, but it is also important to shape a legal system that ensures a fair go for everyone. Amending these four acts will help achieve this.

It is pleasing that this bill is yet another example of the Brumby government delivering on its commitment to protect and promote the human rights of all Victorians. It is a bill for the people of Forest Hill and all Victorians who want protection of those rights, and that is what living in a democracy affords them.

Human rights are entitlements that belong to every human being, regardless of age, sex or culture, and I am pleased to contribute to the debate on a bill that offers protection of these innate human rights. I commend the bill to the house.

Mr BATCHELOR (Minister for Community Development) — In summing up on this bill I would like to thank all those members who have made a positive contribution to this bill. It seeks to amend provisions in seven existing Victorian acts that are potentially incompatible with the human rights contained in the Charter of Human Rights and Responsibilities Act 2006.

The amendments will ensure that each of these provisions can be read compatibly with the human rights contained in the charter. As I said, these seven acts contain provisions that are potentially incompatible with the human rights contained in the charter, and the primary objective of this bill is to ensure that each of these acts can be read compatibly with the human rights contained in the charter.

By taking this positive action — these proactive steps — to amend existing legislation we will ensure compatibility with the charter. The Victorian government does this in an attempt to demonstrate the strong commitment it has to the charter's key purpose of protecting and promoting human rights. 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.

ENVIRONMENT PROTECTION AMENDMENT (BEVERAGE CONTAINER DEPOSIT AND RECOVERY SCHEME) BILL

Introduction

Received from Council.

The SPEAKER — Order! I have received the following message from the Legislative Council:

> The Legislative Council transmit to the Legislative Assembly a bill for an act to amend the Environment Protection Act 1970 to make further provision for environmentally sustainable uses of resources and best practices in waste management by establishing a beverage container deposit and recovery scheme to be administered by the Environment Protection Authority and for other purposes with which they request the agreement of the Legislative Assembly.

I have had an opportunity of examining the bill, and in my opinion it is a direct infringement of the privileges of the house in that it seeks to impose a beverage container environmental levy. Section 62 of the Constitution Act 1975 requires a bill which imposes any duty, rate, tax, rent, return or impost to originate in the Legislative Assembly.

Ordered to be considered immediately on motion of Mr BATCHELOR (Minister for Community Development).

Order of the day read for consideration of message.

Mr BATCHELOR (Minister for Community Development) — I move:

> That the bill be returned to the Legislative Council with a message advising that the Legislative Assembly refuses to entertain the bill, as it seeks to impose a levy which is unlawful, being the exclusive power of the Legislative Assembly as set out in the Constitution Act 1975.

In moving this motion I take note of the advice that the Speaker has provided to the house today that this bill and its provisions breach section 62 of the Victorian constitution. Section 62(1) of the Constitution Act 1975 says:

> (1) A Bill for appropriating any part of the Consolidated Fund or for imposing any duty, rate, tax, rent, return or impost must originate in the Assembly.

It is the latter part of the constitutional provision that this bill clearly violates. Accordingly the motion I am moving respectfully points that out to the Legislative Council. There is no other interpretation that can be attributed to the latter part of this constitutional provision. It says a bill 'for imposing any duty, rate, tax,

rent, return or impost must originate in the Assembly'. Clearly the provisions of this container deposit legislation bill that has proceeded through the Legislative Council today seeks to do exactly that.

Based on advice given to her, the Speaker has pointed out that this action by the Legislative Council and the bill in question breach that section of the Victorian constitution because the bill did not originate in the Assembly. Accordingly, there is no alternative but for the Legislative Assembly to respectfully return the bill and to advise members of the upper house of the situation. The Council will be advised that we are unable to deal with it and that in dealing with it the Council breached a provision of the Constitution Act. Our message respectfully tells the Council that its attempts to impose this levy are unlawful. In that context — —

Mr Walsh interjected.

Mr BATCHELOR — I will ignore the interjection from the Deputy Leader of The Nationals. We are seeking to respectfully tell members of the upper house that we disagree with what they have done. We would ask them to examine this part of the constitution, and I would see that they could come to no other conclusion.

This is not the first time we have been placed in such a quandary. It is not a position we welcome being placed in by the upper house. A similar incident occurred on 26 June 2008 in relation to a bill proposing to make amendments to the Tobacco Act, the Tobacco (Control of Tobacco Effects on Minors) Bill, which was considered and passed by the Legislative Council. It was sent to the Assembly; it did not originate here. A similar debate to the one we are having here took place then, and the bill was respectfully returned to the upper house. The only difference between what occurred then and what has occurred now is that the bill that was under consideration at that point fell foul of the first part of this constitutional provision, whereas the bill that is under consideration now falls foul of the latter part of section 62(1) of the Victorian constitution.

In moving this resolution I have to say that I think this is a pretty straightforward open and shut case. I know these sorts of things tend to excite my colleagues from a legal background on both sides of the chamber, and I beg them to resist. However, we will see, time will tell. Not being burdened by a legal background myself I regard this simply and only as a straightforward procedural matter that we should be able to deal with quite expeditiously.

Mr INGRAM (Gippsland East) — It is disappointing that I have to speak on this motion and not in the debate on the legislation. There are a number of disappointments in relation to this bill. The motion moved by the Leader of the House is all about whether this type of legislation should originate in this chamber. The first disappointment is that no government minister has stood in this place to introduce this legislation when so many people, both in this chamber and in the community, want this type of policy implemented.

I know we are just speaking on the motion that the legislation be rejected based on the constitution; however, there is conflicting constitutional advice, and although I respect the advice given by the Clerk to the Speaker, I will go through the process. As a member of this place I have always known this could be a potential problem with this legislation, and I have worked with the member from the other place who introduced it there in an attempt to make sure that the legislation did not fall foul of the relevant clause in the constitution. We are clearly now discussing an interpretation based on legal advice. While the process of drafting the legislation was being undertaken we met with the Clerk in an attempt to circumvent the discussion that is taking place here today.

As I said, the upper house has passed the bill and sent it to this place. I was hoping to be a sponsor of the bill in the lower house and to have a full and frank discussion of the merits of the policy. The difficulty for a non-government member in drafting legislation is in avoiding this type of constitutional issue. In previous debates on this matter in this place I gave this careful consideration, as I did with the tobacco bill. I understood the complexity of that issue and the difficulty in which it placed the chamber.

My view is that it would have been better to have had a full debate on the legislation; for the government to have introduced a bill similar to the Environment Protection Amendment (Beverage Container Deposit and Recovery Scheme) Bill, as it clearly has the power to do. The bill has been introduced in the upper house, but the government does not wish to debate it in this chamber. I hope the government implements the good public policy of introducing a container deposit scheme, something which is widely supported by the community and which I have been a strong supporter of for many years. There is a range of reasons why it should do that.

An honourable member interjected.

Mr INGRAM — I will not take up the interjection, but I note that the last time we had this kind of debate in

the chamber the government subsequently introduced legislation very similar to that proposed by The Nationals in the other place. We will come back and debate that if it is the will of the chamber, as is my hope. In my view it is disappointing that the government is choosing to avoid a full debate on this. I would have liked to go through some of the legal compliance issues, but I understand the motion is very narrow.

Section 62 of the constitution, which is headed 'Appropriation bills', clearly states that only bills that originate in this place can impose a duty, rate, tax, rent, return or impost. It is an issue that was not picked up by the Scrutiny of Acts and Regulations Committee or by the parliamentary library in its work on the very good research brief it produced on the bill.

I call on the government to make sure that we have the debate that was considered in the upper house — a full and frank debate on the merits of the bill — and, if it does not support having a full debate on the bill in this chamber, that it bring forward its own legislation to implement what is good public policy. It is disappointing that we cannot have that debate in the chamber.

Mr CAMERON (Minister for Police and Emergency Services) — The comments you, Speaker, made at the introduction of this matter are entirely correct. What the upper house is attempting to do is impose itself where it has absolutely no business. The constitutional arrangements in the Westminster system were hammered out over centuries. The arrangements between the upper and lower houses of Parliament were arrived at on the basis that the elitist upper house could not go around imposing levies and imposts — they had to come from the lower house of Parliament. This is the rule in the Westminster world. The framers of the Victorian constitution took up that fundamental Westminster principle and put it in the constitution, as reflected in section 62 of the Constitution Act.

This is the second time this has happened in the last year. You could be kind and say those in the upper house are dills, or you could say they are recidivists. What we have to do with this message is try to get it through the thick skulls of members of the upper house that they have to obey the constitution, just as we in this house obey the constitution.

Mr Ingram — On a point of order, Speaker, the rules of debate and rulings by previous speakers clearly stipulate that it is not okay for members of this place to cast aspersions on those in the other place.

The SPEAKER — Order! I uphold the point of order. Unfortunately for the chamber, perhaps, *Hansard* cannot record the satire and amusement with which the minister's contribution is being delivered. I suggest to the minister that it is improper to make imputations against members of the other place.

Mr CAMERON — I certainly respect that ruling, Speaker. While people who are outside looking in might call members of the other place dills, I certainly would not.

We have to get to a situation where the upper house does not continually overstep the mark. The upper house has been reformed, and it is meant to be a house of review, not a house of government. What the proponents of the bill want to do is wreck the Victorian recycling scheme. They should go out there and say it publicly during the election campaign. If they get that mandate, they can then introduce container deposit legislation. That is the message we want to get through. I hope that we can get it through the heads — I will not make any reflections on the thickness of the heads — of those in the upper house.

Mr McINTOSH (Kew) — I will be brief. I rise to support the position adopted by the member for Gippsland East and most importantly to note that the Minister for Police and Emergency Services has again demonstrated exactly why the people of Victoria cannot understand why he is a minister of the Crown. They certainly cannot understand why the government is opposing the measures proposed in the bill, which are good public policy. To argue that there is a malevolent spirit in the upper house is bizarre in the extreme.

There are clearly divergent views about the legal aspects of this process, because this bill was permitted to pass by the upper house notwithstanding the constitutional provisions. Obviously members of the upper house took the view that this bill does not infringe the constitutional impediment, but down here the government is taking a different view.

I also note that this bill talks about good public policy and that it has been supported by the Democratic Labor Party and sponsored by the Greens, the Liberal Party and The Nationals in the upper house, and supported by the Liberal Party and The Nationals in this chamber, as well as by the Independent member for Gippsland East.

The only people who are not committed to this outcome are government members, who have had nine years to introduce a container deposit and recovery scheme but have refused to do so. Frankly the government is adopting this technicality to stop good public policy

from proceeding in this chamber. Accordingly the opposition will be supporting the position that this bill should be properly debated and passed by this chamber as a demonstration of this chamber's commitment to the environment of Victoria.

A container deposit and recovery scheme is already operating effectively in South Australia, and such a scheme would improve the environment in Victoria to a profound extent. The only impediment to the introduction of this scheme is a government which has refused to put forward its own bill. The government has had nine years to do so, but has refused to do it. It is regrettable that we have to debate this matter at this late stage.

The opposition will oppose this motion. The bill should proceed through this chamber as a good piece of good public policy which the people of Victoria support overwhelmingly. All parties, except the Australian Labor Party, support this legislation — the Greens, the Democratic Labor Party and The Nationals — and accordingly it should pass this chamber. We will be opposing the motion.

Mr LUPTON (Prahran) — We have an extraordinary situation before the house. The opposition in this chamber is supporting a proposition that this chamber, against advice and against a clear reading of the constitution and the provisions of the bill that is the subject of this message, should flout and tear up the constitution — that it should tear up a principle upon which the Westminster system has been based for many years. That principle is that matters involving appropriation from the Consolidated Fund or the raising of any forms of taxes or revenue must initiate in the Legislative Assembly — the lower house or the house of government.

This bill originated in the Legislative Council and clearly is in breach of section 62 of the constitution. It is an extraordinary bill in many respects in that not only does it breach section 62 of the constitution on a simple and clear reading of its provisions but because of the way it attempts to impose this levy, it is likely to breach the federal constitution in relation to the prohibition on state legislatures imposing duties of excise. It also potentially breaches the federal constitution by attempting to impose a customs duty. It is the most extraordinary piece of legislation to initiate from a Legislative Council in many years.

Last year we saw a situation where amendments to the Tobacco Act were attempted to be initiated in the Legislative Council; now we have this bill, so it appears to be a growing trend that the Legislative Council, notwithstanding the constitutional prohibitions, seems to want to take the law into its own hands, tear up the constitutional provisions upon which our democratic system of government operates and come up with its own rules.

What is even more extraordinary is that opposition members in this chamber, notwithstanding that they are members of the Legislative Assembly, appear to support the notion in what the Legislative Council is attempting to do with these sorts of bills. Despite this proposition being against the constitution of the state of Victoria, opposition members nonetheless support the Legislative Council in that process rather than supporting the principles of the constitution and the privileges of this Legislative Assembly.

The point needs to be made from this point forward that this process has nothing at all to do with the merits or otherwise of the pieces of legislation that come before the house. Whether this is good, bad or indifferent legislation, it is a constitutional provision which this chamber cannot in any way, shape or form mix itself up in by passing legislation which we know, on good advice and on sound legal principles, is unconstitutional, illegal and invalid. It would be completely inappropriate and improper for this chamber to do so.

For those reasons the motion that has been moved by the Leader of the House is appropriate. We should make sure that no-one is able to be misinformed by the opposition in relation to this issue. It has nothing to do with the merits of the legislation; it has everything to do with upholding the constitution of the state of Victoria, which as sworn members of Parliament we are all pledged to support. Therefore I urge that the house support the motion moved by the Leader of the House.

House divided on motion:

Ayes, 49

Allan, Ms	Kosky, Ms
Andrews, Mr	Langdon, Mr
Barker, Ms	Lim, Mr
Batchelor, Mr	Lobato, Ms
Beattie, Ms	Lupton, Mr
Brooks, Mr	Maddigan, Mrs
Brumby, Mr	Marshall, Ms
Cameron, Mr	Merlino, Mr
Campbell, Ms	Morand, Ms
Carli, Mr	Munt, Ms
Crutchfield, Mr	Nardella, Mr
Duncan, Ms	Neville, Ms
Eren, Mr	Noonan, Mr
Foley, Mr	Pallas, Mr
Graley, Ms	Pandazopoulos, Mr
Green, Ms	Perera, Mr
Hardman, Mr	Pike, Ms

Harkness, Dr
Helper, Mr
Herbert, Mr
Holding, Mr
Howard, Mr
Hudson, Mr
Hulls, Mr
Kairouz, Ms
Richardson, Ms
Robinson, Mr
Scott, Mr
Seitz, Mr
Thomson, Ms
Trezise, Mr
Wynne, Mr

Noes, 32

Asher, Ms
Baillieu, Mr
Blackwood, Mr
Burgess, Mr
Clark, Mr
Crisp, Mr
Delahunty, Mr
Dixon, Mr
Fyffe, Mrs
Hodgett, Mr
Ingram, Mr
Jasper, Mr
Kotsiras, Mr
McIntosh, Mr
Morris, Mr
Mulder, Mr
Napthine, Dr
Northe, Mr
O'Brien, Mr
Powell, Mrs
Ryan, Mr
Shardey, Mrs
Smith, Mr K.
Smith, Mr R.
Sykes, Dr
Thompson, Mr
Victoria, Mrs
Wakeling, Mr
Walsh, Mr
Weller, Mr
Wells, Mr
Wooldridge, Ms

Motion agreed to.

NATIONAL PARKS AMENDMENT (POINT NEPEAN) BILL

Second reading

Debate resumed from 10 June; motion of Mr BATCHELOR (Minister for Community Development).

Ms ASHER (Brighton) — I am pleased to make a few words of contribution to the debate on the National Parks Amendment (Point Nepean) Bill 2009. At the outset I indicate that the opposition supports the bill. The bill contains a number of limited provisions. It adds the quarantine station land, which is on approximately 90 hectares, and the abutting intertidal zone to Point Nepean National Park. The bill formalises the transfer of this land from the commonwealth government to the Victorian government. It invokes permanent protection of the site. The site itself, as members know, is listed on the Victorian Heritage Register under the Heritage Act as both a heritage place and an archaeological place.

Members will be familiar with the history of the quarantine station, which is well outlined in the second-reading speech. It was initially established in 1852 as a quarantine station. From the 1950s through to the early 1980s it acted as a number of Department of Defence facilities. Refugees from Kosovo were even housed there at one stage. It has had a rich history. The bill provides specific facilitation for leases and licences on the land.

I will now run through the specifics of the bill. It provides at clause 5 the capacity for the minister to enter into a lease. The conditions under which a lease can be entered into — and I am referring here to the bill — are:

> … for a purpose or purposes which the Minister considers are not detrimental to the protection of the park, including its historic, indigenous, cultural, natural and landscape features.

Those leases can be for a term of up to 21 years, so there are quite specific provisions as to how 21-year leases may be granted by the minister. However, there is also capacity for the minister to allocate a lease of up to 50 years. Of course the test for that is higher, and it is outlined in clause 5 as:

> (a) the proposed use, development, improvements or works that are specified in the lease are of a substantial nature and of a value which justifies a longer term lease; and
>
> (b) the granting of a longer term lease is in the public interest.

On the issue of leases, the second-reading speech flags the circumstances under which a longer term lease could be given and gives the examples of an education and training facility, accommodation or other tourism-related venture which requires the economic certainty of a longer lease term in order to be financially viable. Longer lease and licence terms have been the subject of another bill which has been before the house this week.

I make the point in passing that whilst the opposition supports this bill and has consistently supported longer term leases for commercial developments with the sorts of provisos outlined in this bill — for example, that a project is of a substantial nature and that granting a longer term lease is in the public interest — this is a new approach from the Australian Labor Party. As the federal member for Flinders, whose electorate covers the area, has said, the ALP opposed commercial development and now it wants to build a hotel. It is a shift for the ALP from the position it held in previous years, but for the opposition it has been a consistent position.

The bill specifically sets out the terms and conditions of licences for terms of up to 21 years which are associated with the lease, and it sets out the ways they may be granted. Clause 5 spells out that where land is leased to a person:

> The minister may grant a licence to that person to use any land, building, improvements or works —

in the area. But it must be for the same or a related purpose to the purpose for which the land is leased, and again that is for a term of up to 21 years.

I also want to make reference to the fact that under this bill there is also provision for general licences in the Point Nepean National Park. These general licences — and the distinction is that these are licences not associated with the leases that I have just covered — must be for a purpose or purposes which the minister considers are consistent with the objects of the National Parks Act 1975 in relation to the land, and these can be given for up to seven years.

