PARLIAMENT OF VICTORIA

PARLIAMENTARY DEBATES (HANSARD)

LEGISLATIVE ASSEMBLY

FIFTY-SIXTH PARLIAMENT

FIRST SESSION

Wednesday, 8 October 2008

(Extract from book 13)

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

By authority of the Victorian Government Printer

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Parliamentary Services — Secretary: Dr S. O'Kane

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FIFTY-SIXTH PARLIAMENT — FIRST SESSION

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Deputy Speaker: Ms A. P. BARKER

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The Hon. S. P. BRACKS (to 30 July 2007)

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The Hon. J. W. THWAITES (to 30 July 2007)

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Mr P. J. RYAN

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

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Crisp, Mr Peter Laurence	Mildura	Nats	O'Brien, Mr Michael Anthony	Malvern	LP
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Herbert, Mr Steven Ralph	Eltham	ALP	Sykes, Dr William Everett	Benalla	Nats
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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

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Wednesday, 8 October 2008

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 and 204 to 208 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.

PETITIONS

Following petitions presented to house:

Driver Education Centre of Australia: Careful Cobber program

To the Legislative Assembly of Victoria:

The petition of residents of Victoria draws to the attention of the house the decision to cut funding for the Careful Cobber program at the Driver Education Centre Australia, Shepparton.

The petitioners register their opposition to the decision on the basis that this is an extremely important practical driver education program which teaches primary school students the importance of road safety and how to share the road responsibly.

The petitioners therefore request that the Legislative Assembly of Victoria call on the state government to reinstate funding for the Careful Cobber program.

By Mrs POWELL (Shepparton) (1356 signatures)

Water: north–south pipeline

To the Legislative Assembly of Victoria:

This petition of residents of Victoria draws to the attention of the house the proposal to develop a pipeline which would take water from the Goulburn Valley and pump it to Melbourne.

The petitioners register their opposition to the project on the basis that it will effectively transfer the region's wealth to Melbourne, have a negative impact on the local environment, and lead to further water being taken from the region in the future. The petitioners commit to the principle that water savings which are made in the Murray–Darling Basin should remain in the MDB. The petitioners therefore request that the Legislative Assembly of Victoria rejects the proposal and calls on the state government to address Melbourne's water supply needs by investing in desalination, recycling and capturing stormwater.

By Mrs POWELL (Shepparton) (151 signatures)

Water: north–south pipeline

To the Legislative Assembly of Victoria:

This petition of residents of Victoria draws to the attention of the house the proposal to construct a pipeline to take water from the Goulburn Valley to Melbourne.

The petitioners register their opposition to the project on the basis that any water savings achieved by irrigation modernisation in the Goulburn Murray irrigation system should be retained in that system for use by communities and for environmental flows and not piped over the Great Dividing Range to Melbourne.

The petitioners therefore request that the Legislative Assembly of Victoria reject the proposal to build the pipe and call on the state government to invest in other measures to increase Melbourne's water supply, such as recycled water and stormwater capture for industry, parks and gardens.

By Mrs POWELL (Shepparton) (16 signatures)

Tabled.

Ordered that petitions presented by honourable member for Shepparton be considered next day on motion of Mrs POWELL (Shepparton).

DOCUMENT

Tabled by Clerk:

Subordinate Legislation Act 1994 — Minister's exemption certificate in relation to Statutory Rule 98.

MEMBERS STATEMENTS

Youth Foundations Victoria

Ms NEVILLE (Minister for Mental Health) — It was a great pleasure to be part of Youth Foundations Victoria's grants presentations at the Bellarine living and learning centre in Whittington recently. The YFV initiative is a partnership between the state government, the Bendigo Bank and young people in local communities, assisting them to develop leadership skills and setting up projects to support other young people within their communities.

It was a special occasion with a number of Geelong Football Club and other Geelong sporting identities on hand to present the awards. Grants were awarded to seven innovative projects that will encourage young people to actively participate in their communities. It was a particularly exciting night for the members of the TRICKY committee. TRICKY stands for Together

with Respect we can Improve Community Knowledge of Youth. TRICKY is YFV's young people's action committee in the local areas of Whittington, Newcomb and Thomson.