The purpose of the bill is specific and, as I said earlier, it puts the legalities around an announcement that was made at both commonwealth and state levels some weeks ago.

I want to very briefly make a couple of comments in relation to the bill. As I said, the opposition supports it, and members such as the member for Nepean and the member for Hastings have long argued for this type of solution. I would particularly like to commend the member for Nepean for his involvement in this issue over many years.

I also want to raise the issue of security in relation to unexploded ordnance. There is an old weapons area as part of the park. The clearing process has started, but it is not yet completed, and the opposition is advised that fences will remain around the site until it is cleared and safe. I would request of the government that it indicate what schedule Parks Victoria has for the clearing of this unexploded ordnance, because I think it is a reasonable request for information to ask what schedule the government has in terms of this very specific and important prerequisite to being able to use the park for tourists and so on.

But the main issue I want to raise in my brief contribution on this bill is resourcing. In the second-reading speech the government flagged what resources it was prepared to commit to this park. It said in the second-reading speech — and the second-reading speech reflects some election commitments of the government — that the government would allocate $10 million for the upgrade of infrastructure at the quarantine station, and the government has also allocated recurrent funding of $4 million over four years for the management of the park.

I would be interested in hearing from the government whether these resources are adequate to run the park. This issue was raised at the Public Accounts and Estimates Committee with the Minister for Environment and Climate Change, and I want to refer to that interchange because I think it is legitimate to raise a concern on whether the resources are adequate. I would seek from the member for South Barwon some assurances that either the funding is adequate or the government will look at adequate resourcing of this park.

At the Public Accounts and Estimates Committee hearing on 8 May this year Mr Rich-Phillips said:

> I would like to ask you about the funding that was provided for Point Nepean.

Mr Rich-Phillips specifically asked about details in relation to the number of jobs that would be created in this park once it was operational. It is a more than fair question, not only because it seeks an assurance that the park will be adequately resourced but because the government's budget, it tells us, was all about job creation and it claims there is a certain number of jobs. It appears to me that every time the opposition tries to tease out what jobs come from what project, the government is inconsistent or contradictory or does not know.

We move on to the environment minister's answer to that question. It was clear to me from reading his response that he was waiting for a piece of paper to be handed over to him from his department, because he fudged and made a lot of broad comments in his initial response to the question. However, he finally got around to reading, presumably, the piece of paper shoved in front of him by his departmental officer and said the following:

> The allocation of $4 million to the park, I do not have a number in front of me in relation to the number of staff that we would be anticipating there. On advice, and my guess is this is as good as what Parks advice is at this point in time, somewhere in the order of four to six rangers will be employed on the site, or an accumulation …

Whereupon he was interrupted by, I assume, his departmental secretary, not a member of the opposition. He then went on to say that the direct number of jobs would be created immediately in terms of acquitting the asset program, because the departmental officer was very keen to look at the issue of job generation from the capital investment. He went on to say:

> … but maybe somewhere in the order of four to six jobs ongoing.

Mr Rich-Phillips then asked again a very pertinent question:

> Is that typical of a park of that size? I understand that parks like Port Arthur, which is smaller, have substantially larger

> staffing. Would you expect that four to six would be sufficient ongoing for a park of 90 hectares?

Then the minister added something extraordinary, which does not help the government's case. He went on to say:

> The park will be significantly larger than 90 hectares.

The minister is making the point that he wants to talk about management overall, not the piece of land that was transferred as part of this bill, so I would seek an assurance as to whether the recurrent funding allocated to this park is of sufficient number to keep it functional and operational.

The reason we are seeking this assurance from government is that traditionally this government has not adequately resourced national parks. I know the bill is very specific, and I do not want to deviate from it, but clearly this government has a strong track record, to use one of its favourite expressions, in underfunding national parks. Its record underfunding, if I can do the act of the Minister for Health, has led to massive undercommitment for fuel reduction burning, and unfortunately we have all seen that.

We have seen problems with the government being a very bad neighbour problems with keeping fire tracks cleared problems in getting rid of weeds — a range of problems — so I am merely indicating that because the government has such poor form on adequately resourcing national parks, even though it is good at declaring national parks that are inadequately resourced, I am seeking an assurance from the member for South Barwon that this resourcing, this $1 million for four years, will be adequate to maintain this park. Indeed I think the questions that were asked at the Public Accounts and Estimates Committee hearing were very good ones, and I am not completely convinced that the minister even knew the answers.

As I said, it is a very narrow bill, and the opposition is pleased to support it. It ends a long saga, and I make the point that we are specifically seeking from the government some explanations on the timetable from Parks Victoria for the unexploded ordnance public safety program and some important assurances regarding whether or not this park will be adequately resourced.

Mr CRUTCHFIELD (South Barwon) — It is with great pleasure that I rise to speak on the National Parks Amendment (Point Nepean) Bill 2009.

The bill amends two important parts of the National Parks Act 1975. It is intended to, firstly, provide for the addition of the historic quarantine station and the adjoining intertidal zone to Point Nepean National Park; and secondly, provide appropriate new leasing and licensing powers, including lease terms of up to 50 years, as the member for Brighton has mentioned, to enable the appropriate use of the site and heritage buildings subject to the protection of the national park and its heritage features.

This bill will incorporate virtually all of the 90 hectares that the quarantine station now sits on into the current Point Nepean National Park. Like most members, I have been lucky enough to visit Point Nepean National Park. During my visit I received a brochure, which is now a little outdated. It is a wonderful setting. I have done a walk and cycled around that area. Many people have been waiting a long time for this occasion.

There is a small area totalling some 1.3 hectares which will be excluded from the national park. That will be used for a respite centre; there have been a number of comments about that.

The transfer of the remaining commonwealth land, the former weapons range area, at Point Nepean follows the transfer of 205 hectares in 2006. It also follows the transfer of 265 hectares to the state for the first stage of the national park — which most members have visited — in 1988. It is about the realisation of a long-held aspiration of the Victorian community, particularly residents in that area. There has been a well-publicised and well-run campaign. I congratulate those people who have been involved in that. If I have time, I will mention some of them.

It is encouraging to hear that the Liberal Party is supporting this bill. It has talked about consistency. Sometimes the Liberal Party gets a little confused about supporting national parks. It is encouraging to see that at least the member for Brighton has done the numbers well to support this particular national park; it was not the same regarding the Cobboboonee National Park. There has been a lot of commentary about individuals in the Liberal Party having opposing views about that park; it is unfortunate that they do not support that park. It is the same with the Great Otway National Park in that the member for Polwarth is opposed to it. He is on the public record about putting woodchipping back into that national park — —

Ms Asher — On a point of order, Speaker, this bill is a narrow bill about one national park. The member is digressing to discuss a whole range of other national parks. He is not the lead speaker for his party. I ask you, Acting Speaker, to draw him back to the bill.

Mr CRUTCHFIELD — On the point of order, Speaker, I am the lead speaker, despite what the member for Brighton has articulated. The member for Brighton alluded — —

The ACTING SPEAKER (**Mrs Fyffe**) — Order! The member for South Barwon is to pause for a moment. I think the minister, by making a second-reading speech, is the lead speaker. Other lead speakers are from opposition parties. I uphold the point of order of the member for Brighton. It is a narrow bill. I bring the member back to the bill.

Mr CRUTCHFIELD — Thank you, Acting Speaker, for the attempt to discuss your ruling.

The ACTING SPEAKER (**Mrs Fyffe**) — Order! Would the member like to repeat that? Was he casting aspersions on the Chair?

Mr CRUTCHFIELD — No. The member for Brighton has talked about the consistency of the opposition's views. She has articulated issues regarding the resources for other national parks, not just this particular national park. It is curious that we cannot discuss other national parks in addition to the Point Nepean National Park. However, I will be intrigued to hear the view of The Nationals regarding national parks. Their view has been that if it stands still long enough, you can chop it down, and if it moves, you can shoot it. I will get back to that view a bit later.

In terms of the resourcing of Point Nepean National Park, there is $1 million more per year for the next four years than what is being allocated currently. I can assure the member for Brighton that this national park will be adequately resourced. The minister has announced recurrent funding; that comes on top of the $10 million for capital items. It comes in addition to the $15.2 million that the commonwealth government allocated in July this year towards improvements to the heritage values of that site.

The cultural heritage values of the quarantine station have been talked about. There is a cultural heritage point of view and, importantly, an indigenous point of view. I acknowledge the traditional owners of the land we are discussing — they are the Boonerwurung and the Bunurong people. I pay my respects to their elders both past and present. They are an important part of the heritage of the park.

There is more recent cultural heritage that we value. The buildings there have been improved; they had been used for quarantine purposes in the 1850s until the early 1950s. They include hospitals, accommodation buildings and kitchens for new arrivals to the colony of Victoria. From the 1950s to the early 1980s the site was occupied by the federal defence department. In 1999 some 400 Kosovo refugees were accommodated there.

Most members have been focusing on the quarantine station and, rightly, its heritage values. The issue is about much more than the quarantine station. I point members to the *Future Directions Statement — Point Nepean National Park* which has been released recently. There is much more in this document which points out that the rest of the park will also benefit. We will be opening the former firing range area for public access later this year. For more than three years Parks Victoria and the federal defence department have been clearing unexploded ordnance from that range.

I know the member for Brighton asked about a regime or schedule of clearing. I cannot articulate that or provide that information to her at the moment, but I will be happy to find out about that particular schedule as soon as I can from Parks Victoria. All members would be conscious that we need to open this park to the public as quickly as possible. It is a park for the people; that has been the intention from the outset. The state government's focus from the outset was on its being a park that all people could utilise. That in conjunction with the respite centre will make it a very user-friendly park.

Gone are the original concepts that existed under a previous federal government about five-star accommodation and elitist, highly focused entertainment centres. Gone are those concepts. The state government has been clear, purposeful and consistent in its view that it needs to be a national park with those values enhanced and entrenched, and that it would open what uses there are for the buildings there for all Victorians, irrespective of where they are and what wealth they have.

So I think Victorians can be proud of where they have come in respect of this. It has been a long campaign, and many members of the community down there have campaigned long and hard. Certainly Kate Baillieu is one of them. I do not want to go through the whole list of people, but certainly Kate Baillieu was one very personable and recognisable face on the TV and in the papers. The interest groups included the Victorian National Parks Association and others. It was a commendable campaign. I congratulate the members of the former committee who have stood down now that it has been passed over to Parks Victoria; they did a commendable job in terms of seeing it through to this very welcome outcome. I look forward to the contribution of the member for Rodney; it might be a

national park that he will support. It will be the first one that he does support.

Mr WELLER (Rodney) — It gives me great pleasure to rise to speak on the National Parks Amendment (Point Nepean) Bill 2009. I would like to declare from the outset that The Nationals in coalition are in full support of the bill. But still we have a few reservations, as we have seen that the government has trouble managing things in this state. Hopefully it will get the management of this park right.

The purpose of the bill is to amend the National Parks Act 1975 to extend the Point Nepean National Park by adding land at the quarantine station and to make provisions for the granting of leases and licences for parts of that park.

The main provisions are to amend the National Parks Act 1975 by extending the Point Nepean National Park to include land at the quarantine station, a total area of approximately 105 hectares; to recognise that once the land at the quarantine station is transferred to the state, the Commonwealth will no longer own land at the Point Nepean National Park; to remove the requirement to consult with a commonwealth minister; and to insert provisions for the minister to lease, after consultation with the National Parks Advisory Council, areas of land at the quarantine station to any person for not more than 21 years but not more than 50 years if the minister is satisfied that plans justify the longer term lease.

As with another bill we had in this house earlier this week, this is about giving the tourism industry and others the confidence to invest. We are more than supportive of that, and it is long overdue that that be brought into this Parliament.

The bill also inserts into the act a section with the standard statement that amendments made to the National Parks Act 1975 are not intended to affect native title rights and interests. It provides that the 2009 act is repealed on 30 June 2011 and that the repeal of this act does not affect the continuing operation of amendments made by it.

Obviously I have read the second-reading speech with a great deal of interest. We find that the history of this government's management of national parks has not been a good one. I read with a great deal of interest that together with the Victorian government's $10 million investment in 2009–10 towards the upgrading of infrastructure at the quarantine station and $4 million over four years for the management and operation of the expanded park, the commonwealth government is immediately contributing $15 million towards the remediation and rehabilitation of the site. The shared priority objective of both governments is to achieve safe public access to the quarantine station as part of an integrated national park at Point Nepean. Obviously what the governments are trying to do — there is a problem with the old ordnance there — is make the area safe. I fully support that it needs to be made quite safe.

Honourable members interjecting.

Mr WELLER — Quite safe! Very safe! As safe as safe can be! But we need to make sure that the money for the management of the park is at a level that is quite satisfactory. We have to get it as safe as it can be and then provide for its management.

We would not want to see what has happened at other national parks in this state happening at Point Nepean. We have seen other parks in the state overrun with feral animals — foxes and wild dogs, to name a few. We would not want to see the Point Nepean National Park overgrown with blackberries, ragwort and Paterson's curse as are other national parks in this state, and we would not want to see rabbits infesting that area as well, because that would be very detrimental to the native flora in that area.

Mr Crutchfield — Camels!

Mr WELLER — The member for South Barwon interjects and suggests that they might get camels there. Obviously he has a very good imagination. It might be more appropriate if there were to be donkeys.

Anyway, we must say that we do not want the Point Nepean National Park overrun with feral animals as we have seen happen at other national parks in Victoria. The government may wish to think about reintroducing the fox bounty and allowing organised hunters and members of the Sporting Shooters Association of Australia and the Field and Game Australia to enter Point Nepean park to take out the foxes. Foxes would be detrimental to penguins, bandicoots and other animals that might be down there. We would not want to see that damage to native fauna occur in the Point Nepean National Park.

Other interesting parts of the bill deal with the lease term of 21 years, as I have spoken about, and public access to the area. Access is of the utmost importance, and that is why we need to make it safe, as I mentioned previously. We also need to make sure there is appropriate management of the native vegetation within this national park. We would hate to see a similar outcome to what we saw in other national park areas of Victoria in 2003, 2006 and 2009, where excessive fuel

build-up resulted in horrific and very regrettable fires. We need to make sure we learn from that and manage the fuel loads in this park.

We must also recognise the people who have contributed to achieving this national park. The member for Nepean has worked tirelessly over many years to lobby for the park. He has made extensive representations to both state and federal governments in his endeavours to get this across the line. The wonderful work the member for Nepean has done on behalf of the community of Victoria in respect of the Point Nepean National Park must be recognised in this house. I applaud him for his actions. On that note, I commend the bill to the house.

Ms D'AMBROSIO (Mill Park) — I am very pleased to join this debate about the historic incorporation of highly valued heritage land into the Point Nepean National Park. The National Parks Amendment (Point Nepean) Bill brings to fruition the state government's 2006 election commitment to include the commonwealth quarantine station in the Point Nepean National Park. With this action the government preserves the 65 heritage buildings on that land. This election commitment was part of a broader state government policy known as Victoria's national parks and biodiversity strategy. The title of the land is now incorporated into the Point Nepean National Park. That title was transferred to the state earlier this month with great fanfare and the very robust community support that has been there for quite some time. The community campaign culminated in the transfer of the land — a terrific event that was celebrated not just here in Victoria but nationally.

The bill gives effect to this incorporation of the heritage site and further provides for appropriate leasing and licensing powers and arrangements to allow for suitable uses of parts of the site. The trick in this will be preserving the heritage values of the site in the new national park, but also in a very suitable fashion allowing for the greater tourism potential that can result from multiple uses of the site. The 90 hectares of the land on which the quarantine station is situated will be incorporated into the national park, and 1.3 hectares will be excluded as land to be maintained and set aside for the purposes of a respite centre.

This transfer of land into the Point Nepean National Park is subsequent to various phases of the creation of the national park. In 2006 there was a transfer of 205 hectares of land that was formerly occupied as a weapons range. Going back further, in 1988, 265 hectares was set aside to form the first stage of the national park. Now we have a situation where the full scope of the heritage land and its buildings are within one management system which will bring to fruition many tourism opportunities for the local community and Victoria.

As I said earlier, the intrinsic heritage values and waves of uses of the land and the buildings on the land have over the decades seen many phases of Australian culture develop here in Victoria. All that has been celebrated, appreciated and embraced by the community. When we look at the land and buildings newly incorporated into the national park, we celebrate not just the heritage values of the old buildings but how they served our community over time to the point we are at now.

I will detail just some examples of that use over more than a century. Between the 1850s and 1950s the buildings were used for quarantine purposes. Newly arrived migrants to the colony were able to access accommodation, hospital services and kitchens — facilities to help welcome them. That goes back to a time when Victoria was very much a bustling and booming colony. During the gold rush period we saw a very rapid escalation of population. Most newly arrived migrants came from over the waves and many of them were welcomed at the quarantine station through the quarantine regime that was in place.

If we go to more recent times, in 1999 about 400 Kosovo refugees were given accommodation there at a very testing time for that community. I should not forget to mention that between the 1950s and the 1980s, the defence department had control of the property. The quarantine station is listed on the Victorian Heritage Register both as a place of heritage and of archaeological significance. It enjoys similar status through its listing on the National Heritage List established under the commonwealth Environment Protection and Biodiversity Conservation Act.

The focus of the Victorian government is to accommodate and manage this heritage site, which augurs well for the local community. I join in the commentary about the very notable supporters for the campaign to incorporate this heritage area into the national park. It is important to understand that partnerships are very instrumental in achieving great results such as the one we have here.

Using the example of the incorporation of this very important heritage site into the national park, we had a broad and robust community, ably led by very vocal and leading lights of the Victorian community — some of whom have already been mentioned by previous speakers — but we also had willing government

participants across the two jurisdictions, which is equally important.

Many important things can be achieved when you have broad partnership arrangements. We can identify and articulate places of heritage value, and as a community we are able to articulate the wonderful uses of the site over more than a century of its existence. The arrangements to have the land transferred to the state from the commonwealth government went through very many complex and challenging legal aspects to reach that conclusion. When there is a good idea in place about something that is highly valued and treasured by the community, often what follows is the identification of ways to bring the objectives for those valued treasures to fruition.