Congratulations to all those involved in developing the successful projects: Yvonne Miller, Bellarine living and learning centre; Jan Jones and Wendy Lewis, Girl Guides Victoria; TeRangi Matthews and Jake Barjasic, Glastonbury Child and Family Services; Tori Matthews-Osman, Newcomb Secondary College; and Jonathon Steele and Braydn Suhan, Barwon Adolescent Task Force. Congratulations also to the members of the local partnership group, BacLinks, Barwon Adolescent Task Force, Bethany Community Support, City of Greater Geelong, Glastonbury Child and Family Services, Newcomb Secondary College and lead agency JOLT Group Training, which will continue to work with the committee to provide further grants into the future.

Sir John Young

Mr McINTOSH (Kew) — It is with profound sadness that I note the passing of John Young, a distinguished servant of the people of Victoria. The Honourable Sir John McIntosh Young, AC, KCMG, QC, passed away on Monday, aged 88. He was the husband of the late Lady Elizabeth Young; father to Jenny, Tim and Trish; grandfather; scholar; soldier; associate to Sir Owen Dixon, Chief Justice of the High Court; barrister; author of definitive company law text books; Queen's Council; law lecturer, Chief Justice of the Supreme Court of Victoria from 1974 to 1991; Lieutenant-Governor of Victoria; Acting Governor; and a great servant of Victoria. It is also worth noting that he served Victorians in a number of other important roles such as chairman of the bar council, chairman of the police board, president of the law foundation, chief scout and honorary colonel of a number of regiments.

It was my great privilege to serve as an associate to such a paragon of the Supreme Court. In the all-too-brief 12 months I worked with him he always presided over a courtroom that never deviated from dispensing justice with courtesy, wisdom and compassion. It simply could never get any better than that. He really was the chief justice from central casting. My sincere condolences to his family.

The Nationals: policies

Ms ALLAN (Minister for Regional and Rural Development) — There were predictions that when The Nationals sold out its own people as it jumped back into a coalition with the Liberal Party earlier this year that this was a rerun of the 1990s — a rerun of the seven years that The Nationals spent in government with the Liberal Party that resulted in the closure of 178 country schools, 12 country hospitals and 6 country rail lines. We had seven years of harsh cuts and the slashing of services across regional and rural Victoria. Thousands of teachers and nurses were also sacked from our schools and hospitals during that time. And to add insult to injury the former Premier, Jeff Kennett, called country Victoria the toenails of the state, and there was not a word of response from The Nationals. In selling out to the Liberals, The Nationals have tried to pull the wool over people's eyes. Members of The Nationals have tried to make out that things were going to be different this time, that they would not be the lap-dogs of the Liberal Party. It seems that a leopard does not change its spots.

The *Weekly Times* has given voice to the suspicion, which is widely held, about The Nationals in country Victoria. Last week in its editorial about the flips and backflips that have gone on over water, the *Weekly Times* asked:

> The key question now is, will The Nationals make a stand?
>
> The answer is no.
>
> It seems old habits die hard when it comes to The Nationals in coalition with the Liberals.
>
> As happened in the days of the former Kennett government, The Nationals are once again being forced into an embarrassing compromise.

Sir Albert Dunstan

Mr WALSH (Swan Hill) — Last night, with the hanging of the portrait of Steve Bracks in Queen's Hall, former Country Party Premier Sir Albert Dunstan's portrait was dispatched to wherever they are taken after their time in Queen's Hall. Sir Albert Dunstan lived in or represented parts of what is now the electorate of Swan Hill for nearly all his life.

Born at Donald East in 1882, he was the 10th son and 13th child of Thomas and Sarah Dunstan. He was educated at the local primary school before taking up wheat growing at Cope Cope. Apart from a brief stint in Queensland, he then farmed at Goschen, near Swan Hill, Culgoa, and finally he ran a sheep property at Kamarooka, near Bendigo. It was there he became active in the Victorian Farmers Union and entered Parliament as the Victorian Farmers Union member for Eaglehawk in 1920. The electorate was renamed Korong-Eaglehawk in 1926 and then Korong in 1944. Sir Albert was the member for 30 years.

He entered cabinet in 1932 as part of the United Party-Country Party government and was then Country Party Premier from 1935 to 1943, forming a minority government relying on Labor Party support at a time when the Labor Party obviously cared about country Victoria more than it does now. Sir Albert was not only Premier, he was also Treasurer, Solicitor-General and Minister of Decentralisation during his reign. Two important acts for which he was responsible were moving the Royal Melbourne Hospital to Parkville and the sale of Crown land at Fishermans Bend to General Motors, as it then was.