This is a prime example of a great policy objective, Where you have robust community buy-in and support and where you have the necessary legal mechanisms and avenues available to achieve what we achieved earlier this month in the transfer of land — and the bill gives effect to the preservation and management of the national park — then those policy objectives have a very good chance of being fulfilled.

I am very pleased to be able to indicate that there has been terrific leadership on this matter from the minister in the other house, who had a personal and robust commitment to achieving this result. I am very pleased that it has had the support in all respects from right across the political spectrum. It will certainly stand as a mark of how the community and the two government jurisdictions have worked well to achieve the end result, although it has not been an easy road.

I wish the bill well. I certainly look forward to the maximisation of tourism potential and suitable tourism opportunities arising from the use of the buildings on the site. I know the local community will continue to maintain its interest in ensuring that in partnership with government we see the best tourism and heritage values shine on this site for many decades to come.

Mr DIXON (Nepean) — As the member for Nepean it is a pleasure to speak in favour of the National Parks Amendment (Point Nepean) Bill 2009. At the outset I commend the many local community organisations and individuals who have been totally committed to the outcome that we are putting in place today.

Point Nepean is very dear to the hearts of many locals, the people I represent, as well as the broader community — not only the Victorian community but the Australian community. I commend all the people who worked towards this end. I also pay tribute to the community trust, whose members have done so much work since it was instituted by the former Howard government. The trust has done a fantastic job in renovating many of the existing buildings. It came up with a master plan which is far reaching and certainly covers all the bases in terms of the restoration and, I hope, the long-term sustainability of the area.

The plan picks up the key features of Point Nepean and outlines how the various groups and the community can access those various features. The renovations to the buildings that have been done so far are exemplary. Since the trust took over, many of the buildings have been used by various community groups and organisations.

The Victorian Parliamentary Liberal Party has been consistent in its support for the outcome we have today. We have been working on this for many years with the former government in Canberra as well as with the current federal government and the state government. My federal colleague the member for Flinders, Greg Hunt, and I have been consistent in that. I pay special tribute to the Leader of the Opposition in this place, the member for Hawthorn. He knows the place well, and he is also very pleased with the outcome that we see here today. I also thank a former Victorian Leader of the Opposition, Robert Doyle, for his support for this outcome when he was the leader.

It is interesting to note that the outcome we are talking about today and the timing of it are what the Howard federal government proposed — that is, that the community trust hand over Point Nepean to the state government in June 2009. All hell broke loose when that was announced, because everybody, including members of this state government, said, ‘That is despicable; it should happen immediately; we are ready to take it on; give it to us; bring it on straightaway’. It is interesting that in the end it has worked out that the Howard government was right. This is how long it took for this process to be gone through.

The Rudd federal government, when in opposition, said that its policy was to hand over Point Nepean to the state government immediately after it won the election in 2007. Because of that, the work of the trust was suspended. The work done on Point Nepean then stopped dead in its tracks around Christmas 2007, and no more work was done after that — there was no structural work done at all even though there was an $11 million plan to upgrade all the infrastructure, which had to be done. No matter what happens to Point Nepean in the future, it needs gas, electricity, water, a new sewerage system and road access.

All of that was to happen The plans were there, the tenders were let, but it had to come to a grinding halt. For 18 months this has dragged on, and none of that work has been done. The prevarication that has gone on has put the whole thing back by 18 months. The handover was on again, off again, on again, and then off again. There was total confusion; no-one knew what was going to happen and when the handover would occur.

Along the way members of lots of community groups, especially people who have a real interest, have been upset. Even though the legislation before us takes into account that some of the land will be excised for the respite centre, the generous donator Peter Gunn, who is prepared to put up $10 million of his own money for that respite centre, is making the noises that indicate he will be walking away because this has dragged on for so long. The uncertainty is causing him to look seriously elsewhere. I have raised that matter in this place before. I hope that does not happen. I implore him to come back to the table, and I implore this government to make that happen. As I said, this legislation provides for that excise of land, which I am pleased to see, so it may happen.

Parks Victoria will be the manager of this property. It is a great manager of the natural land forms around Victoria. If you talk to members of Parks Victoria and the wider community, you realise there are real concerns about its ability and also its commitment to manage this sort of built heritage, because it does not have the resources to do this — it does not have the manpower, and it certainly does not get from the government the income it needs to do the things it wants to do.

You only have to look at a small local example to see that. The great Rosebud pier has been closed for two summers, and the government has not been able to rebuild even that pier, so how will it take over the management of this massive project at Point Nepean with the existing staff and just a very small amount of extra money? I do not know how the government will do that, given what has happened with Rosebud pier.

Parks Victoria has other distractions at the moment. It manages all the national parks, and obviously the recent bushfires have eaten a lot into its income and its personnel resources as well, so it is hardly focused on Point Nepean.

Mr Cameron — On a point of order, Acting Speaker, you previously made a ruling that speakers who were not lead speakers should confine their comments to the bill, and I ask you to bring the member back to the bill.

Mr Wells — On the point of order, Acting Speaker, I was listening very carefully, and the member was talking about the resources that were being provided by Parks Victoria. That was the argument he was making, so I ask you, Acting Speaker, to rule that there is no point of order.

The ACTING SPEAKER (**Mrs Fyffe**) — Order! On the point of order, the minister beat me to it: at that point I was about to ask the member for Nepean to come back to the bill. I ask him now to come back to the bill.

Mr DIXON — When you look at Parks Victoria's track record so far in the negotiations and its ability to meet its responsibilities in the handover of management of Point Nepean from the federal government to the state government, you see there have been many meetings that it has not turned up to; it has not been able to provide anybody to turn up. It has been hard for anyone involved in the handover to know who in Parks Victoria has been responsible at various times. It has been asked for feedback. It has been asked for information and tasks to complete, and on many occasions it just has not been able to do them. That is one of the reasons this thing has dragged on for 18 months. The four staff members the minister said would be allocated there will just not be enough.

As time is running out, I want to go back to just one of the issues we have talked about: long-term leases. They are very important for operators to know they can invest money in the sorts of infrastructure and services they want to provide at Point Nepean. I recall that in 2003 the them minister, John Thwaites, said that his government would prevent any commercial development on the historic site, yet with this bill we are providing for that very thing. A media release of 25 August 2003 quotes John Thwaites as saying:

> A long-term lease at Point Nepean will mean a private commercial operator will get control of this precious site including its beaches.

The media release also states:

> Mr Thwaites also said there were also questions over the fate of the site once the 50-year lease is up.

This is what we are providing for with this legislation: leases of up to 50-years. On 3 October 2003 he also said:

> A community-based committee will be established to provide ongoing input into the park's management.

There is absolutely no sign of that in this legislation. The *Age* of 26 August 2003 states:

> Environment minister John Thwaites said the commonwealth's decision was a trick and a sham. 'A 50-year lease is as good as selling the land off.

How is that for hypocrisy!

> If the federal government wanted to preserve Point Nepean for the community, why not put it in a national park?

Yes, we will have the national park but we will also have 50-year leases.

Finally, in November 2003 the former member for Hastings said:

> The federal government is going to tender the land on a 40-year, long-term lease. While it may not have sold the site, it has certainly sold out Victorians.

There is a bit of history coming back to haunt this government, but I support this legislation. Point Nepean will be a wonderful place.

Mr HERBERT (Eltham) — It is a pleasure to speak on the National Parks Amendment (Point Nepean) Bill 2009, particularly after the member for Nepean has spoken. I must say I have a somewhat different view of the history of the site than the member has, although I acknowledge that he has been a keen supporter of the site for many years.

This is an important bill. It implements a key environmental commitment given by Labor in the 2006 election to incorporate the historic quarantine station into the park and provide $10 million towards the upgrade of infrastructure and $4 million over four years for managing operations of the park. The state funding complements $15 million for site rehabilitation which has come from the commonwealth government.

The bill provides for three basic actions: it provides for the addition of land at the quarantine station and the abutting land to be incorporated into the Point Nepean National Park under the National Parks Act 1975. It enables the minister to lease land and buildings for a period of up to 21 years, and in special circumstances it enables lease of up to 50 years so long as those leases are not detrimental to the protection of the park, including its historic, indigenous, cultural, natural or landscaping features. It will encourage tourism by enabling the minister to grant a licence or permit for up to seven years to individuals or companies to occupy and use the land consistent with the objectives of the National Parks Act 1975. That is basically it: the quarantine station will come into the park, the land can be leased out to various groups, and tourism can be incorporated into the activities so long as it is consistent with what most of us would agree is the historic, cultural or natural value of the area.

This bill follows some land having been handed back to the state by the commonwealth government for the national park, in particular the 205 hectares of the former weapons range land. It was handed back in 2006. Over the last few years — I know the member for Brighton interjected earlier — there has been considerable work done to decommission this land to make sure it does not contain live bombs or anything like that and to try to get it back into a safe state. The original 265 hectares at the point end of the park was transferred to the state to establish the park in 1988.

This park is incredibly significant to Melbourne. It contains defence batteries and gun emplacements which were put in place to protect Port Phillip Bay so many years ago from invasion — by the Japanese in particular, I suppose. This additional land will bring in the historic quarantine station, established in November 1852 to protect Victorians from typhoid and scarlet fever which were endemic among many of the immigrants to our country — and it did that for a long time.

What is being incorporated is not a pristine national park. It is a heritage area which includes hospitals, accommodation buildings, barracks, kitchens, disinfection buildings, bathhouses and washhouses. As the migrants came through, they were washed and disinfected, which we would not do nowadays. Those buildings are a fantastic historic site to visit. There are cemeteries, and the old army officer cadet school was located there in 1978. There is also a whole range of other buildings that are part of what is a really significant natural site. It has been a tragedy and disgrace that this tremendous part of our history has been locked away behind a cyclone fence for so long.

I have had the pleasure of looking at a number of parts of the site, and in many ways the development of this park has been a part of my life. Although I represent the leafy inland seat of Eltham I seem to have had junction points in my life with Point Nepean. Back in the early 1990s, when I was an adviser to the then planning minister, I was lucky to attend the opening of the original Point Nepean. After the tractors that took the guests down to the gun batteries finally got working — they broke down on the opening day, unfortunately — it was a real thrill to be one of the first guests to walk through the land that had been locked away by the army for so long.

Later, as Parliamentary Secretary for Water and Environment, I was lucky enough to have a tour of the quarantine station and have a good look at some of those buildings. I walked through it and saw what will be an experience for so many Victorians. I experienced the awe and majesty and sense of history that site engenders as you go through it.

While these experiences have been somewhat magical for me, there have been bad moments also. The truth is that the location of the quarantine station in the park has in many ways been a sorry saga of thuggery and brutality in the way the commonwealth government handled the state, the locals, the indigenous people and Parks Victoria. It is a saga of a commonwealth government wanting to privatise the land without consultation with the states or anyone else and then backtracking amid enormous community opposition and flying ministers in in helicopters.

The local federal member was there making an announcement that it would be a maritime centre of excellence. The commonwealth government set up a new college, having done a deal with the Tasmanian Australian Maritime College. That was the commonwealth government's solution. It said, 'Don't make it a national park, let's make it a university'. There was no consultation with the universities or the state government. What was the end result? The AMC pulled out. A whole heap of young Victorian kids, my son included, saw their academic studies go down the drain — and the site remained locked away from the public of Victoria for many more years. Why?

It was not because the commonwealth government really wanted the site; it was just being what it was. It simply did not want to hand it over to the state of Victoria. It was a disgraceful part of our history and one that I am now pleased to say has ended. The many years of barbed wire and cyclone fencing have ended. In saying that, I would like to pay tribute to the commonwealth minister who came in and made it happen. He simply said, 'This is just silly; why are we carrying on about this? Why are we fighting the state over this ridiculous thing? Of course it ought to be a national park; of course it ought to be in Victoria's hands; of course it should be there for future generations of Victorians', and handed it over.

I also pay tribute to the Victorian Minister for Environment and Climate Change. Many ministers have had a crack at getting this quarantine station included in the national park, but the current minister, through his drive, tenacity and determination, has made it happen. He has gone through the complexities of the issue and got a great outcome for Victorians.

Finally I commend Parks Victoria for its commitment to the park. In doing so, I would like it to have a bit of a look at reassessing how it manages the park in its entirety. I would like it to have a fresh look at how it provides access to the beaches along the park's entire coastline. I would like it to have a bit of a look at the historic gun batteries to see if they can be fixed up so they are of more historic interest to people. I would like it to have a look at how it can put in proper facilities for disabled people so that they can visit the park.

I would like Parks Victoria to have a look at allowing families to have access to the ocean sides of the pebbled beaches, to let the young kids run along those beaches, which is something they cannot do currently. I would like it to treat the park as a heritage asset, a cultural asset and a natural asset, so that enjoyment of the entire park can be maximised for future generations who will come in their hundreds of thousands, year in and year out, to enjoy a really significant part of Victoria's history, coastline and natural beauty. I commend the bill to the house.

Mr MORRIS (Mornington) — I am pleased to join the debate on the National Parks Amendment (Point Nepean) Bill, and I am very pleased to support the bill. The consideration of this legislation marks the next stage in the opening up of this land on the western end of the Mornington Peninsula. Whether it is the ultimate or the penultimate addition to the park remains to be seen. The future of the 1.3 hectares that is earmarked for a respite centre will not be known until 2013, but whatever the outcome is for that relatively small parcel of land, the bulk of the former defence land is now in the hands of the state and will soon be more accessible to the public.

It is more than 20 years since the first transfer of land in 1988, the bicentennial year. I remember there was quite a bit of excitement locally. The *Southern Peninsula Gazette*, as it was then, was very enthusiastic about the opening up of the land. Prior to that the land had been accessible to only a select few people who were involved with the defence forces or, prior to that, people involved with the quarantine station, as well as some neighbours — and of course former Prime Minister the Right Honourable Harold Holt, CH, tragically drowned in the sea off the park in 1967.

With the transfer of the first 265 hectares in 1988 the park ceased to be off limits to ordinary Victorians. More recently, at the instigation of the Howard government, we saw the transfer of 205 hectares of the former weapons range and 90 hectares of the former quarantine station put in the hands of a community organisation that has been working with Parks Victoria

and other bodies on developing an excellent management plan for the park.

Point Nepean is a historic area. The quarantine station opened in the early 1850s. For most of the last 150 years it endured isolation with the exception of the military presence. In the 1880s the colonial Parliament was responsible, as the *Age* reminded us today, for the security of one of the richest territories in the British Empire — that is, Victoria. Victoria was so isolated that we could have been entirely overrun or occupied and the rest of the world would not have known that a single shot had been fired. There had been rumours of a Russian invasion since the 1860s, and perhaps that was not surprising because in the years 1855 to 1865 Victoria produced 40 per cent of the world's gold. All that led to the establishment of the Victorian fleet — a fleet that I think ultimately totalled some 20 vessels — and, more relevant to this discussion, also to the establishment of a ring of forts around the bay to provide some degree of protection. The first of those forts was built at Point Nepean in 1880. The area we are talking about has a rich cultural history in terms of what has happened since settlement and equally in terms of the indigenous population.

To turn to the substance of the bill, essentially it adds the land formerly known as the quarantine station — the 90 hectares that the minister spoke about in the second-reading speech — and the adjoining intertidal zone to the Point Nepean National Park. Clause 7 of the bill, which refers to 105 hectares, no doubt refers to both areas. The bill also provides powers for the land to be leased for up to 21 years and, under exceptional circumstances, for up to 50 years. I hope to come back to that issue when we resume after dinner. The bill allows the grant of a licence or permit to occupy or use the land or buildings in the quarantine area for specified purposes.

Sitting suspended 6.29 p.m. until 8.02 pm.

Mr MORRIS — As I was saying before the dinner break, the substance of the bill also reflects the commonwealth's decision to relinquish control over the land at Point Nepean, which is provided for in clause 4 of the bill. The bill also includes what I understand to be a fairly standard clause relating to native title. Altogether the bill is straightforward.

From a personal perspective the only hesitation I have is with clause 5 of the bill, which inserts proposed sections 30AAA, 30AAB and 30AAC. Proposed section 30AAA(5) provides the minister with the option to grant a lease beyond a period of 21 years up to 50 years. I have no problem with the principle, but I express some reservations about the wide-open nature of the clause. I recognise the necessity and indeed the desirability of having that clause in the bill, but simply having it conditional on the improvements or works being of substance and in the public interest is a little wide open. However, that is provided in the bill and certainly does not stop me from supporting it.

It is important to have a decent management plan in place. Before the dinner break I referred to the Point Nepean National Park and the Point Nepean quarantine station management plan, which although prepared earlier is dated 2009. In particular I want to acknowledge the contribution of the members of the Point Nepean Advisory Committee — Dr Mick Lumb, Kate Baillieu, Harry Breidahl, Bernie Fox, Dr Ursula de Jong, Judy Muir, Chris Smyth, Alex Atkins, John Taylor and Dianne Weidner. I also acknowledge the work of some former members of the committee, including Ian Harris and Dr Michael Kennedy, the CEO (chief executive officer) of Mornington Peninsula Shire and their alternates.

I also recognise the work done over a number of years by the trustees of the Point Nepean Community Trust, including Simon McKeon and his colleagues. I also recognise the efforts of the local member in this place, the member for Nepean, and the work of the Honourable Greg Hunt, the federal member for the lower house seat of Flinders.

The management plan that has been prepared reflects the fact that Point Nepean is a highly sensitive environment in a historical context in terms of heritage and in terms of the natural environment. I take this opportunity to highlight three items included in the summary of the management plan as being very important: the need to adopt a holistic approach to landscape and ecological management in the park; the protection of cultural settings and the protection, conservation, management and presentation of historic values; and the provision for a mix of recreational tourism, education, research and other community uses. These are all important points, and the effectiveness of the management plan will be seen going forward.

The successful implementation of the plan also depends entirely on the provision of adequate resources. I acknowledge the investment in terms of the proposed infrastructure upgrade and the remediation works that have been funded by the commonwealth and the substantial funds that have already been expended since 2004, but I flag a concern which was put very well by the member for Rodney — that is, if we do not spend the money and manage Point Nepean properly, there is a potential for the land to deteriorate rapidly. While

$4 million over four years is a substantial amount of money, it is only $1 million a year. I am not sure how much extra capacity that gives Parks Victoria in terms of people and resources; that is not apparent.