The SPEAKER — Order! For the member's information, former Premier Dunstan's portrait is hanging in the Premier's corridor.

Netball: state awards

Ms MARSHALL (Forest Hill) — On Saturday, 4 October, I was pleased to represent the Minister for Sport, Recreation and Youth Affairs at Netball Victoria's 2008 state awards at the Crown Casino. Since 2005 the Brumby government has invested more than $7.2 million through our country football and netball program towards upgraded facilities in rural and regional Victoria, with the aim of developing not only Victoria's netball talent on the field but that of coaches and administrators as well.

Netball is the no. 1 participation sport in Victoria for females, with over 100 000 registered players in the state. This number does not include the tens of thousands of Victorian schoolchildren who participate in netball each year. Netball can be played by someone who is aged 8 or 80, and in saying that, I am sure there are also people who fall outside that guide who participate.

The awards I was asked to present were the association development awards, which recognise associations which demonstrate exemplary management practices and are committed to better meeting the needs of their members. In the large association category the winner was Warrnambool City Netball Association; and for the small association the winner was Colac Night Netball Association. On the night, entered into the Netball Victoria hall of fame were Norma Plummer and Debra Armstrong, and Liz Boniello and Bianca Chatfield were made Legends of the Game. Service awards were made to Barbara Cox.

Many thanks to V/Line for its ongoing support and sponsorship, and special thanks to Jenny Sanchez, president of Netball Victoria, and to Sue Crow, the chief executive officer of Netball Victoria, for their professionalism, guidance and support.

Luke Hodge

Mr MULDER (Polwarth) — I would like to congratulate Luke Hodge of the Hawthorn Football Club, firstly, on being part of the 2008 AFL Grand Final premiership team, and secondly, on being the recipient of the 2008 Norm Smith medal for the most outstanding player in the grand final.

Luke, the son of Leanne and Bryson, hails from my home town of Colac, and he began his football career with the Colac Football Club. He went on to play with the Geelong Falcons, but returned to Colac to be part of the winning side in the 2000 under-18 Hampden league grand final. According to his coach at the time, it was no surprise that he was adjudged best on ground on that day as well.

Luke was the no. 1 selection in the 2001 Australian Football League draft for the Hawthorn Football Club, starting in the reserves at Box Hill. In 2002 he was a rising star nominee, in 2005 he was voted all Australian half-back flanker and finished equal seventh in the Brownlow count. In 2005 he announced his arrival as an elite footballer with an outstanding season, followed up by a similar performance in 2006. In 2007 we began to get a glimpse of the footballer we know today — courageous, tough and uncompromising. His performance in the 2007 elimination final has become the stuff of legends. Returning to the game after injuring his knee, he turned the game with an inspired final quarter.

At 24 years of age, Luke is the future of the Hawthorn Football Club. His courage and leadership skills were there for all to see in both the preliminary final and the grand final and cannot be doubted. Luke is an outstanding role model for all young country footballers who want to live the dream of playing in an AFL Grand Final.

Soccer: Australian Croatian tournament

Mr EREN (Lara) — Last Friday I was very pleased to launch the 34th annual Australian and New Zealand Croatian soccer tournament, which was held at Elcho Park, the home of the North Geelong Warriors who hosted the event in my electorate.

This tournament was played over three days, with the final played on Sunday. In the limited time I have available to present my statement I would like to acknowledge the following people for making this soccer tournament so successful: Stan Demo, Branco

Matijevic, Ivan Vuletic, Father Stjepan Gnjec, Michael Furjanic, Joe Pavlovic, Paul Saric and of course all the participants and officials involved. With over 40 teams taking part and over 1000 players and officials, not to mention supporters, spectators and families coming from all across Australia and New Zealand, it was certainly the biggest game in town. This year's final was played between two Victorian teams, St Albans and Melbourne Knights, with St Albans winning the competition in front of 3000 spectators.

I congratulate all involved with this sporting event. Organising a massive event like this is a mammoth task, and I know the organising committee spent months preparing for this event. It has done a great job and deserves a pat on the back.

Nepean electorate: health services

Mr DIXON (Nepean) — Health is falling apart in this state. This government has had record amounts of income from the GST and its own taxes, and yet our health system has so little to show for this in terms of performance, improvement and outcomes.

Take, for example, Frankston Hospital, which though up to 55 kilometres away from some parts of my electorate, is the nearest acute hospital to my electorate. Frankston Hospital failed six out of nine of the government's benchmarks. Over the past 12 months there has been a 36 per cent increase in the number of patients waiting more than 8 hours on an emergency department trolley. Nearly 500 more patients than the number of patients 12 months ago are waiting more than 4 hours in an emergency department before being treated. There has been a 67 per cent increase in 12 months in patients on the waiting list for more than one year. Even with growth there have been less patients admitted in 2007–08 than in the previous year. Finally, in the last 12 months there has been a decline in the percentage of urgent patients seen in 30 minutes with a slip from 65 per cent to 56 per cent.

The house would also be aware of the closure of Rosebud Hospital's maternity ward last year, an issue I have raised on a number of occasions. Following the closure mothers have had to travel to Frankston to have their babies. In September another baby was born on the road to Frankston — a common occurrence now. While there are some new services at Rosebud Hospital, the maternity ward is sorely missed.

Diabetes: fundraising walk

Ms MUNT (Mordialloc) — At 11.00 a.m. this Sunday, 12 October, I will be walking around Albert Park Lake in the walk to cure diabetes — a fundraiser to raise money for research into finding a cure for diabetes. A few weeks ago I was privileged to meet Billie, who is in grade 2 at one of my local primary schools, and her mum, Nicky. They came to my office to ask for my support for the walk. I feel privileged to be given the opportunity by Billie and her mum, Nicky, to support this very worthwhile cause.

Billie is a remarkable young girl and her mum, Nicky, is also a remarkable support for her. As Billie said in the local paper:

> For my birthday this year I wished to be a fairy so that I could magically cure diabetes … It didn't come true.

The article also states:

> At 1.00 a.m. when most little girls are sound asleep, seven-year-old Billie … is being fed jelly beans so she won't fall into a coma.

But she is remarkably brave. She has a pump that provides her with insulin. She suffers type 2 juvenile diabetes, which afflicts a number of children in our community. I am looking forward to walking with Billie and Nicky on Sunday, and I urge all other members of the house to also give their support.

Drought: government assistance

Mr JASPER (Murray Valley) — With the continuing dry and drought conditions in most of country Victoria this government must act immediately to provide a package of assistance measures for the farming community. The federal government has already confirmed continuing drought declarations for most municipalities in the country areas of the state. The Victorian government appears to be procrastinating in its declaration of a range of assistance to be provided for stressed primary producers. The lack of general rain and the low levels of our water storages are adding to the difficult conditions with many farmers in the crop-growing areas facing another failed season.

If we add to this the slowing economy and the world financial crisis, there is a growing lack of confidence in the future and an air of doom and gloom. The Minister for Agriculture must act now and confirm finance and other assistance measures for the struggling farming community. The minister must announce a continuation of the successful municipal rate subsidy scheme which was introduced in 2005, with rate subsidies of up to 50 per cent. In the Shire of Moira approximately 1000 property owners in 2007–08 received rate subsidies totalling around $840 000; in the Shire of Indigo approximately 175 farmers received rate subsidies of over $100 000; and in the Rural City of

Wangaratta 310 primary producers received rate subsidies of approximately $212 000. Farm ratepayers are demanding action now. I call on the state government to stop procrastinating and immediately assist this financially strapped and desperate section of the Victorian community.

Cr Peter Stephenson and Cr Chris Kelly

Mr SCOTT (Preston) — Today I rise to honour the contribution of two councillors in my electorate who have announced that they are retiring from the City of Darebin at the next council elections. The current mayor, Cr Peter Stephenson, and the former mayor, Cr Chris Kelly, have both announced that they will retire. They have both served the community with distinction. Cr Stephenson has had a particular focus on youth affairs, reflecting his previous work as a youth worker and having great regard for the need to provide educational opportunities in working with the local learning and employment network, and he has been an exemplary example of someone who puts good public policy above populism in local government. Cr Kelly has had a strong commitment to the disability sector, working hard to ensure that all persons in the city of Darebin have an equal share in the ability to enjoy life. Both councillors have served their community well; both have had a strong connection to their local community, working hard with community groups, businesses and residents to ensure that the city of Darebin is vibrant and a wonderful place to live. They have made a great contribution, and I am pleased to honour that contribution here today.