Point Nepean is indeed a very special part of Victoria, as is all the Mornington Peninsula. Point Nepean in particular has breathtaking scenery and is home to many threatened species and habitats. There are significant cultural links to the Boonerwrung people, and to colonial and more recent times. The national park and the extension have tremendous local and indeed statewide support. I am very happy to be able to assist in the passage of the bill this evening.

Debate adjourned on motion of Mr PANDAZOPOULOS (Dandenong).

Debate adjourned until later this day.

GAMBLING REGULATION AMENDMENT BILL

Second reading

Debate resumed from 10 June; motion of Mr ROBINSON (Minister for Gaming).

Mr O'BRIEN (Malvern) — It is a pleasure to rise to speak on the Gambling Regulation Amendment Bill. At the outset I indicate that the opposition will support the bill.

The bill has two main elements. Firstly, it extends the gaming licence currently held by the Tatts Group to align its expiry date with that of the gaming licence held by Tabcorp. Secondly, the bill increases the so-called speculation tax on profits from the early on-sale of gaming machine entitlements under the new venue model from 50 per cent to 75 per cent. In dealing with these two elements I will start with the provision which permits the extension of the Tattersall's gaming licence.

Honourable members will be aware that this is a matter which was previously sought to be addressed by the government back in 2008. The Gambling Regulation Amendment (Licensing) Bill 2008 contained a provision which dealt with this issue. It gave the Minister for Gaming the opportunity and the authority to invite Tattersall's to apply for an extension of its gaming operators licence. The reason this is all necessary is that for historical reasons, which I will not trouble the house with, the gaming operators in Victoria, being Tattersall's and Tabcorp, had operators licences which commenced on different dates and which as a consequence are set to expire on different dates as well. The Tattersall's gaming operators licence is currently set to expire on 14 April 2012 whereas Tabcorp's gaming operators licence is set to expire on 15 August 2012.

It would seem to be convenient and sensible, and in fact common sense, that in a situation where the government is determined and the Parliament has agreed that there shall be a new model operating for gaming in Victoria from 2012, the expiry dates of the licences for the current operators should be aligned. It makes no sense at all to have all the Tabcorp machines in Victoria turned off in August 2012 having had the Tattersall's machines turned off in April of the same year.

The government sought to address this matter through the Gambling Regulation Amendment (Licensing) Bill 2008. At the time the opposition was quite supportive of that measure. In my contribution to the debate on 11 June 2008, I said:

> In the absence of this provision the licence held by Tattersall's would expire in, I think, April 2012, while the licence held by Tabcorp would expire in August 2012. It would seem sensible to have the gaming licences expire at the same time, especially given the government's proposed licensing model.

The opposition was on the record at the time this matter was first introduced to this Parliament back in June 2008 as supporting the alignment of the expiry dates of the gaming operators licences. Why you may ask, Acting Speaker, did that not proceed? Why did the government decide not to continue with that aspect of the bill? Your having asked me that question, Acting Speaker, I am very pleased to answer it.

The ACTING SPEAKER (**Dr Sykes**) — Order! That is a presumption.

Mr O'BRIEN — The answer is, Acting Speaker, that it was the government's decision to withdraw that provision from that particular bill as part of a deal with the Greens party in the other place. While the members of the opposition stood here in this place saying, 'We support this aspect of the bill because we think it makes sense to have both gaming operators licences expiring at the same time', the government decided it had bigger fish to fry. It had more important priorities.

Again, Acting Speaker, you may ask: what were those more important priorities that the government had? Having asked me that question, Acting Speaker, as you just have, I am very pleased to answer it. The answer is that the opposition was not prepared to wear the permission for lobbyists to run rampant through the

issuing of gaming licences, which was inherent in that Gambling Regulation Amendment (Licensing) Bill 2008. We had seen what this government had done with lottery licences. We had seen the grubby fingerprints of the David Whites and the Tony Sheehans of this world all over the issuing of the lottery licences for Tattersall's and Intralot. We knew what had happened. We did not just have to rely on our own instincts; we knew because the government's own independent gambling advisory panel handed down a report which told us that Hawker Britton, David White's company, had been given privileged access to sensitive gaming licensing documents ahead of time, access that no other party had.

We knew that was a tainted process. It was a corrupted process, and we knew that David White and the Labor mates lobbyists were at the heart of the corruption of the issuing of those lottery licences. We, in the Liberal Party and The Nationals said, 'We are not prepared to see that happen again. We are not prepared to allow a bill to go through this Parliament which allows lobbyists of the ilk of David White to run rampant across the issuing of new gaming, wagering and keno licences'. We said, 'We are not prepared to support this bill unless the government accepts the recommendations of the Merkel panel and takes lobbyists out of the process of the issuing of new gambling licences'. They were our terms on this side of the house. We said, 'We will support the alignment of the expiry dates of the gaming operators licences for Tattersall's and Tabcorp, but you have to get rid of these lobbyists out of the process of the awarding of gaming licences in future'.

However, it was more important to the government, more important to the Labor Party, to look after their mates like David White and Tony Sheehan. It was more important for them to be able to have their mates —

Mrs Maddigan — Is this relevant to the bill?

Mr O'BRIEN — pursuing their business, to attempt to get their snouts in the trough of gaming licences. The member for Essendon asked me by way of interjection, 'Is this relevant?'. I notice she is sitting next to the former Minister for Gaming, the member for Dandenong, who I am sure is very well aware of exactly why this is relevant, because he was the Minister for Gaming at the very time that this corruption of the process for the awarding of lottery licences occurred. He was the minister when those sensitive gaming licences walked out of his office and into the pocket of David White, who then went and took them to his client, Tattersall's, as the Merkel panel found. The member for Dandenong was the minister at the time, so no wonder he is trying to shut me down.

Mr Pandazopoulos — On a point of order, Acting Speaker, this is a very narrow bill, and the member knows that he is completely wrong. What he is talking about is not part of the bill.

An honourable member interjected.

Mr Pandazopoulos — Exactly, about matters of the bill rather than the ongoing political persecution that the opposition wants to proceed with on matters that are not relevant to this bill.

Mr O'BRIEN — On the point of order, Acting Speaker, I first of all note that as the lead speaker on this bill, I get a certain amount of latitude. The second point I would make is that this is relevant because the matters that are contained in the bill were previously in another bill before the house, so it is entirely appropriate to refer to the circumstances in which the government refused to proceed with these very measures in this bill previously, so that is why the content of my speech is entirely relevant to the bill before the house.

Mr Burgess — On the point of order, Acting Speaker, this particular piece of legislation is looking to extend the gaming machine licence on the entire licence. This is not any small change. This extends the licence as a whole and surely what the member for Malvern is talking about really deals with that whole piece of legislation.

The ACTING SPEAKER (**Dr Sykes**) — Order! I do not uphold the point of order. I believe the lead speaker does have an opportunity to present the background to this issue, and I ask him to proceed.

Mr O'BRIEN — The fact is that government members had the opportunity to try to get lobbyists out of the process of the awarding of gaming and other licences, and they refused. They had the opportunity to agree with this side of the house that lobbyists should be out of the process, which is exactly what the Merkel panel recommended, and government members said no. They wanted to keep their mates' snouts in the trough.

On this side of the house, we said, 'We are not prepared to support a bill even if it does extend the licences for the gaming operators, if it contains such odious provisions', but the members of the Labor Party in this place — and I am sorry to say the members of the Greens party in the other place — decided that it was more important to keep lobbyists in the process than it was to synchronise the expiry dates of the gaming

operators licences; so as a consequence of what I regard as a fairly shameful deal and very grubby behaviour by members opposite, that measure did not go through in the preceding bill which I have referred to, so we have it before us today.

We have been at least consistent on this point throughout the entire process of the discussion of these matters in the house. We supported the alignment of the expiry of the gaming operators licences back in 2008, and we support them today.

Members opposite were prepared to junk their support for that principle back in 2008 when the alternative was getting the David Whites out of the system. They thought it was more important to keep their David Whites in the system than it was to stand up for this principle. We stand here with a clear conscience on this side of the house, saying, 'We support this because it is good policy'. The government said, 'We were prepared to junk good policy when it suited us to try to protect our Labor mates, but now that that time has passed, we are prepared to bring the bill back to try to establish that principle again'.

All I can say is that the public should be well aware that one side of the Parliament has been consistent on this while another side of the Parliament has been acting in a fairly grubby fashion to try to protect their mates in the lobbying industry — mates who have been adversely referred to in reports by Justice Merkel and his independent panel about the corruption of the lottery licensing process.

Having said that, we support this aspect of the alignment of the expiry dates for the gaming operators licence. We do that because it is important that the industry has certainty.

The industry has gone through a lot of turmoil in recent months because essentially the government has essentially mishandled a lot of the implementation of legislation to try to deal with the transition to a new model in 2012. We saw the government come into this place with a bill which was entirely inappropriate. It was a bill which would have forced every single club in Victoria that currently has gaming machines to go into an auction, so the little RSL, the little bowls club, the little golf club, the little amateur football club with a few pokies in the corner of the bar that tries to keep its operations afloat — all would have been forced into an auction to compete against clubs such as the Essendon Football Club, the Carlton Football Club and the Collingwood Football Club. That is what this government wanted to see: it wanted to try and make sure that every single little club in Victoria was forced to go into an auction, and it was all about trying to maximise revenue to fill its budget black hole.

We heard in question time today exactly where its money has gone: $400 million on the M1 upgrade blow-out; $850 million on the myki blow-out; $800 million on the fast rail blow-out.

The ACTING SPEAKER (**Dr Sykes**) — Order! The member should stay on the bill.

Mr O'BRIEN — Now we know exactly why they tried to screw these clubs for every cent that they could pay and even money that they could not afford to pay. They tried to do it, because they were trying to cover up for their own fiscal incompetence by forcing all these clubs to go to auction.

This side of the house said no. We believe that the RSL is a good organisation that delivers important services to the returned servicemen and women of this state. We support the RSL. We believe that bowls clubs, golf clubs, football clubs, sports clubs across Victoria, across the length and breadth of this state provide important, valuable community infrastructure, and they should not be thrown to the wolves by a government that wants to take every single dollar it can get to cover up its own fiscal incompetence.

Mr Andrews interjected.

Mr O'BRIEN — The former Minister for Gaming, the Minister for Health at the table, asked me about my golf club. My golf club does not have pokies. I see the other former Minister for Gaming, the member for Dandenong, is here. What does the Dandenong Workers Social Club say about the government legislation? Were they supportive of it?

The ACTING SPEAKER (**Dr Sykes**) — Order! Through the Chair.

Mr O'BRIEN — I can tell the house about that, because I have spoken to people at the Dandenong Workers Social Club, whom I suspect neither the minister nor the former minister, who is at the table, have ever actually bothered speaking to, and they were absolutely in fear of their continued existence under the model that the government put forward.

The fact that this side of the house was able to demand and achieve a significant change to that legislation, a change which ensured that every single club in Victoria with gaming facilities had the opportunity to get 100 per cent of its existing entitlements up to a maximum of 40 at a price fixed by reference to each club's average profit, is a magnificent achievement that

was delivered in the face of the opposition of members opposite.

Do not let those on the other side rewrite history. Acting Speaker. I am sure you are very well aware of exactly how sensitive an issue this was for many clubs across Victoria and how they were in fear for their continued existence, so let members opposite not try to rewrite history. They were the ones who wanted to send clubs to an auction, we were the ones who said they should get a fair go. When it comes to the future of community clubs in Victoria, one side of the Parliament — the government side — wanted to send them to the wolves; we wanted to look after them.

In terms of that element of the bill, I am very pleased to note that our position on the coalition side is consistent. We have been consistent all the way through. We have not sold out our principles, unlike members opposite when they wanted to keep their little lobbyist mates in the process. We have been in favour of the alignment of the expiry of these gaming licences all the way through, and we remain so today.

Moving to the second aspect of this bill, it also increases the so-called speculation tax on profits that are to be made in the early on-sale of gaming machine entitlements under the new model.

As a result of the coalition's proposed amendments, the government now proposes to issue a number of gaming machine entitlements to existing clubs where those clubs wish to take them up on the basis of the proportion of their existing entitlements. Beyond that, clubs will be able to bid for additional machines through an auction process. Similarly, bids for the 13 750 hotel entitlements will all be through an auction process.

It is important to both the hotel sector and the club sector that no speculators come into the picture. We want to see only genuine gaming operators participate in the industry. We do not want to see fly-by-nighters coming in and trying to scoop up machines at the expense of genuine clubs and pubs, holding them to ransom and on-selling them for a huge profit; that is not the way to secure a sustainable gaming industry in this state. We think it is important to keep these fly-by-nighters out of the process.

During the debate on the original bill, the government said it had it all fixed, that it could assure us that only genuine clubs and genuine pubs would be able to participate in the process. The amendments proposed by this side of the house but also those proposed by Mr Kavanagh, a member for Western Victoria Region in the other place, indicated that the government had not got it right. There was much more that could be done.

We are pleased that the government has now finally taken on board some of those concerns through introducing this bill and is increasing the tax on any profits from 50 per cent to 75 per cent, made by the early on-sale of gaming machine entitlements. We think that is a sensible measure which will do a lot to discourage speculators from getting involved in the allocation process for gaming machine entitlements, which will apply from 2012.

The timing trigger for the application of this tax is when and if gaming machine entitlements are on-sold within six months of their effective date. Given the first element of this bill, it would be fair to assume that the effective date for the new gaming machine entitlements will be 15 August 2012, because that is the expiry of the Tabcorp licence; it will presumably and subsequently be the expiry date for the Tatts licences as well.

Any gaming machine entitlements purchased through the auction process or by existing clubs through the allocation process, and which are on-sold within six months from the date they become active, will be subject to this tax. We think that is a sensible measure to try to deter speculation in the industry. A valid concern which has been flagged by the AHA (Australian Hotels Association) is that the ability of the government to exempt a pub or a club from that tax seems to be a little bit narrower than should be the case.

Under the legislation that was recently passed the Treasurer is able to exempt a pub or a club from the tax payment where it has been unable to get particular regulatory approval — for example, planning approval for a premises in which it intends to house the gaming machine entitlements. The AHA made the point that there may be circumstances, for example, where a hotel proprietor dies in between successfully bidding for entitlements and the entitlements taking effect. In those circumstances, the estate of the proprietor may wish to sell the hotel. That is not unreasonable; it is to be expected. But in that case, under the bill as it is currently constructed, there is no possibility that there is any profit made from the sale of those entitlements would not be subject to this speculation tax.

The intention of the government in this bill — it is a bill that we and the industry support — is to deter speculators from getting involved in the process. But if there is a forced sale because of circumstances that are not within the contemplation of the owner of the

gaming machine entitlements at the time they are taken up, it would seem fair that there be a provision for the Treasurer to be able to exempt a party from the payment of this speculation tax.

I previously flagged in debate on these matters that the government should look at having a hardship exemption, and I maintain that position today. While we support the increase in the so-called speculation tax, we think that the areas where there can be an exemption from that tax are a bit too narrow. We think there should be a hardship provision which would enable particular hoteliers or club operators who are in circumstances that entirely beyond their control entirely and which force the sale of a hotel or a club's gaming machine entitlements to access an exemption.

Having said that, I say that we support this bill.

Mrs Maddigan interjected.

Mr O'BRIEN — If the member for Essendon had been listening to my opening remarks, she would have heard me say that we support the bill. However, the circumstances in which this bill has come before the house did bear some examination. I know members opposite get a little excited sometimes when we go over some history that they do not particularly like. But the fact is that it needs to be put on the record. Having put it on to the record, I am delighted to indicate that the opposition supports this bill.

Ms BEATTIE (Yuroke) — I was listening to the member for Malvern, who is the shadow Minister for Gaming. He said at the outset that the opposition was supporting the bill, but like a chicken in a chicken coop, he ran around for 25 minutes kicking up a lot of dust before coming back to the area and saying he supported the bill. It is quite a simple bill, but the member for Malvern could not quite bring himself to fully support it, so he ran around. It is quite a legitimate tactic to throw dust in the air, to try to muddy the waters and then get back to it. He then humbly said the opposition supports the bill and sat down. So I thank the member for that support. I also thank the member for telling us how he asks himself questions and then gives himself the answers. That provided a great insight into the personality of the member for Malvern. I hope he covers the mirror at night so he can trust himself too.

But I will get back to the bill. The bill will enable an even transition, as has been said, between the current gaming operator duopoly — the Tattersall's and Tabcorp duopoly — and it will bring them into line in 2012. As has already been said, the Tatts licence was due to finish on 14 April 2012 and Tabcorp's on 15 August 2012, so it aligns the licences very nicely. It also allows the Treasurer to determine the premium payment for that licence extension. Any extension will be for a period only up to 15 August 2012 to allow the expiry date of that licence to be brought into line with the expiry date of the Tabcorp licence.

In his attempt to kick up a bit of dust the member also mentioned former ministers David White and Tony Sheehan, and in that same sentence was the word 'corruption'. Those are very serious allegations, and if the member has any proof of any corruption then he should not be standing in here talking about it; he should be saying it outside. He should go and say it outside, and it can be challenged. It was also interesting — —

Mr O'Brien — Ron Merkel! I said it!

Ms BEATTIE — The member shouts out 'Ron Merkel'. In his contribution he also talked about Mr Merkel and what the Liberal Party wanted Mr Merkel to do. I would be very interested to know what Mr Merkel's opinion is when the member for Malvern implies that he is doing the Liberal Party's bidding. That would be an extremely interesting conversation.

The bill is a good bill. It clarifies that despite the extension of the Tattersall's licence the term of the current authorisation in place under the act for Club Keno is not affected. The bill also increases the amount of tax on profit to be paid for the early transfer of entitlements from 50 to 75 per cent of the profit made. This tax will apply to a venue operator who transfers gaming machine entitlements any day before the day that is six months after the gaming machine entitlement declared date.

The bill will allow the smooth transition and implementation of the government's announced gaming machine industry structure that will operate after the current gaming licences expire in 2012. The change in the tax on profit responds directly to community concerns about the fair allocation of gaming machine entitlements and strengthens the disincentive on speculators. Yes, we must avoid speculators getting in there and purchasing entitlements which they do not intend to use and which they will sell for a profit. This provision applies with what we call the 'use it or lose it' provisions.

It is interesting to see that there are no concerns about human rights issues. The Department of Premier and Cabinet and the Department of Treasury and Finance are represented on the steering committee that was

established to implement the gaming licences review, and they have been consulted on the proposed tax. Of course due to the probity restrictions — and this government is very strong on those probity restrictions — that are in place for the gambling licences review, there has been no industry consultation, as you would expect. There has been no industry consultation or consultation with non-review departments. I think that is a very good thing because this government is very concerned about and is being very careful about those probity issues.