Roads: Doncaster electorate

Ms WOOLDRIDGE (Doncaster) — I rise to condemn the Brumby government for its failure to upgrade two major state roads in Doncaster. Both King Street and Springvale Road have recently been independently reviewed and found to be seriously wanting, yet all we have had from this government is inaction. Last November in this Parliament I requested that the Minister for Roads and Ports immediately fund the full upgrade of King Street after the safety audit found 71 road safety deficiencies, 70 per cent of which are the responsibility of VicRoads. Now a further report on Springvale Road between Mitcham and Reynolds roads suggests 41 remedial actions need to be taken to improve safety, 33 of which fall under VicRoads jurisdiction.

King Street has been likened by residents to being similar to a third world country, with deep open drains, unmade footpaths and low visibility. Springvale Road has roadside hazards, including power poles and overhanging trees, lack of continuous footpaths, restricted space for turning or overtaking vehicles, steep drains, no bicycle lanes and a lack of built kerbs representing safety concerns. Recently the Royal Automobile Club of Victoria estimated it would cost up to $58 million to completely reconstruct both these roads, and the cost increases by about 7 per cent every year the government fails to invest in them. Doncaster residents want and need to know this government is serious about road safety and should provide the funds to fix the glaring deficiencies in King Street and Springvale Road.

Victoria Police Blue Ribbon Foundation

Mr NOONAN (Williamstown) — I rise to pay tribute to the Victoria Police Blue Ribbon Foundation for its work in perpetuating the memories of those members of Victoria Police who have lost their lives in the line of duty. It has been 20 years since constables Steven Tynan and Damian Eyre tragically lost their lives in Walsh Street, South Yarra, on Wednesday, 12 October 1988. Melbourne had rarely seen violence on this level before and justifiably the public rallied behind its police force and the families of the murdered officers. This was not just the killing of two police officers; it was an assault on the whole community and our system of law and order.

Such was the outpouring of grief and support that people came together to launch an appeal in memory of the two officers, which was widely supported by the community. This was the forerunner to the formation of the Tynan-Eyre Memorial Foundation which then evolved into the Victoria Police Blue Ribbon Foundation in 1988. Then 10 years later, following the murders of Sergeant Gary Silk and Senior Constable Rodney Miller at Moorabbin, the public responded again by creating Blue Ribbon Day, which now occurs in late September each year. Through the community's generosity the foundation has been able to raise significant funds to open new and improved emergency facilities in public hospitals across Victoria. In doing so, they have also been able to perpetuate the memories of those police officers killed in the line of duty by having those hospital facilities named in their honour.

Economy: performance

Mr WELLS (Scoresby) — This statement condemns the Brumby state Labor government for its incompetent management of the Victorian economy. Australian Bureau of Statistics (ABS) data released recently again confirms that the fundamentals of the Victorian economy are fading significantly. Retail sales in Victoria fell 1 per cent in August and grew by only

2.8 per cent over the last year. Victoria was one of only two states to have a fall in that month. This compares to growth of 0.6 per cent nationally in the month and 3.7 per cent over the last year.

There are other pointers to the long-term deterioration in the Victorian economy. Despite continued claims by the Brumby government about investment in Victoria's infrastructure, this investment is simply not happening on the ground. ABS engineering construction data, which was also released recently, reveals that the amount of infrastructural work done in the state fell 8.4 per cent, with Victoria being one of only two states to see infrastructure investment decline in the quarter. Over the year infrastructure investment fell 5 per cent in Victoria compared to growth of 9.6 per cent nationally. This was the worst result for any state except Tasmania. Many jobs have disappeared in the manufacturing sector over the last month, bringing the total number of publicly announced job cuts in Victoria to more than 5000 so far in 2008. ABS data shows that more than 20 000 manufacturing jobs were lost in Victoria in the last quarter alone. The economy is stalling in a number of crucial areas, but there is no plan and no action, only further delays.

Glenn Proctor

Ms MORAND (Minister for Women's Affairs) — Mount Waverley Secondary College is an outstanding government secondary school in my electorate. I take this opportunity to recognise and thank the outgoing principal, Glenn Proctor, who has left to become principal at Hume Central Secondary College. Glenn was an absolutely outstanding leader for a very long time at Mount Waverley Secondary College, and he will be sorely missed. I wish him very well in his new appointment. I also want to welcome the new principal, Mark Kosach, to the Mount Waverley community and wish him well in his new role at this great school.