The change in the tax on profit responds to community concerns and will prevent speculators from purchasing the entitlements. Why was this not included in the other bill? An increase in tax was identified as addressing a concern after the bill was introduced. At the time the increase in tax was announced by the minister it was not able to be introduced in the licensing bill as a house amendment because it is a tax, and that is why it required a separate bill.

This is a simple bill. I am not going to do what the member for Malvern has done and run around like a chicken in the barnyard kicking up dust. It is a fairly simple bill to bring the two licences into line, so I support the bill. I do not have to kick up dust to show my fulsome support for the bill. I commend the bill to the house.

The ACTING SPEAKER (**Mr Jasper**) — Order! As the member for Benalla is not in his place, the call is given to the honourable member for Essendon.

Mrs MADDIGAN (Essendon) — Thank you, Acting Speaker. It is good to see such fairness in the Chair. I congratulate the Acting Speaker on his great command of the Chair when he is in it.

It gives me great pleasure to follow the member for Yuroke who, unlike the member for Malvern, actually addressed the bill before us. I did find the comments of the member for Malvern interesting in a way because he spent a lot of time — —

Honourable members interjecting.

Mrs MADDIGAN — Parts of them were interesting. He spent a lot of time really complaining that the government had actually worked with other parties in the upper house to get this bill through, as though it were a strange thing that people should ever negotiate with other people in the Parliament to ensure that their legislation passes. I thought that was really quite a strange view to take, because part of life is negotiation. I know the member for Malvern is a new member of this house, so perhaps he has not picked up on the finer points of negotiation that the government uses in getting bills to pass the house. I will let the member for Malvern know though that it is not actually unreasonable to negotiate to get bills through the upper house.

The ACTING SPEAKER (**Mr Jasper**) — Order! The honourable member, on the bill before the house.

Mrs MADDIGAN — I am referring to the negotiations that allowed the first bill to go through, and that bill was partly responsible for this bill coming before the house now. As the member for Yuroke so clearly explained, this is quite a simple bill. It tidies up a couple of inconsistencies which were not dealt with when the original bill passed the upper house. It is a bill which the government has very quickly brought in to ensure that those things are resolved.

Mr O'Brien interjected.

Mrs MADDIGAN — The member for Malvern once again interjects, saying, 'You should have done it before'. I can go through my little speech on how you work with people to get your bills through the upper house again if he would like me to, but I would have thought it was fairly clear the first time I said it. I am not quite sure there is much point in my repeating it.

This bill does two main things. It brings in a consistent expiry date for the current gaming operator licences. As members well know, the Tatts group expiry date would have been on 14 April 2012, and the Tabcorp one on 15 August 2012. Obviously it is far more sensible to have both those expiry dates occur at the same time. If in fact venue operators do not wish to have that happen, there are provisions in this bill to cope with that. The other feature of the bill is an increase in tax on profit from 50 per cent to 75 per cent, which I think the member for Malvern actually agreed with although sometimes it was a little difficult to understand his position.

This bill does not change a great many things in relation to the gaming industry, but it is a bill that is very sensibly being put through by the government to clarify a couple of provisions that were not in the early bill; I think the member for Yuroke explained that fairly clearly. I am very pleased to support the government's bill before the house.

Dr SYKES (Benalla) — I appreciate the opportunity to speak on the Gambling Regulation Amendment Bill. I also appreciate the opportunity to have heard the member for Essendon's absolutely inspiring

contribution to the debate. Before she leaves the chamber, I would like to acknowledge through you, Acting Speaker, the government's ability to shift position on this important piece of legislation and its ability to declare that black is white, or in the case of the member for Essendon, that black is red.

In my contribution I would like to cover five aspects of the bill. These include its history, the alignment of the two licences for the gambling operators and the protection of community clubs and in particular the tax on quick turnover licences but also other mechanisms for protecting community clubs. Another important aspect is the monitoring of the implementation of this legislation in toto. I will also cover the protection of problem gamblers, and I might even do a couple of acknowledgements and cheerios at the end.

I will just go back to the history of this bill, which was well outlined by the member for Malvern. This has been a difficult birth, for the benefit of the Minister for Health at the table. The assistance of some expert obstetricians was needed to extract a viable baby from the womb of an ALP that had some difficulty getting its contractions coordinated to deliver an outcome that was going to be to the benefit of all concerned.

Ms Beattie — On a point of order, Acting Speaker, I have read the bill. It is a gaming bill; it is not a health bill about the birthing of children. I ask you to bring the member back to the bill.

Dr SYKES — On the point of order, Acting Speaker, I am just laying the foundation for my contribution and pointing out the history of the bill. I am about to move on to the content of the bill.

The ACTING SPEAKER (**Mr Jasper**) — Order! I will allow the member to proceed, but if he could keep to the details of the bill and not venture into other areas such as health, that would be most appreciated by the house.

Dr SYKES — Recognising the bill's difficult birth and the concerns on this side of the house about the role of lobbyists and the government's propensity to sell its soul to the highest bidder or even consume its own young, I will move on to the content of the bill, which in part aligns the gaming operator licences so that they can expire at the same time. As the member for Malvern has said, we support that proposition.

In relation to the protection of our community clubs, which is something that was argued for long and hard in the upper house — and I will come back to that — the introduction of an increase in the speculation tax from 50 per cent of the profit to 75 per cent is again endorsed because it helps protect community clubs from unfair competition.

As you would appreciate, Acting Speaker, in country Victoria we have a number of community clubs that depend very heavily on poker machines to generate income to meet the operating costs of those clubs, which in their own right provide a fantastic community service — a gathering place, a place to have fellowship and relax after the droughts, the fires and the other serious events that country Victoria has experienced.

That income also gives clubs the ability to sponsor local community activities, whether it be in the case of the Myrtleford Savoy Sporting Club, the local soccer team, the Mount Beauty Country Club or the Alpine Health services. The Mansfield Golf Club and the Benalla Bowls Club also support local ventures. In fact the Benalla Bowls Club is a strong sponsor of a couple of trusts that I am associated with, in particular the Benalla Young Sportspersons Trust and the Benalla Trust Foundation. The Benalla Golf Club is also a strong community club.

In addition to this protection mechanism of increasing the tax on profits in the event that the licences are turned over in a short space of time, a number of other protection mechanisms were built into the legislation which passed through the upper house a couple of weeks ago. It is worth reflecting on that, because this government, a government that supposedly speaks for the people, neglected the people out there who really matter. It neglected the workers and the battlers and it neglected working families.

As a result of strong lobbying, campaigning and negotiating by the Liberal Party and The Nationals in coalition we arrived at an arrangement whereby the Minister for Gaming shifted his position, and we acknowledge that. The current legislation contains protection mechanisms which will enable smaller clubs to purchase their machines at an agreed fixed price. It also provides for a new payment schedule, the first two payments being reduced from 10 per cent and 10 per cent to 5 per cent and 5 per cent. That will help our community clubs to cope with the transition to a new phase of management of poker machines.

The next aspect that I would like to address is the important issue of monitoring the implementation of the legislation, which is likely to have some teething problems. This is a significant change in the arrangements, and teething problems are possible. Again, the Minister for Health, who is at the table, might be interested in teething problems because we need more dental chairs in north-east Victoria. In

addition, the basis for the buyback formula is the average net profit on the machines over the preceding two years. In the case of the Mount Beauty Country Club, its income has been boosted by the presence of construction workers working on the Bogong power station. That has boosted the income of the local country club by 10, 20, 30 or 40 per cent. Those workers are not there now that the job has been completed. In monitoring the implementation of this legislation, it is important that those sorts of considerations be taken into account — that is, a club's ability to afford the licences as proposed.

The other issue that has been raised with me about the implementation of this new regime is the requirement to remove automatic teller machines from clubs. We recognise that that is an important step in addressing problem gambling, but it is a concern for people in a number of our country clubs. In particular, only last Monday Julie Dosser, the manager of the Benalla Bowls Club, raised it with me, saying she can see that it will impact on the income of the club.

What I am saying to the government is that just as it has shown flexibility and a preparedness to listen to this side of the house once, twice, three times — —

Mr Andrews interjected.

Dr SYKES — I am saying you should listen one more time because there may be some issues in the implementation of this bill, and you should not wash the baby down the sink with the bathwater, or whatever the saying is. Sorry, I have a correction: do not flush the baby down the north–south pipeline, with the water that will not be there!

I will return to the bill. The other important aspect of this legislative package is the protection of problem gamblers. We are very aware that problem gamblers create problems for themselves and, very importantly, for their families. Again, the new legislation needs to be monitored to ensure they are protected against themselves and their families are protected against the consequences of problem gambling.

In the remaining few seconds of my contribution I want to acknowledge the fantastic efforts of the negotiators on this side of the house who worked to achieve a very good outcome for country clubs. In particular, I wish to recognise a member for Eastern Victoria Region in the other place, Peter Hall, and a member for Northern Victoria Region in the other place, Damian Drum, and in this place I recognise the efforts of the member for Malvern, who is the shadow Minister for Gaming. Collectively they did a fantastic job along with Clubs Victoria to drag the government — which purports to represent working families but which in fact looks after only its members and its factional mates — kicking and screaming to an outcome which we can live with and which will protect the interests of community clubs and therefore the interests of country Victorians for whom we stand up very proudly.

Mr PERERA (Cranbourne) — I am pleased to join all members of the house in supporting the Gambling Regulation Amendment Bill 2009. It is fantastic to see members of the opposition coming in to support the bill, whatever they say in their contributions. I must admit that from time to time I was a bit confused when listening to the member for Benalla. I was not sure whether he was speaking about a bill on gambling or on gynaecology!

This legislation is designed to break the gaming operator duopoly and to revolutionise the set-up by establishing a venue operator structure. The bill will enable the smooth implementation of the government's announced gaming machine industry structure that will operate after 2012. After ending the 54-year monopoly in 2007, the granting of two separate lotteries licences is another step in the right direction. The industry structure will deliver greater control to venues, and give them an opportunity to derive a greater share of revenue from their business operations.

The bill underpins the government's decision to introduce a fairer, community-based venue operator structure for the Victorian gaming industry. It will also promote the fair allocation of gaming machine entitlements by strengthening the disincentives for speculators to purchase entitlements. The changes introduced by the bill provide that from the period following the initial allocation of entitlements in 2010 until six months after the commencement of the new industry structure, a venue operator who transfers their gaming machine entitlements for a profit will be required to pay to the state 75 per cent of the profit made on the transfer instead of the current 50 per cent.

However, the bill is cleverly designed to protect genuine operators by allowing an application for an exemption from this tax on profit if entitlements are transferred because of decisions made by a government body to refuse certain types of applications for premises approval, a planning permit or a liquor licence.

The 'use it or lose it' provision was inserted as a result of community concerns about the fair allocation of gaming machine entitlements, and it will strengthen the disincentive for speculators. This will help the genuine operators who are serious about conducting a long-term

gaming operation. It will assist new small-time sports and other clubs trying to enter the market by securing an entitlement at auction without them having to compete with those bogus operators who are trying to profit from resale. It will also assist the genuine operator who would like to secure additional entitlements at auction. The clubs, which are sometimes run by volunteers, will be in a position to pay a fair price for pokies entitlements. However, clubs find it hard to compete with speculators at auction. Destroying the small-time operators will not be just unfair but will break the social fabric of low-to-middle-income suburbs.

Sports clubs, which are public facilities, are used by local communities and they employ local staff. The Amstel Golf Club in my electorate, which holds a membership base of around 1900 and employs about 60 staff, currently has an entitlement and will be depending on this entitlement for its future survival. A guaranteed preliminary offer of gaming machine entitlements will provide assurance to every existing Victorian club with gaming machines by giving them greater certainty in the current economic climate.

Existing clubs with gaming machines will have an option to buy up to a maximum of 40 gaming machine entitlements or as many entitlements as the number of machines they currently have, whichever is less. This will be offered via a two-tiered approach. The price of a gaming machine entitlement for a club will be based on a fixed percentage of the average annual revenue per machine retained by the club in each venue. If a club chooses to take up a preliminary entitlement offer, the price of the first 20 entitlements will be determined at 180 per cent of the average annual revenue per machine for that venue and the price of a further 20 gaming machine entitlements will be determined at 200 per cent of the club's average annual revenue. The government is also assisting clubs with special deferred payment terms, reducing the first two instalments from 10 per cent each to 5 per cent each.

The new gaming machine arrangements strike a balance between supporting clubs and the benefits of competition for the gaming industry. The arrangements will introduce a progressive tax structure to support venues with smaller revenues, including a tax-free threshold for clubs, separate venue operator licences for hotels and clubs, a bona fides test on new organisations seeking club entitlements to ensure that only genuine clubs bid for entitlements, a cap on club entitlements of 420 entitlements per club and provisions discouraging speculative bidding by taxing the sale of gaming machine entitlements at 75 per cent of profit.

The current ministerial directions, including the requirements for a 50-50 split of gaming machines between clubs and hotels and a minimum of 20 per cent of machines to be in regional Victoria, are fantastic initiatives of the Brumby government. The gaming machine industry restructure has been subjected to the strictest levels of probity to ensure that all stakeholders have equal access to information and the integrity of the process. I would like to congratulate the Brumby government and the minister in particular for the fantastic arrangements and the introduction of a great bill. I commend the bill to the house.

Debate adjourned on motion of Mr KOTSIRAS (Bulleen).

Debate adjourned until later this day.

FOOD AMENDMENT (REGULATION REFORM) BILL

Second reading

Debate resumed from 10 June; motion of Mr ANDREWS (Minister for Health).

Mrs SHARDEY (Caulfield) — I rise to speak on the Food Amendment (Regulation Reform) Bill 2009. As a first point, for the benefit of the Minister for health, who is at the table, I say that the temptation for the opposition to move that this debate be adjourned was very strong. The reason for that is not that we oppose the bill — we do not oppose the bill — but that we have concerns that this bill has been brought on for debate very soon after its introduction and second reading, which was just a few hours off two weeks ago.

This is a very important piece of legislation. It is basically a rewrite of the Food Act. It affects the operation of a bill which incorporates activities for 79 local government councils and is in the interests of a large number of Victorians. We had a very good briefing on this piece of legislation last Wednesday, which went on for some two hours in the deathly cold of the meeting room downstairs. I have to give my thanks to those departmental officers who gave us the briefing because they were very thorough and obviously knew the bill extremely well and had been living it for some time, but it took a long time to go through this bill. It is a great pity that we have not been given sufficient time to fully consult across the community. I appreciate that this bill has been a couple of years in the making. That is all very well, but the opposition has not been part of that process.

I have written to the 79 councils and sought their responses to the legislation.

Mr Andrews interjected.

Mrs SHARDEY — The minister jokingly said, 'You could have made a submission'. I do not think that is the point of the whole thing, to be honest and serious. A report was done by the Victorian Competition and Efficiency Commission, and there is a discussion paper. These things have been part of the process, which I appreciate very much, but as I said, it is a great pity that the opposition was not given longer time to fully consult on the bill, which is an important piece of legislation. While we were very tempted to move that the debate be adjourned, it would have caused a division, and we accept that we probably would not have won that division. We will continue to debate this piece of legislation, but I think the minister gets the point of what I am saying.

I now move into discussion of the legislation and make the point that the opposition does not oppose this piece of legislation. Responsibility for food safety is shared by three levels of government: national, state and local. The state is responsible for regulating the preparation and sale of food and the provision of food in facilities such as aged-care facilities and hospitals, and by and large the system is delivered and monitored through local government.

According to the government, the purpose of the Food Amendment (Regulation Reform) Bill, is to bring more consistency to the administration of the Food Act, particularly at a local level. The bill makes a complex range of amendments to the system of regulation under the Food Act 1984. By way of background — although I have mentioned it already, I will go through this — in September 2006 the Victorian Competition and Efficiency Commission (VCEC) reviewed food regulation. That included a consultation process, although I suspect it was mostly with the Municipal Association of Victoria and not with individual councils. The MAV probably spoke on behalf of individual councils, but individual councils are not clear about some of the areas, responsibilities and costs associated with this piece of legislation.

The VCEC delivered its report in September 2007, and there was a government response to the report in January 2008. The government provided a consultation paper in July 2008 which included some of the recommendations of a previous Auditor-General's report in 2002 on this area of responsibility. The fundamentals of the existing Food Act currently mean that each of our 79 councils in Victoria separately register food premises in their own municipal district. There is currently no statutory authority to set statewide policies and guidelines, and this bill seeks to address that as an issue.

What did the government say it would do with regard to its response to the original review of this legislation? I will refer to some sections of the government response — and they are more general than specific comments. Firstly, in its response the government said that the VCEC concluded that the current institutional arrangements under the Food Act did not establish clear lines of responsibility and nor did they provide for effective accountability. That was one of the reasons why this whole review was done. It also said in its response that it would amend the Food Act to provide councils with additional mechanisms to reward good food safety performance and to discourage poor food safety performance, and that is what we would all be looking for. The government said that food safety programs, formal educational requirements and the frequency of inspections or audits would be linked more clearly to the inherent risk profile of the business or non-profit organisation, and we agree with that. It also said the proposed legislation would give councils the authority to issue on-the-spot fines and charge appropriately for individual inspections, and that is written into the legislation.

At this stage I will not refer further to that document, although there is a lot more that could be said; I will just go to the bill. The bill gives the Department of Human Services (DHS) a statutory role in providing guidance to councils to promote consistent administration of the act and, importantly, enables the Minister for Health to give written direction to a council, a class of councils or their CEO (chief executive officer) in relation to any matter concerning the administration of the act.

Some of the issues that have been raised by councils concern the power of the minister and the Department of Human Services in relation to being able to direct them, and there is some discomfort about that issue. However, this power is only available to the minister if the minister considers the direction to be in the public interest, and that is an important element. The current system has an advantage in that local circumstances can be taken into account, and we need to recognise that flexibility. However, business and community groups which operate in municipalities have highlighted the need for greater levels of parity in the administration of the Food Act.

Under the current act there are areas where it is unclear as to who has responsibility for solving food safety

problems and implementing solutions, and that was one of the issues that had to be faced. This bill proposes changes to the Food Act to remedy these shortcomings by outlining the roles and responsibilities of local government and DHS.