Fanny Brownbill

Ms MORAND — This week marks the 60th anniversary of the death of Fanny Brownbill, who was only the third woman and the first Labor woman elected to this Parliament. She was elected in 1938 and held the seat of Geelong for 10 years until 1948. I think it is important to recognise the achievement of such a trailblazing woman, because in the first few years of her time in this Parliament she was here with Ivy Weber, who was the first woman elected in a general election, but after Ivy Weber left in 1943 Fanny Brownbill was on her own between then and 1948 as the only woman in this Parliament. Imagine how challenging that would have been. After Fanny Brownbill left in 1948 it was another 20 years until another woman was elected to this Parliament. I salute Fanny Brownbill for the time that she spent in this Parliament. She was a true trailblazer.

Roads: farm machinery regulation

Mr BLACKWOOD (Narracan) — Last Wednesday evening at the West Gippsland Arts Centre over 400 concerned farmers attended a meeting convened by the agricultural contractors association and supported by the Victorian Farmers Federation and United Dairyfarmers Victoria. The purpose of the meeting was to allow VicRoads representatives an opportunity to hear firsthand from farmers and agricultural contractors about the difficulties they are facing with the new regulations that have been gazetted for the operation of oversized agricultural vehicles and machinery.

Don Hogben from VicRoads at Kew travelled to Warragul for the meeting. This was certainly appreciated by all present, as was the support of local VicRoads staff who were also present. The very clear message from the evening was that trying to regulate farm machinery that travels on public roads using the same regulatory framework as road transport vehicles just will not work. Agricultural machinery must have its own specific set of regulations that are appropriate for maximising public safety with minimal disruption to contracting or farming businesses, which in most cases have their own unique methods of operation. The farming sector must have the flexibility to maximise opportunity during the harvesting season, which can be impacted by weather, contractor availability and seasonal time constraints.

The decision by the Minister for Roads and Ports to impose a moratorium on the enforcement of the new regulations until the end of this silage season is welcomed. This will allow more time for the serious issues identified at last Wednesday night's meeting to be addressed by VicRoads in consultation with contractor and farmer representatives.

Yoshimaro Katsumata

Mr TREZISE (Geelong) — I take this opportunity to mark the life of Mr Yoshimaro Katsumata, a man who dedicated his life to education in both Japan and my electorate of Geelong. Mr Katsumata was born on 8 December 1922 and died on 18 August 2008. The Katsumata family originate from Gotemba City at the foothills of Mount Fuji in Japan. A young Mr Katsumata studied at Chuo Radiotelegraphy Training High School, graduating in 1945. After World

War II Mr Katsumata became a farmer for 11 years. In 1956 he was employed as a mathematics teacher at Numazu girls high school, a job that was the first step in a lifelong journey of dedication to the education of children.

In 1967 Mr Katsumata became the principal of the Gotemba Nishi High School, which was a position he held until retirement. However, Mr Katsumata was far from being retired and over many years he was a board member of many associations and corporations. In recognition of Mr Katsumata's work in the education field he received numerous government and community awards in Japan.

In 1996 at the age of 73 Mr Katsumata fulfilled a lifelong ambition to create a school in Australia to foster true international relations and understanding between students in Japan and Australia. Kardinia International College in Geelong has grown from a school that on its first day had 30 senior students and 5 staff members to one that today employs 200 staff and educates 1700 students. Mr Katsumata is survived by his beloved wife, Kiyoko, three children, nine grandchildren and three great-grandchildren. I can assure Parliament that the world will be poorer for the passing of Yoshimaro Katsumata.

Frankston-Flinders Road: safety

Mr BURGESS (Hastings) — The significant increase in heavy truck movements on Frankston-Flinders Road through Somerville has now reached the point where it presents clear safety and noise disturbance issues. The trucks are predominantly B-double units transporting steel products, gas, supermarket supplies, sea freight containers and petrol. These vehicles are currently accessing Frankston-Flinders Road through the townships of Baxter, Somerville and Tyabb on a 7-day-a-week, 24-hour-a-day basis.

Current roadworks on the Western Port Highway combined with the recent opening of the EastLink tollway are effectively funnelling these heavy vehicles through large residential communities. Safer and more sparsely populated routes exist; unfortunately at this point they are largely being ignored.

The volume, size and weight of the B-double trucks plus the dangerous nature of the goods carried are a definite hazard, particularly at the complex roundabout intersection of Eramosa Road, Grant Road and Frankston-Flinders Road in Somerville. I ask the Minister for Roads and Ports to take immediate action to limit the usage of heavy transport vehicles along this section of Frankston-Flinders Road.