The amendments in this bill, we are told, are intended to reduce the compliance costs for business, including community groups, and they propose changes to the governance and operation of the regulatory framework under the current act. I should say at this point, and I will repeat it later, that this may be the case but councils are concerned that they themselves will incur greater compliance costs. This is a question the minister should perhaps address, although I suspect it is something that will only become clear over time, because many of the tools and systems and so forth are not yet completed and are not in place. That may be something we will face later down the track.

Mr Andrews interjected.

Mrs SHARDEY — Yes, maybe. The bill, we are told, does not intend to compromise food safety, and I believe that, and the stringent national Food Standards Code and its food safety standards will continue to be applied. Under the current Food Act food business owners are legally responsible for ensuring that food sold to customers is safe to eat. Staff who prepare the food are responsible for ensuring that food is handled in a safe manner. The current Food Act covers food provided as part of a package of services to people in aged-care facilities, as I have mentioned, child-care centres and hospitals. It also applies to fundraising activities where food is sold, and I will talk about that a little later. The act also requires companies and businesses to comply with the Australia New Zealand Food Standards Code. This code lists all requirements for food handling, such as how it should be cooked, temperature control and structural requirements for food premises. The Food Act also sets out offences for breaches of the food law and the applicable maximum penalties. It is the means through which the Food Standards Code is applied; it provides emergency powers to protect public health, including powers to recall food, and we have had a few instances of that; it provides the means through which municipal councils register food businesses, and this is a very large part of this piece of legislation; and it is the means through which food safety programs are currently required of most food premises registered under the act.

Under the current act food premises operating from relocatable tents, stalls, mobile phones, vending machines and occasional temporary bases in permanent structures such as halls all need to be registered separately in each municipality in which they operate. These are issues that have been changed under this act, and I think for the better. As I mentioned earlier, local government and the department administer this act.

With the proposed changes the fundamentals of the Food Act will remain in place, with all food businesses remaining responsible for the safe handling of food. It is important to note that the bill does not diminish any of the emergency powers held by the Minister for Health.

The proposed changes will alter the act to enable the current classification system to be expanded from two classes to four classes of food businesses. Currently all food premises fall into just two classes, as I have indicated: class 1, high risk, covers those who handle and supply high-risk, ready-to-eat food, predominately for vulnerable population groups such as people in hospital, aged-care facilities et cetera; class 2 under the current regime is medium risk. All other food premises are currently classified as class 2, including restaurants, milk bars, food stores — you name it. The purpose of the amendments is to allow regulation to better match the level of food safety risk which each class of food premises needs to manage, as well as removing the need for the duplication of paperwork.

It should be noted that the classes of food business referred to in the discussion paper and in the bill are not defined in current legislation. That comes by way of declaration through gazettal. Of concern is the fact that became obvious in our long discussion at the briefing — that is, that the tool to determine which class of food premises a business will be put into has not yet been developed. However, provision is made in the bill for the minister to describe the means by which a declaration by the secretary will be made, as I have mentioned.

I will briefly quote from new section 19C, headed ‘Declaration of classes of food premises’, to be inserted by new part IIIB of the bill:

> The secretary may, by notice published in the *Government Gazette*, declare classes of food premises having regard to —

a number of issues.

This tool has to be developed, and a declaration has to be made by gazettal to clarify how the classes will operate and the model by which this will occur.

As I have said, the Food Amendment (Regulation Reform) Bill will expand the current two classes of food premises to four. The discussion paper provides the details of all this. I will go through the classes,

because I think it is important that they are understood. Class 1 probably corresponds with the old class 1. It is for premises that are similar to the current class 1 — that is, high risk. These are premises handling and supplying high-risk ready-to-eat food predominately for vulnerable population groups — the elderly, children aged five years or less, hospital patients and people with compromised immune systems.

On page 24 of the consultation paper there is a very nice chart that carefully defines each class and its corresponding responsibilities in terms of food safety plans, inspections, audits, notifications et cetera. For any members who are interested, this chart nicely explains how it is proposed the system will work. Although we do not yet have the tool to make it work, I am sure that will be developed.

In relation to class 1, which I think is the issue people are most concerned about, I will inform the house of the things that are proposed to be incorporated into the responsibilities of those premises that are classified under this class. I quote from the consultation paper:

> … class 1 food premises will continue to be required to be registered with the council … However, the proprietor may apply for registration (or renewal) on a model registration template that is to be developed to simplify the registration process. Class 1 businesses will continue to be required to have an adequate food safety program …
>
> A class 1 business will always be audited by an approved auditor, rather than inspected by council routinely prior to considering whether to renew registration. Accordingly, the act would be amended to provide that a food safety program would not need to be provided to a council annually or be the subject of an annual statement by the proprietor to the council.
>
> A proprietor would instead be obliged to only provide the food safety program or equivalent to a council in response to a specific request of that council …
>
> An approved auditor … would be responsible for ensuring that the food safety program is adequate.
>
> The act would also require that the food safety program be kept on site, so that it is available for an auditor or authorised officer to consider as required.
>
> … the audit of the non-template food safety program is the main means of routinely checking whether there is compliance with the food safety requirements of the act. The proprietor must provide this audit certificate to the council.
>
> The auditor must also report immediately to the council any inadequacy of the program …

The report goes on to say:

> … the council will no longer routinely receive a copy of the food safety program or information about changes to a program … the council will not be required under the act to conduct an annual inspection prior to considering whether to renew the registration of the premises. It is therefore proposed that a council would have the power to require the auditor's reports in relation to the food safety program of a food business to be routinely provided to the council.

Finally, the report says:

> In addition, councils would still be able to inspect if this is warranted in particular circumstances …

I might do a bit of a summary of that issue later on.

Class 2 is for premises such as cafes and restaurants that are engaged in the manufacture or handling of any unpackaged, potentially hazardous foods such as food that requires temperature control. It is proposed that class 2 businesses would continue to be required to be registered with the council, have a food safety plan and have a food safety supervisor; or alternatively, require competency-based or accredited staff training for staff and inspection by the council prior to initial registration and transfer of registration to a new owner. Class 2 businesses will be able to choose to have either a standard food safety program, which is a template-driven guidance program, or a non-standard food safety program.

For businesses choosing the latter the following would apply: the premises would be audited at least annually by a Department of Human Services food safety auditor who would be required to provide the council with an audit certificate. This means that annual inspection by the council would no longer be mandatory — so there is less for councils to do; however, the council would continue to have discretion to inspect in particular cases if it had any concerns. Class 2 businesses using a standard food safety program template would continue to have at least one annual council assessment. Audits will not be required.

Class 2 businesses would also have access to voluntary staff training, which will be delivered free via the internet. Councils will have access to the full audit report for class 2 businesses with a non-standard food safety program. Finally, appropriately qualified officers are able to be approved as food safety auditors on behalf of councils themselves.

Class 3 businesses are premises where people handle low-risk foods, including bakeries and milk bars. This class includes premises which sell wholesale or prepackaged food or potentially hazardous food that requires temperature control. This class also relates to some community events. Under the changes a declared class 3 business: would need to register with the council; would be inspected by the council when initially registered and annually thereafter; would need to keep basic records about its food-handling practices;

and no longer need a food safety program or a food safety supervisor.

There has been some discussion about which category a milk bar that sells hot pies or makes chicken sandwiches would fall into. Some have wondered whether those businesses would reside in class 3 or class 2. At the briefing someone said you would not think a milk bar would have to be in the same class as a restaurant. These are issues which eventually will be addressed through that tool, but they are issues that rightly should be raised.

Mr Andrews interjected.

Mrs SHARDEY — The minister says it depends on the milk bar, but by and large a lot of milk bars sell hot pies and pasties and make the odd sandwich, so I think we need to have some clarification on these issues.

Class 4 is a most interesting area. It relates to premises selling shelf-stable, prepackaged food, or to the running of low-risk community activities, such as sausage sizzles — places where food is cooked and served immediately. This has been an issue in the community for some time. The permit process for conducting such activities has been somewhat onerous, and people have been very confused about the level of compliance that is necessary in relation to these activities. This new class covers the sale of uncut fruit and vegetables in places such as farmers markets.

Class 4 would also apply to fundraising activities, as I have said, and includes sessional kindergarten classes where people cut up fruit and other food. Those people would only be required to inform their council of their food business activities via a notification system. They will not need to obtain formal approval through registration and would be inspected if there are any concerns; they could be inspected at a council's discretion based on any concerns, so they could be inspected if necessary. Class 4 premises would not need to have a food safety program or food safety supervisors.

Other proposed changes in the legislation also call for a single registration of mobile temporary food premises to allow such premises to operate anywhere in Victoria. To do so, these stalls, vans or vending machines must be annually registered in the one municipality in which the premises is based, or if it is covered by the proposed class 4 and exempt from registration.

On a one-off basis it must formally notify the one municipality in which it is based about the nature of its food-handling operations. It must lodge a statement of trade which specifies details required in the particular case where the stall or vans will trade. This document can be kept online. It is important that any complaint go back to the municipality in which a business has been registered.

I think I have time to summarise that, because it sounds very confusing. To summarise, businesses will now be put into one of four classes: class 1 will be for such businesses as aged care facilities and hospitals; class 2 will be for medium-risk businesses such as restaurants and other similar businesses; class 3 is for low-risk businesses such as milk bars and bakeries; and class 4 is for very low-risk food businesses such as sausage sizzle stalls and the like.

Food safety programs and food safety supervisors will be required for businesses that fall into classes 1 and 2. Council inspections are to be reduced and replaced by qualified auditors for class 1 businesses. There will still be inspections for businesses that fall into classes 2 and 3, but no inspections for class 4 businesses. Class 4 businesses will only have to notify councils of their activities. I have also talked about single registration. I think that covers and perhaps nicely summarises those aspects.

The changes also provide for the names of people who have been convicted under the act to be publicly available. Those names will stay publicly available for 12 months. The proposed changes also allow councils to charge poor performers additional fees. This is the one element that may bring some revenue to councils when they have to do a lot of work and check up on particular businesses. I do not think local councils have any objections to that.

However, the bill requires councils to report data about their administration of the act to the Department of Human Services (DHS). This is so they can give information about the incidence of food-borne disease. While I agree with this proposition, it also needs to be recognised that councils may have to employ more people to do this work. I also think the issue of cost recovery needs to be addressed. The bill also paves the way for a food-sampling framework.

I do not understand why this bill has been introduced in such a rush, because the first part of this legislation will not take effect until July next year, with the next two parts coming in in 2011, so it will be some time before this legislation takes full effect.

Several concerns have been raised with me. Firstly, there is a concern that the timing of the bill's implementation is somewhat ambitious given that the tools by which the system is going to work have not yet

been developed. I understand that DHS has put out a tender to implement these changes, but that has not occurred at this point in time.

There is another concern about what database or IT system councils should use when moving towards single registration for mobile food vans et cetera. That has not been developed.

An additional concern about new section 7C relates to the annual reporting on food regulation, which is to be published by the department, yet the legislation provides no specific dates in relation to that requirement. I ask the minister to clarify that situation. Councils have said that more pressure is being placed on them with regard to decision making, yet it is unclear whether they will get any resources to carry out this work.

Another matter that has been raised by councils is that they are somewhat nervous about the new powers that the minister, and in particular DHS, will have. Councils say that the minister and the department can direct them to do almost anything.

I did get a response from a couple of councils, which I will not name. They have some positive things to say, but I suppose the minister is much more interested in the negatives. They say that while prosecutions will be published in the annual report, details of breaches are still covered by confidentiality clauses in the Food Act. For example, they say that if they give a penalty infringement notice, they will be unable to disclose the breach to the public. I am not sure if that is correct, but I would like that to be clarified.

The councils also raise the issue that DHS can direct a council to do almost anything, and they are a little nervous. They note the greater reporting requirements, as I have already mentioned, and that the cost of reporting systems will have to be met by the council. I assume that, but maybe the government is giving that some thought. They are also concerned about the resources it takes to do all those things.

A rural shire council wrote that the cost of implementation is not known, and even if there is no direct cost shift, the rump of expenses for training officers in the use of the new system and implementation cost will have to be borne by the council. That council also told me it is hard to determine whether it will need additional staff. This rural council also said it has issued an order for the upgrade of its software, which they hope will be compatible with the software that is going to be introduced to run the system. The software that council has bought cost $21 000, and the council hopes it will be compatible.

The same council also says that smaller rural shire councils need larger rural shire councils to advocate on their behalf. These smaller councils may not have the capacity to take on additional work. Their environmental health officers work alone and the businesses they are responsible for may be a long way away from the townships where their offices are located. These officers share administration with other local government departments. The professional staff do everything themselves, from administration to debt collection.

Those councils have raised some practical issues. In closing let me say that the coalition does not oppose this legislation and thinks many of the changes have some merit. There are some very large issues in relation to the implementation. As time goes by we will need to be updated about how all that work is going to bring this bill into effect as the new act. As I said, I am quite disappointed. Obviously I have read enough to talk about the bill but at the same time I think it is a pity that there was not a decent time frame given to fully consult with the community. This is an important piece of legislation and I cannot see why the government was so worried about giving us more time.

Mr CARLI (Brunswick) — I am very pleased to speak in support of the Food Amendment (Regulation Reform) Bill. This area of the classification and compliance of food premises is a major local issue for members of Parliament. It has been an issue that we have had to deal with at a very local level. I particularly want to focus on the impact on community and pensioner groups in my area.

The Victorian Competition and Efficiency Commission (VCEC) inquiry into the regulation of food businesses was one which actively involved local government, food businesses and the community in consultations which led to some groups preparing submissions for the inquiry. One of the reasons is that we experienced a period when strict compliance with food regulations was sought by council.

This led to pensioner groups being unable to prepare and share meals; for example, Italian pensioners were forbidden to cook pasta and share it; and Greek pensioners were forbidden to barbecue souvlaki and eat it. The ban stemmed from a decision of council officers that any pensioner group was always going to fall into the class 1 high-risk classification regardless of how healthy they were or how they chose to live their lives.

We managed, rather quickly, to reverse that decision because those groups were very angry at that ban. They were then classified as class 2 medium risk, which meant that there had to be some compliance and they had to ensure people were trained in food safety. That training was done in different languages, and assistance was given to the groups but it was very cumbersome and very difficult.

Councils struggle with issues of compliance with food regulations. A week before the last council election, two schools sought permission from council to conduct sausage sizzles near the voting places, as is customary in council, state and federal elections in this country. Moreland council staff said they were too busy to deal with it, and the schools were forbidden to proceed with the sausage sizzles.

Amongst community groups there is a sense of the difficulty with this issue. That is not to say that these groups should not be trained in food safety, understand the importance of temperatures and ensure cakes at cake stalls clearly display their ingredients, so it is possible to identify any nut products that may have been used. I do not think any group disagrees with these requirements. Rather it is the level of compliance above that and the ability of overzealous council health inspectors to muck up the daily lives of our community that is of concern.

VCEC recognised these problems and came up with a number of recommendations, most of which have been accepted. The really important recommendation was to broaden those classifications of food premises and to move away from just having two classifications. It is important to retain the high-risk classification and to ensure that people who are genuinely at high risk — the elderly, the very young, hospital patients and others with immune systems that may be compromised — are protected but not to get so carried away that at a meeting Italian pensioners are unable to share a plate of pasta, which was attempted in our area. There was a need to move to a broader understanding of the risks and to deal with them.

As I said, the VCEC inquiry involved local government, food businesses, community groups and others involved in consultations; I must say it came out with very sensible compromises where we deal with the question of risk but also ensure that areas of low risk are dealt with in such a way that allows community groups to share food and to sell food at events in the knowledge that we have minimised the risk of causing food poisoning or other problems.

If we look at the proposed changes to the regulation, we see that there is a better targeting of regulations towards risks, and the regulations match the level of food safety risk. The bill also provides for less duplication in regulatory requirements. For example, if you have a food van or a market stall, currently you have to register it with every local government area you trade in. This means that you could have multiple registrations, so the regulatory requirements and red tape increases. These reforms allow for just the one level of regulation.

We have a bill that improves the knowledge base of food safety by mandating the collection and publication of data on the performance of the food safety system, which is important. To ensure that consumers have more information about food businesses, the bill also contains provisions to implement the government's announcement that information about convictions for Food Act offences will be publicly available. More importantly, to ensure that we have more than two classifications of food premises, the bill proposes two new classifications.

The new classes are designed to better match the level of food safety risk which each class of food premises needs to manage. As we move through the new classes we have a class 1 which is not dissimilar to the current one and protects those who are vulnerable to food poisoning because of their age or state of health.

The second class applies to the manufacture or handling and preparing of unpackaged, potentially hazardous foods such as food that requires temperature control. Clearly it is in this class of food premises that we need to ensure that there is a food safety knowledge amongst employees.

The new third class applies to handling low-risk food. An example of that would be bread baking, wholesale or retail selling of prepackaged food that requires some temperature control and some other community group activities.

The new fourth class applies to low-risk community food activities such as sausage sizzles and cake stalls, those areas which are so important to community life and which have really suffered in recent years because of the current regulation system, the rigidity of the existing two classes and to some extent overzealous health inspectors.

At sausage sizzles and similar events you generally have someone who cooks a plate of pasta in front of you and you eat it hot, so the risks are extraordinarily low. Kindergartens serve cut-up fruit, and we recognise that it is low risk and do not expect them to have all the

controls and to seek permission from council. We do not want to end up with what happened on the day of the last Moreland council election when not one but two schools could not have a sausage sizzle because they applied to council three days before the election. Obviously the council health inspectors were so very busy that they could not allow a cultural right of such importance as having a sausage sizzle on the day of a council election! They forced the schools to do — —

Mr Weller interjected.

Mr CARLI — I believe this is a really important reform. It will protect the vulnerable by ensuring that restaurants and other premises that deal with food are properly regulated. The system will be better. The information that is maintained will be more freely available.

More importantly, it provides a level of flexibility and understanding of how communities work, so that we can, as communities do, maintain low-risk preparation of food and not mix up the requirements for a sausage sizzle with those for a restaurant. The current situation under class 2 is that the same regulatory regime is applied to a sausage sizzle as to a restaurant and you can end up with the sort of situation that was encountered on the day of the last Moreland council election. As I said, I have continued to be very cranky about that and no doubt all honourable members will be aware of my crankiness, but I cannot understand how council officers can refuse to process a request by schools that have had sausage sizzles on election and other days for probably the past 50 or 60 years, if not longer.