Rail: Bungower level crossing

Mr BURGESS — A very successful public rally was held on Saturday, 20 September, to protest against the lack of boom barriers at the Bungower level crossing in Somerville. I applaud the community's determined fight to have this level crossing upgraded. This tenacious community campaign, supported by Gwen Bates, Donna Young, the *Hastings Leader* newspaper and journalist Louise Clifton-Evans has evidently resulted in the government conceding that it will install boom barriers on five level crossings on the Stony Point line, including the notorious Bungower Road crossing. I say 'evidently' because no-one is quite sure how and when the decision was made or by whom. The statement just mysteriously appeared without even so much as a press release from the minister, who was on holidays in the south of France.

State Emergency Service: Northcote unit

Ms RICHARDSON (Northcote) — People will remember the terrific storm that blew across Melbourne on 2 April this year. It was the biggest storm in over 20 years. Over 5380 calls for assistance were made to the Victoria State Emergency Service from the moment the storm struck. Fairfield and Northcote are notoriously storm-prone suburbs, and it is with feelings of relief and gratitude that people in my electorate regard the local SES unit in Northcote. In the wake of the storm I attended one of the unit's weekly meetings where I met and thanked the many dedicated volunteers who give their time so that we may feel safe and secure in our homes and workplaces. The Northcote unit is the third largest in Melbourne. Ably led by Chris Patton, controller, and Liam Ryan, deputy controller, the volunteers attended to 418 individual requests during and after the storm. Due to the severity of the damage in the area they were still attending tasks eight days later; it was the last unit in Melbourne to hang up its overalls.

In an average year, without major events, it will attend to about 350 calls. These men and women are not paid; the time they give is their own; and they work in some of the most trying and hazardous circumstances imaginable. While most of us are dry and snug in our homes, these volunteers are out in the rain and wind looking after those of us who are suffering misfortune. I cannot thank enough these wonderful men and women who give their time willingly and happily for the rest of us. Our community is not only safer but also richer for their unstinting and dedicated service.

Water: Ballarat supply

Mr HOWARD (Ballarat East) — We of course know that last September we had had unprecedented low rainfall. We also know that the water supply for Ballarat residents is low and a matter of serious concern. But fortunately, due to the foresight of the Brumby Labor government, a decision was taken to complete the goldfields super-pipe connecting Ballarat to Bendigo and then across to Waranga channel. This project was undertaken by Central Highlands Water and completed very efficiently ahead of time so it could come on line in late May this year. This means that water is now flowing back into White Swan Reservoir, lifting the level of Ballarat's water supply from 7 per cent to about 12 per cent now.

But how can we forget that leading up to the last state election the Liberals and The Nationals both decried this plan? They scoffed at it and said, 'We don't need a pipeline to Ballarat. We just need Ballarat to be able to gain access to Geelong's water supply from the Lal Lal Reservoir'. If that plan had been pursued, Ballarat would have been in a dire situation coming into this summer and probably would have had no water. It was great that the Bracks, now Brumby, government was re-elected at the last election, because it will ensure Ballarat's water supply through this summer.

Western Highway–Leakes Road, Plumpton: overpass

Mr NARDELLA (Melton) — I want to congratulate VicRoads and the Minister for Roads and Ports for the construction of the Leakes Road overpass on the Western Highway. It has been completed on time and on budget. It is a terrific project, and my constituents in Melton and Bacchus Marsh really appreciate the extra safety features built into this construction. We have waited a long time, and its completion is to the credit of the late Ian Cowie, who pushed for this, and the Rockbank community.

GRIEVANCES

The DEPUTY SPEAKER — Order! The question is:

That grievances be noted.

Water: Victorian plan

Ms ASHER (Brighton) — I wish to grieve for the Brumby government's abysmal performance on water. We see in Victoria and in Melbourne a failure to secure water supply. It is a principal role of state government to secure water, and one of the failures of this government is that it had done nothing until announcing its so-called plan in 2007.

In 2002 Steve Bracks said that water was the no. 1 issue in the state and appointed a dedicated Minister for Water. That minister did nothing. In 2003 there was a ministerial statement about water, which was a lot of hot air, but again after that, nothing. When we looked for an announcement about water in the 2007 budget we saw nothing. Then the government devised a so-called water plan post budget and announced it in June 2007.

Of course that was far too late. The government could have done a number of things prior to its so-called plan of June 2007. It could have built a dam. It could have built a desalination plant. It could have fixed the leaks in the Melbourne system. It could have recycled more water. It could have looked at stormwater collection.