This is important legislation that will finally ensure that we have a regulatory environment that will work and that will protect all layers of society, from the community group to people in hospitals. I certainly welcome this legislation.

Mr CRISP (Mildura) — I rise to make a contribution to the debate on the Food Amendment (Regulation Reform) Bill, and indicate that The Nationals in coalition are not opposing this bill.

The purpose of this bill is to achieve greater consistency and accountability in the governance of the food regulation system by articulating the respective roles and responsibilities of the different regulators, enshrining a statutory role for the Department of Human Services of providing guidance and leadership to councils in relation to the regulation of food businesses, mandating and collecting the publication of data relating to the regulation of food businesses and better targeting regulatory requirements on food safety risk and facilitating enforcement of the act, providing more flexible regulatory mechanisms.

I noticed that in the second-reading speech the minister pointed out that the food industry employs a great number of Victorians, 370 000, provides $6.8 billion in exports and includes 86 000 businesses across the state. Many of those are in country Victoria, so there is an interest in this bill. Although I know that the bill relates very much to local government requirements, it is well worth noting the importance of the food industry to Victoria and that many of the raw ingredients which people use and which we are going to talk about here today come from country Victoria.

There have been varying local government food regulation provisions from the past and the fundamentals of the current Food Act require that the 79 councils in Victoria separately register food premises in their own municipal district. People in the businesses and community groups that operate in multiple municipalities have highlighted the need to have higher levels of parity in the administration of the act. That is very much the case for people in country Victoria. Mildura is a major horticultural area. We have people who attend farmers markets over various parts of Victoria, selling our wonderful fresh produce. They get caught up in the myriad registrations through different municipalities.

The bill also amends the Food Act to overcome some of the shortcomings by outlining local government and Department of Human Services roles and responsibilities. The amendments are intended to reduce the compliance costs of businesses. That is something that we in country Victoria, including community groups, certainly welcome, as we do, the proposed changes to the government's operation and regulatory framework under the current act. The bill is not intended to compromise food safety. The stringent national Food Standards Code and its food safety standards will continue to be applied.

I refer to the proposed changes in a little more detail. The fundamentals of the Food Act remain in place, and all food businesses remain responsible for the safe handling of food. It is important to note that the bill does not diminish any of the emergency powers held by the health minister.

The proposed amendments to the act will expand the current classification system from two to four classes. Currently all premises fall into one of two classes: either class 1, high risk, for the handling of high-risk, ready-to-eat food, or class 2, medium risk. All food

premises other than those preparing food or dealing with vulnerable populations are in class 2. That includes the sausage sizzle that the member for Brunswick talked about so passionately, and similarly our farmers markets selling vegetables fall into that.

Turning to the new classes, class 1, which is similar to the current class 1, is for premises where people are handling the supply of high-risk, ready-to-eat food and is predominantly for vulnerable populations, which are the elderly, children and people in hospitals and so on.

Class 1 areas are still cost sensitive. I will echo some concerns about this expressed by the member for Caulfield. When we looked at the particular tabulation on this, we were sensitive to the costs. We were of the view that class 1 premises should be audited but not necessarily subject to local government inspection. We need some clarity on that because we notice that some of the explanatory notes — we will focus on some of the words which come to this — state that:

> … an assessment would be a kind of extensive inspection of the food premises, but it must include a checking of these matters.

That is a very rubbery term. I am worried about how local government will interpret the words 'kind of'. The explanation is just not precise enough and will need further definition, otherwise we will have audited programs. This is something that those in the country who are involved in primary production are well aware of. Our quality assurance (QA) programs are generally audited, they are expensive to run and add considerably to our costs, but we concede they are necessary.

The last thing people need is a second tier of inspection by local government. It should be a case of either/or, not 'kind of'. There should either be food safety auditors as we have in the community, who are extremely experienced elsewhere in the production, or no-one. I look to the member for Rodney, who has considerable dairying experience and would be very familiar with that. In horticulture in Mildura we are very familiar with QA systems. If they are in place, they should be of a standard to deal with the issue. Local government should be in or out, but not 'kind of'. It is half baked, half done and needs to be clarified.

I am informed by the member for Caulfield that in the briefings, which I was not able to attend because I was in Mildura, this issue was not clarified or was not fully resolved. That needs to be clarified right now. Otherwise, even though there has been a long lead time to this legislation, it will head for trouble.

Class 2 premises are those engaged in the manufacture and handling of unpackaged and potentially hazardous food. This is where councils will be involved and they will continue to fulfil a role they are currently used to undertaking.

Class 3 premises are those handling low-risk food, such as baking bread, the wholesale of prepackaged food or selling prepackaged potentially hazardous food that requires temperature control. It includes some community events.

Under the changes, declared class 3 businesses will need to register with council, be inspected by council when initially registered and be inspected annually thereafter. They will also need to keep basic records about their food-handling practices, but they will no longer need to have a food safety program or a food safety supervisor. I think that probably comes about by recognising where the risks lie over the experience we have had with food handling.

Class 4 involves activities on premises that sell shelf-stable prepackaged food and low-risk community activities such as sausage sizzles, where food is cooked and served immediately. The new class also covers the sale of uncut fruit and vegetables in places such as farmers' markets.

We need to consider sausage sizzles and the value they have to the community. Sausage sizzles and cake stalls, as mentioned by the member for Brunswick, are a key part of community life. They are a valuable fundraiser; they are a valuable community building exercise, and they are valuable for fellowship and support particularly in tough times in the country. They get people together; they get them talking to each other; and they get them working together.

Surely, as a part of this, the problems and difficulties which have occurred over the food safety arrangements that have existed until now need to be fixed quicker than this. People have had enough of the current food safety requirements that apply when you want to throw a sausage sizzle. The start-up times which run from 2010–11 of this particular bill are too long for them to wait.

We are sending two messages here: the first is that we want longer consultation with councils to make sure they get a clarification of their role; and the second is that the community's understanding of the risk and moving them out could occur immediately. These communities earn valuable dollars; it is important they start things.

It has a cascading effect: how many of these groups, whether it be a Lions club, a Rotary club or the local kindergarten, get those valuable first dollars that are then cascaded through state and federal governments to deliver valuable services into country areas? We need to keep those going because of the importance they are to the basic life of those areas.

These are big changes; they are on the way. We want to deal with this between those two poles. We need a quick resolution of community issues but we also need a thorough examination of some of those complications within the class structures and to get our councils fully focused on what this means. Despite those concerns, The Nationals are not opposing this bill, but we wish the minister would clarify the issues raised.

Mr STENSHOLT (Burwood) — I am delighted to speak on this bill which I think is a good, comprehensive bill. I must admit a lot of work has gone into it. I want to commend the minister and all the people who have worked on this bill, because I think they have done an excellent job. I, like others, have cooked lots of sausages and hamburgers; and I will come back to that a little bit later.

I was a little disappointed by the member for Caulfield. Her contribution seemed to be a little bit different from the Liberal Party and The Nationals. She seemed almost dismissive of the consultation process that took place, particularly concerning the VCEC (Victorian Competition and Efficiency Commission). I think VCEC does a good job. I thank commissioners Graham Evans and Robert Kerr, and former commissioner Alice Williams, for the work they did on this bill. It was not just a matter of saying, 'We just need to speak to the Victorian Local Governance Association'.

I commend the VCEC report to the member for Caulfield because of the terms of reference — they required VCEC to consult and talk to people. If the member had read appendix A, she would have realised that it was advertised in the press. There were circulars as well, and 152 submissions were received. There were round table discussions and consultants, and a lot of councils were involved; I will go through the list. They included the councils of Moreland, Stonnington, Whittlesea, Melbourne, Knox and Wyndham. I am sure there was not a casual conversation with the Victorian Farmers Federation, because the report states there were at least two or three people from that organisation who went to round table discussions.

It was a good consultation process. The report is a comprehensive and thorough piece of work by VCEC. It is a good organisation because of the work it does. When I read the report after it came out in September 2007, I thought it was an excellent and comprehensive report. I thank them, on behalf of members, for the work it did on this issue. I also note that the report was followed up by a government response. Then there was a further consultation paper, which is a product of discussions, which was prepared by the department and produced last year by the public health branch of the Department of Human Services. Like the member for Caulfield, I found that a helpful document, particularly with regard to table 1; and I am sure the member for Mildura found table 1 on page 24. This document was also helpful to use when talking about the four classes.

On sausage sizzles, I have cooked many sausages and a few hamburgers as well in my life. I do not wish to count them! Let me tell members I have seen an awful lot of them. I remember cooking sausages once; I think it may have been at an Ashburton Primary School fete. Every year I go there and cook hamburgers and sausages to help the school out. I think people in the community ought to roll up their sleeves and help out. I am sure the member for Murray Valley does that as well.

I remember one year a bloke from the council came along and spent about an hour at the sausage sizzle. This bloke was poking, prodding, getting his little thermometer out and measuring. I thought, 'We are only cooking snags for the kids; we are trying to raise a few bucks for the school. Can't you leave us alone?'. He did not find anything wrong. The sausages were 60 degrees or whatever was appropriate. Because he spent an hour, I thought that bloke had nothing else to do for the day. I wondered whether there were any other schools that were holding an event that he could have visited.

I welcome this bill. It is good that we are talking about it today. The member for Mildura wants things done quickly with regard to this bill. He was happy to talk immediately about it. The member for Caulfield seemed a little bit more reluctant to open the page on this issue. It is good to see there is unanimity in the house with regard to these food handling matters, particularly when we start talking about grassroots.

Honourable members interjecting.

Mr STENSHOLT — They are just community groups, the grassroots of our society, the kinders, the schools. I am not talking about putting the grass roots on the barbie; I am talking about our community grassroots. Do not get things mixed up. We are not cooking grass roots, either; we are living with people

and making sure that we can raise a few bucks for the kindergartens.

I am sure other members have done as I have and helped the local school or the Lions club cooking sausages outside Bunnings. It is very profitable, I must admit. I must commend Bunnings for the contribution it makes by allowing sausage sizzles to be held outside its stores. It is not quote the ABC, because it is not able to advertise, but I do commend Bunnings for the work it does. I was there the day that the Bunnings in Middleborough Road in Box Hill South opened. I was cooking sausages there for a couple of hours for the Roberts McCubbin Primary School, and we raised a couple of thousand dollars for the school. I thought it was just terrific.

I was there a couple months ago when we cooked sausages for the local Lions club; we raised about $1500, and we even did it at the Ashburton festival as well. We raised a similar amount of money, which went to bushfire relief. Our community in Ashburton was very happy to help out and provide support, because it was only two weeks after those dreadful bushfires.

That is the community grassroots I am talking about, and that is what this bill is dealing with in terms of class 4. I commend to the member for Rodney the very low-risk ones that are not required to have registration or to have a food safety program, but if he wishes he will be able to do the food course online. He will be able to work it out, to keep some simple records and make sure he knows all about food handling.

I am sure a template will come out which will be very useful for everyone. This is very good legislation and a comprehensive bill which is aimed to help the people in the community. I am sure it will prove valuable, and I commend the bill.

Debate interrupted pursuant to standing orders.

ADJOURNMENT

The ACTING SPEAKER (**Mr Nardella**) — Order! The question is:

That the house do now adjourn.

Country Fire Authority: Rowville station

Mr WAKELING (Ferntree Gully) — I raise a matter for the Minister for Police and Emergency Services. The action that I seek is for the minister to outline the future operation and location of the Rowville CFA (Country Fire Authority) station.

The Rowville CFA commenced operation in 1942 under its original title of the Rowville-Lysterfield Rural Fire Brigade. In 1967 the brigade moved into a permanent facility on land leased from the City of Knox in Le John Street, Rowville. The station continued its residency at Le John Street until 1994, when it moved to its present location in Taylors Lane, Rowville.

The Rowville CFA station, like thousands of CFA stations across the state, has been fully manned by volunteers since its inception. The brigade's current volunteers are ably led by Captain John Farrer. There has been quite a lot of discussion in the community over the need, or lack thereof, for introducing permanent, professional staff at the Rowville station.

In April this year the Country Fire Authority and the United Firefighters Union of Australia (UFU) both appeared before a board of reference chaired by Mr Bob Merriman. The board examined the operation of a number of CFA facilities with specific reference to determining whether permanent staff were required.

In its decision, the board recommended the introduction or increase of paid staff at a number of CFA stations across the state, which included the Rowville facility. The decision stated that evidence is beyond doubt that the Rowville CFA station should be manned 24 hours a day, seven days per week with paid staff and supplemented by volunteers. The board acknowledged the significant and important concept of volunteerism but evidently felt that the Rowville station was in need of constant manning by career firefighters.

In regard to this decision I ask the Minister for Police and Emergency Services to take action and explain whether the Rowville CFA station should become a manned station 24 hours a day, seven days per week as recommended in the board of reference's decision and when this will commence. Furthermore, if this station is to become permanently manned, the minister needs to clarify whether the current station in Taylors Lane will be adequately equipped to accommodate the new staff; if not, where will the new station be located and when will this relocation take place? In the event that the government determines not to man the station with permanent staff as per the board's recommendation, does the government believe that the current facility at Taylors Lane meet the needs of the Rowville community?

The action that I seek is for the Minister for Police and Emergency Services to outline the future of the Rowville CFA station, with particular reference to the CFA-UFU board of reference decision on the need for

permanent paid staffing, and its capacity to undertake these changes at its present location.

Geelong Ring Road: traffic management

Mr TREZISE (Geelong) — I raise an issue tonight for the Minister for Roads and Ports. The issue I raise relates to the newly opened and much welcomed Geelong Ring Road. For the information of the house, there are essentially two main exits off the ring-road into my electorate of Geelong. These are onto the Ballarat Road into Geelong West, and the next exit up the Deviation Road hill and into Aberdeen Street. The action I seek from the minister is for him to ensure that VicRoads monitors the amount of traffic using both Aberdeen Street and Ballarat Road now that the ring-road is fully opened.

As members would be aware, the Geelong Ring Road has been opened in stages, with stage 3 for the Princes Highway west being opened by the Premier on Sunday, 14 June. I know you, Acting Speaker, well and truly appreciate that it was very much a blue-ribbon day for the Geelong community. After more than four decades of waiting and procrastination, the ring-road was finally opened.

However, up until this full opening traffic was detoured, as I said, into my electorate via either the Ballarat Road or down Aberdeen Street. With these detours local residents experienced increased traffic and in some cases difficulty getting out of their side streets onto those major routes, Ballarat Road and Aberdeen Street.

VicRoads, in listening to the concerns of residents ensured that adequate measures were taken to minimise the disruptions for local residents. These included changing our traffic light sequences and monitoring traffic numbers. In doing this VicRoads noted that traffic on these two major thoroughfares had substantially increased, but it assured local residents that it would continue to monitor traffic patterns and numbers on these roads and told them appropriate action would be taken to minimise the disruption.

Although the Geelong Ring Road has caused what I would probably describe as some disruption to local residents on those internal arterial roads into our city, the ring-road is recognised by those residents as being of absolutely paramount importance to our regions. They appreciate that despite the inconvenience of the ring-road's construction, the road itself will ensure that motorists will be freed from many of the internal traffic problems in Geelong — for example, along Latrobe Terrace — and people travelling west in the state, especially drivers of heavy trucks, will be able to detour around something like 29 or 30 sets of traffic lights when they travel down to the south-western region of Victoria. I look forward to the minister's action.

Nathalia Primary School: building program

Mr WELLER (Rodney) — I wish to raise a matter for the attention of the Minister for Education regarding the Nathalia Primary School and its concerns over the management of the federal stimulus package by the Victorian Department of Education and Early Childhood Development. The school is one of many across Victoria which is being pressured to spend federal government grants on facilities which do not meet its specific needs. The action I seek from the minister is to allow the school council at Nathalia primary to choose its own design for a new facility at the school rather than forcing it to choose from a template.

By way of background, Nathalia Primary School received a grant of $850 000 in the second round of funding through the federal government's Primary Schools for the 21st Century program (P21). Whilst the school is grateful for the funding, the school council is extremely concerned about the pressure being applied by the Victorian education department in relation to what the money can be used for. The school has been forced to choose its building from a template, and the finished product will be a prefabricated building with two new classrooms which is expected to cost between $500 000 and $650 000.

Not only is the school being forced to accept a facility that is not exactly what it wants, but it also risks losing between $200 000 and $350 000 of its funding allocation to another school if it chooses the template offered by the Victorian government. The situation also means that local architects and builders are being cut out of the project because the facility on offer to the school is prefabricated in Bendigo.

In addition to the $850 000 grant, the school also received $75 000 funding through the federal government's National School Pride program. The education department is exerting pressure on the school to spend this money on a new toilet block, a proposition which the school council very firmly rejects. Granted, the existing toilet facilities at the school are in a horrendous condition. However, they have been a longstanding maintenance issue for many years and should be addressed through the Victorian government's maintenance funding program.

Nathalia Primary School is more than 100 years old and is in desperate need of extensive upgrades. To that end it is critical that both the $850 000 P21 grant and the $75 000 National School Pride grant be spent wisely to ensure that the school is well placed to meet the future education needs of the surrounding community.

I am aware that the concerns raised by Nathalia Primary School are echoed by many schools across Victoria. I also understand that at least one government primary school facing similar issues to those at Nathalia has now been allowed to choose its own architects and builders to develop a design that will meet its specific needs.

I urge the Victorian education minister to afford the same opportunity to Nathalia Primary School to ensure that it receives the full benefit of the funding allocated to it by the federal government and that it is provided with facilities which will meet the specific needs of the school well into the future.

Narre community learning centre: positive body image grant

Ms GRALEY (Narre Warren South) — The matter that I wish to raise is for the attention of the Minister for Sport, Recreation and Youth Affairs, who I am pleased to see is in the house, and concerns the grants under the Brumby Labor government's Go for Your Life positive body image strategy. The action I seek is that the Narre community learning centre's funding application for $5000 be considered favourably. The positive body image strategy is another fantastic Brumby Labor government initiative which has been designed to fund activities that assist young people to build awareness of positive body image within the wider community.

We have alarming obesity rates in Australia. It was reported in 2006 that Victoria's obesity rate was 17 per cent while the overweight rate was 36.3 per cent. The prevalence of eating disorders is also of concern. Findings from a Victorian adolescent cohort study revealed that 8.8 per cent of female adolescents had an eating disorder. Some advertising that we see on television and in the print media does not assist in reducing this alarming statistic. There is a constant emphasis on diets, body shape and the latest eating fad, miracle cream or 'magic' plastic surgery. The advertising is everywhere. I know that some young people feel bombarded. Sadly, some people, often young women, suffer significant psychological and physical harm.

The project proposed by the Narre community learning centre is very welcome, especially in my electorate where there are thousands of teenagers — more than in most places in Australia. Many of them are dealing with the issues surrounding body image. The Narre community learning centre's initiative aims to increase young people's self-esteem and participation in physical activity as well as promote healthy eating. The centre has applied for $5000 to provide opportunities for young people to implement healthy changes in their lives, to develop a more positive body image and to be more confident about who they are. This will be achieved by running various classes, including in healthy cooking and physical exercise. At the end of the project students will compile a brochure on health and wellbeing for young people which will allow more young people to access vital information targeted especially at them.

The Narre community learning centre is all about developing community through support and learning. I congratulate everyone at the centre for being innovative with this application and ensuring that their programs and services are diverse so that they cater for a large cross-section of the community.

In particular I would like to congratulate the centre's chief executive officer, the enthusiastic Wayne Hewitt, and the youth services manager, Sarah Cairncross. The centre is a valuable part of the community in my electorate and is very deserving of this grant. I ask that the minister consider the Narre community learning centre's funding application in a favourable light.

Planning: Mildura

Mr CRISP (Mildura) — The matter I wish to raise is for the Minister for Planning. The action I seek is for him to allow those who had lodged planning applications prior to the 29 May imposition of the C58 planning scheme amendment in Mildura to be allowed to proceed or be paid compensation.

The minister's C58 sledgehammer to Mildura's kneecaps has been raised previously in this house. Press reports indicate that up to 85 families may have been caught up in the C58 amendment as it currently stands, affecting their dreams and works they have proposed or that are in progress. I understand approximately 15 of these families have not withdrawn their approval applications. I admire their determination, and I call on the minister to either vary C58 in some way to allow applications lodged before 29 May to continue through the planning process or to allow an act of grace payment to compensate those who have been caught up in C58 through no fault of their own.

The mayor of the Mildura Rural City Council has indicated that C58 will trigger a re-evaluation of blocks of land caught up in the amendment, and there is a likelihood that those blocks will be considerably devalued. Most of them have a value of $100 000 or more either as a purchase price or as a result of money being spent on preparing for the construction of a dwelling. The loss in value is not in any way the result of the actions of the owners, but they will suffer the loss. Some may have borrowed to purchase the land, and could face considerable hardship if its value falls below their equity in it.

When the land was purchased for residential purposes it complied with the previous council conditions that applied prior to C58. Many people paid deposits on rooftop solar systems, both voltaic and hot water, most would have paid for the supply of water to the block and some would have paid for blackwater recycling systems. Whatever happens the landowners will lose. The time frames for resolution of the issue are unclear and vary from months to years. I have made much of this issue prior to tonight.

There is considerable concern about what will replace C58. It is possible that even after the Mildura Rural City Council completes its planning amendment those caught up in it may not be able to build. Thus what was hoped to have been an 'interim measure', to use the minister's words, may become a permanent loss for those families that have purchased this land. Dreams have been shattered, and the losses could well be overwhelming. The minister needs to instruct the Mildura Rural City Council or make whatever arrangements are necessary to allow those within the planning system to proceed, or pay up.

Belgrave-Gembrook Road, Gembrook: school crossing

Ms LOBATO (Gembrook) — I raise a matter for the Minister for Roads and Ports. The action I seek is for the minister to investigate measures that will improve safety at the Gembrook Primary School school crossing. The crossing is situated on Belgrave-Gembrook Road and at this time of year users of the road experience low visibility due to regular heavy fog which prohibits a clear view of the crossing. Recently many parents, as well as the crossing supervisor, have expressed to me their concern about the limited visibility. The school community was very pleased with the reduction to 40 kilometres an hour that this government introduced to improve the safety of all of our schoolchildren. The children are well protected by a supervisor, Kristy, but at times recently she has struggled to protect herself from approaching vehicles due to the extreme fog. Sometimes the fog is so thick that visibility extends for only a few metres.

I organised a meeting with representatives of VicRoads and the Shire of Cardinia and met with them on site last week. We spoke about various measures that should be investigated which may increase the visibility of the crossing even in high fog conditions. We discussed the immediate implementation of the new green fluoro signs, as well as the possibility of implementing some flashing light signage on the approach to the crossing. Other measures were suggested that I have subsequently asked VicRoads and the Cardinia shire to investigate.

This government is committed to ensuring the safety of pedestrians and other road users, and this commitment was demonstrated yet again recently at Hoddles Creek Primary School, which is situated on the Gembrook-Launching Place Road in an 80-kilometre-an-hour zone. Previously during school times the speed limit was reduced to 60 kilometres an hour. However, parents, teachers and the principal remained concerned that drivers were not adhering to the reduced speed limit and recently flashing speed limit signage was installed to provide additional safety and great relief to the school community. In closing, the safety of all school communities is of utmost importance to me and to this government. I therefore request that the minister investigate options to improve the safety of the Gembrook Primary School community.

Princes Highway, Sale: intersection upgrades

Mr INGRAM (Gippsland East) — The matter I raise is for the attention of the Minister for Roads and Ports. The action I seek is for the minister and the state government to take responsibility for roads currently managed by the Wellington Shire Council. Those roads are Fulham-Myrtlebank Road out to Fulham and Myrtlebank Road. Currently these roads are used as an unofficial bypass around Sale from Fulham through to the intersection of the Myrtlebank Road and the Princes Highway. Particularly concerning is the Myrtlebank Road intersection with Maffra-Sale Road and the Sale-Heyfield Road intersection with Myrtlebank Road. VicRoads has acknowledged there are some significant safety concerns in this area, and it has upgraded the bookend intersections of Sale-Heyfield Road with the Princes Highway and the Myrtlebank Road with the Princes Highway. Those two intersections have been substantially upgraded.

As I indicated, this is an unofficial bypass and carries a lot of heavy vehicle traffic. In the last couple of years

there has been a major increase in traffic using this route to bypass the traffic lights and roundabouts in Sale. It takes about 10 minutes off the journey for traffic from East Gippsland through to Melbourne on the Princes Highway. With VicRoads, the Wellington Shire Council has been pushing to increase the safety of these areas and to take some of the responsibility for these roads off the shire. The upgrade that is probably the most important is the intersection of Myrtlebank Road with the Maffra-Sale Road, because a large amount of heavy vehicle traffic uses that route and it is an extremely dangerous intersection.

An interesting issue that has arisen recently on these roads relates to people using global positioning system directions. They are diverted through these roads to bypass Sale as the quickest direction from East Gippsland to Melbourne. There are real concerns about the safety of those intersections and the narrowness of some of the roads. For most people travelling from Bairnsdale through to Melbourne this is the easiest and most direct route to use. I repeat that the action I seek is for the state government to take responsibility for investigating the safety issues at those intersections, to look at the opportunities that exist to improve the traffic flow through that bypass and to look at the future planning for those intersections.

Ambulance services: Craigieburn

Ms BEATTIE (Yuroke) — I raise a matter for the urgent attention of the Minister for Health. The action I seek is for the minister to investigate whether the current ambulance service arrangements in Craigieburn are adequate. I raise this matter in response to what I believe is a politically motivated petition being circulated in the Craigieburn area.

I recently met with volunteer Mr Aaron White, the deputy team leader of the Craigieburn and district first response team. Mr White and I discussed the terrific job that he and his 25 team members do in providing emergency ambulance response to the Craigieburn and wider community. Mr White, a 000 police call taker, proudly described the role he plays in protecting the community with the first response team and told me about the great satisfaction he gets from teaching members of his community first aid free of charge.

Mr White also drew my attention to a petition he had received, which is to be tabled in the other place. This petition is agitating for a 24-hour staffed ambulance service in Craigieburn. As members would imagine, I was surprised to find this petition was circulating in my community, given that not one — none; zilch — constituent has contacted my office to raise these concerns. I am aware that in August last year at a community cabinet the minister met with members of the Craigieburn first response team when he announced additional funding for specialised training for all community emergency response teams volunteers across Victoria. The matter relating to ambulance staffing in Craigieburn was raised on this occasion, and the minister indicated then that the government and Ambulance Victoria continually monitor the provision of services and that an increase to a 24-hour staffed station will be on the cards when Ambulance Victoria advises that extra resources are needed for Craigieburn.

I do know that a 24-hour staffed station in Craigieburn would be most warmly welcomed, but it must be noted that the first response team does an absolutely terrific job in providing ambulance first response to the Craigieburn and wider community. I therefore seek an investigation by the Minister for Health into whether or not the current ambulance arrangements in Craigieburn are appropriate. I also offer my congratulations to the Craigieburn and district first response team. I know from members of the community that they do a wonderful job, are on call all the time to attend to community response and are highly respected and most welcome in the local community.

Consumer affairs: Australian National Car Parks Pty Ltd

Mr KOTSIRAS (Bulleen) — I wish to raise a matter for the attention of the Minister for Consumer Affairs. It concerns the behaviour of a company called Australian National Car Parks Pty Ltd. The action I seek from the minister is to investigate this company with a view to protecting Victorians from conduct which preys on vulnerable Victorians, especially those from culturally and linguistically diverse backgrounds.

Recently a constituent who came to see me was concerned, anxious and angry over being asked to pay a fine that he believes he did not deserve. He drove to Brunswick market and parked his car. He told me that he paid for a ticket but a few months later he received a notice in the mail. The heading in the letter reads ‘Notice of intention to sue’ and goes on to say:

> You are advised that the payment notice detailed above remains unpaid. Therefore, full payment is required forthwith.
>
> …
>
> In order to avoid these additional costs of recovery of this debt you must immediately pay the amount $88.00 …

The gentleman said that he is not at fault. However, 12 months later he received another letter from a

company in New South Wales entitled 'Debt recovery division' and dated Wednesday, 3 June 2009. It states:

> I act for Australian National Car Parks Pty Ltd. This company has the responsibility of controlling the Brunswick Market Car Park. Included within their responsibility is to issue payment notices to the owners of vehicles that have failed to adhere to the conditions, as contained in the various signs located throughout the said car park.

Firstly, I ask the minister to advise whether VicRoads has the right to provide personal details to a company in New South Wales. If not, why has VicRoads provided this gentleman's details to this company in New South Wales? Secondly, how can someone prove that they are not responsible 12 months after the event? I would have thought that if this gentleman were at fault, he would have been issued with the infringement notice on his car at the time, as normally happens, and not a few months later. It is very difficult for someone to prove that they are not responsible and do not have to pay an infringement notice.

I ask the minister to investigate this company in New South Wales and to make sure that this does not happen again. I believe this is simply a moneymaking scheme to get some money from vulnerable Victorians and nothing more. It needs urgent attention by this minister. I spoke to the minister about this issue on Tuesday.

Schools: Footscray electorate

Ms THOMSON (Footscray) — I raise a matter for the Minister for Education concerning the SKY High Working Group, which is a group of parents working very hard to get a high school facility of some sort in the region of Seddon, Kingsville and Yarraville. The parents are working extremely hard, doing detailed research and survey work to prepare a case in support of further secondary school services for students from this area. They are very committed to achieving this for their kids. I want to commend them for the way they have diligently gone about bringing together the statistics and information to mount a case for such a school.

The member for Williamstown and I have been working closely with the SKY High Working Group since 2007, and my colleague in the other place Martin Pakula, the Minister for Industry and Trade, has also been part of the work that we have done to try to support the group in gaining access to the government and also to information.

Along with looking at detailed planning and population projections, the group has undertaken a survey of local parents of young children who may potentially send their children to a school such as this. The report states that an increase in young families moving into this local area has led to increasing community demand for a secondary school to service the needs of local residents.

There was a local secondary school in that area until 1996 when former Premier Jeff Kennett decided to close it. This community is bemoaning the fact that it has lost the school that it once had.

Honourable members interjecting.

Ms THOMSON — Yes, I wonder who the agent was. I do not know whether Baillieu Knight Frank goes out to the west, though.

Whilst there are three excellent public primary schools in the SKY area, there is no secondary school within a 4 to 5-kilometre radius. The report canvasses a number of options, including the establishment of a new secondary school for students in years 7 to 12, the expansion of an existing primary school to year 9 and the establishment of a separate junior campus of an existing secondary college.

The action I seek, as requested by the member of Williamstown on behalf of the SKY High Working Group parents, is for the minister to meet with them to discuss their report and to reassess the data from the department to determine whether there is a need for a secondary school within the SKY region.

Responses

Mr ANDREWS (Minister for Health) — I am pleased to provide a response to the member for Yuroke.

Mr Kotsiras interjected.

Mr ANDREWS — I know the honourable member for Bulleen is deeply interested in these matters, being very committed to providing support to volunteers, who in turn provide support to those who are seriously injured. The member for Yuroke is an effective and passionate local member and a strong supporter of volunteers in her local community, particularly in relation to the Craigieburn CERT (community emergency response team), otherwise known as the Craigieburn and district first response team. I understand and appreciate the support that the member for Yuroke has provided to that group, and it is worthy of that support.

I have as an observer seen firsthand the work it does. I visited there, which the honourable member alluded to, as part of the government's community cabinet program in August last year. I met with many of the

volunteers, and they do an outstanding job. They need to know that their government, their Parliament and their local member acknowledges the work that they do; it is valued by us, but, most importantly, it is valued by the community which they so faithfully and professionally serve. We are always looking for ways that we can continue to support them in that important work — not just that CERT team and not just that first responder but indeed all first responders across the whole state.

As the member for Yuroke and other members would know, there are 580 CERT volunteers who provide important first responder efforts and capability and attend around 2000 patients each year. They are a very important part of our pre-hospital emergency care and transport system, and that was clearly demonstrated during the Black Saturday bushfires. As part of the Minister for Health's health volunteer awards, members of the Kinglake CERT recently won a special award for their bravery, for their absolute commitment and for their passion and dedicated service. They received the award for their efforts in and around the Black Saturday bushfires. But whether it is the Craigieburn team, the Kinglake team or any of the many other CERT teams that are made up of hundreds of volunteers across the state, they do a fantastic job, and it is important that we acknowledge that.

As the honourable member alluded to and as honourable members know, as a government we proudly support our ambulance paramedics and their partners in local communities, including with the best part of $186 million last year. Melbourne's north has appropriately shared in that funding, whether it be through upgrades at Coolaroo, Broadmeadows or Epping ambulance stations or at other ambulance stations, or whether it be in the form of physical infrastructure, such as the new Craigieburn ambulance station, which was opened and supported by this government.

Mr Ingram — Paynesville.

Mr ANDREWS — The member for Gippsland East mentions the Paynesville ambulance branch. What a proud day it was when I attended at Paynesville. Hundreds of local residents formed part of a great community partnership; an auxiliary that had raised $200 000 with support from this Labor government. It was a great day for Paynesville.

We are proud of our partnership with and our ongoing work in supporting our ambulance paramedics and in turn in supporting those who work closely with them, because it is about supporting vulnerable members of the Victorian community. These important basic services have never at any other time in the state's history received the level of support they receive today.

The member for Yuroke asked that I seek from Ambulance Victoria a review of the appropriateness of the arrangements that are in place in her local community. I am more than happy to do that. I will refer this matter to the chief executive officer of the ambulance service, and I am sure he will provide me with advice. What I can say, and it was alluded to in the comments of the member for Yuroke, is that Ambulance Victoria, properly and appropriately administering its charter, monitors caseload and caseload growth every single day. It monitors the work of ambulance paramedics and its other partners. Again, appropriate resource decisions and allocations are made based on caseloads and trends and on making sure that we provide the best possible response to the largest number of Victorians — indeed, to every single Victorian.

The member for Yuroke can be absolutely confident that her passionate representations on these issues have been heard. I will forward these matters to Ambulance Victoria. I am confident that it will provide a response to me, and through me to the member. The member for Yuroke's local community can not only be proud of the work that the first responders do but also confident that their work is acknowledged by Ambulance Victoria, acknowledged by me as the minister and acknowledged by this Parliament. Most importantly, they can be confident it is acknowledged by the community they serve so very well.

Mr MERLINO (Minister for Sport, Recreation and Youth Affairs) — The member for Narre Warren South raised a matter relating to the Brumby government's positive body image (PBI) community grants, specifically an application by the Narre community learning centre for a PBI grant. I know the member for Narre Warren South is passionate about issues affecting young people in her community, which is a particularly fast-growing community in the city of Casey in her electorate.

These positive body image grants are part of the Brumby government's $2.1 million Go for Your Life positive body image strategy. I am proud of the fact that we are the only government in the nation that continues to put resources into dealing with this quite serious issue. Negative body image consistently rates as a significant issue for young people across the nation. It can lead to low self-esteem in young people, but even more seriously it can lead to eating disorders, depression and worse. This is a very difficult battle.

Young people today are bombarded with images. They would probably see more images in a couple of weeks than members of previous generations would have seen in their lifetimes. The vast majority of the images they see are digitally altered, often portraying unachievable and unrealistic images.

We have done a number of things in this space. We have in place the voluntary media code of conduct, and we have established a community advisory committee on body image, led by Nicole Livingstone. I am pleased to say that the federal government is going to build on Victoria's very good work and leadership on this issue and focus on body image at the national level. I welcome that and look forward to working in partnership with the commonwealth government.

Part of our strategy is where we began — the community grants program. These grants are provided for projects that support young people to be positive and confident about their body image and to be involved in a range of healthy eating and physical activities. I am pleased to hear the detail of Narre community learning centre's application and what it intends to do, if successful. I can assure the member for Narre Warren South that I will give that application strong consideration. I thank the member again for her excellent work in her community.

The member for Ferntree Gully raised a matter for the Minister for Police and Emergency Services; the members for Geelong, Gembrook and Gippsland East raised matters for the Minister for Roads and Ports; the members for Rodney and Footscray raised matters for the Minister for Education; the member for Mildura raised a matter for the Minister for Planning; and the member for Bulleen raised a matter for the Minister for Consumer Affairs. I will ensure the relevant ministers take action on those issues.

The ACTING SPEAKER (**Mr Nardella**) — Order! The house is now adjourned.

House adjourned 10.37 p.m.