Mr Nardella — Where?

Ms ASHER — In Melbourne. There are a range of things the government could have done prior to this so-called plan.

I want to touch on the water rationing system that the Labor Party has introduced. We have in Melbourne — and I want to concentrate on Melbourne — a water rationing system which was devised under former Minister for Environment and Conservation, Ms Garbutt. It has a series of four tiers. Under those water restrictions, under that water rationing, there are four industries that have been singled out by this government. First of all, the turf industry has been singled out and 90 per cent of the people in the turf industry have been laid off. The nursery and garden industry also has been singled out by this government, and there has been a significant downturn in that industry as a result of the water rationing regime introduced by the government. The car wash industry has been singled out, as has the swimming pool and spa industry, as a consequence of the government's water rationing, although they have access to a groundwater supply.

But there is a really interesting element of what the government is now running. The other day I heard the Minister for Water argue in the Parliament that one of his solutions, the north–south pipeline, was going to create jobs, which leads me to ask the question: what about the four industries that the government has singled out under its water restriction regime — particularly the turf industry and the nursery industry, which have been very hard hit in terms of employment.

More fundamentally, what about the farmers? If the government wants to do an economic analysis argument of its water solutions, the question needs to be raised: what about the farmers?

What Melburnians need to understand is that even with the so-called water plan which the government released in June 2007 — which was too late — there will still be restrictions; there will still be water rationing in Melbourne. I would draw the house's attention to page 17 of *Our Water Our Future — The Next Stage of the Government's Water Plan*, where it is very clear that water rationing will still occur notwithstanding this so-called plan. I quote:

> If the scenario based on the past three years … is taken as a guide, the new supply will enable Melbourne to move to stage 2 water restrictions by 2010 and progressively move back to low level or no restrictions by 2013.

The government is using this three-year indicator right across the board when it discusses Melbourne, and it has clearly indicated that this water rationing will continue for Melbourne up until 2013. It is no surprise at all that we are arguing that the government should have acted earlier. I note with some concern that the minister in two recent interviews — on the Neil Mitchell show and in the *Sunday Age* — has flagged a new type of water rationing. He has flagged a per capita rationing system in those two interviews. He is flagging a change, which he may or may not announce.

Honourable members interjecting.

Ms ASHER — He is probably floating the idea to see if people are interested. Basically what the minister will say is that you can make considerable savings and you should be able to make a choice based — —

The DEPUTY SPEAKER — Order! I think all the members, except for the member for Narracan, have very loud voices and I would ask them to cease interjecting in that manner. The member for Brighton without assistance.

Ms ASHER — This minister is going to give Melburnians a choice: you can either keep your garden growing or you can smell. He has flagged a per capita restriction on Melburnians should we hit the stage 4 trigger point, and we will obviously stand by and see what happens. Of course there is rationing in crises. W are well aware of the fact there was rationing after the Second World War, but in terms of water we did not need a war, we have just had a Labor government to give us rationing of a basic resource.

I want to move on now to the government's actual late choices regarding its water plan. It announced a very large desalination plant and the north–south pipeline. I refer to the Auditor-General's report *Planning for Water Infrastructure in Victoria*, where it is very clear, according to the Auditor-General, that the government simply thought up this plan in order to try to deal with a crisis rather than having a properly thought through plan. In the foreword of that report, the Auditor-General stated:

> … a $4.9 billion infrastructure plan was quickly developed over a six-month period.

He also stated:

> The lowest recorded inflows to our water shortages in 2006 led to the rapid development —

of this so-called plan. In other words, it was a knee-jerk reaction to the fact that the government had done very, very little previously. At page 31 the Auditor-General also stated:

> The level of rigour applying to the components of the plan varies considerably. For example, the food bowl upgrade costs represent the lowest level of rigour …

The Auditor-General has been very critical of the government's plan. I note also that in a very cynical gesture the government has guaranteed the 75 gigalitres coming down this pipe only for 2010, for the election year. Of course this pipeline has the potential to be a very significant white elephant, and we will obviously see post 2010 what water is available. Clearly even the Auditor-General has indicated that the analysis of the savings lacks rigour.

I know that various people love bringing newspaper articles into the house and quoting from them to bolster their position. But members should not rely just on me saying this is a flawed plan. For the first time in my life I feel motivated to quote the Adelaide *Advertiser* and one particular senator, Nick Xenophon. Nick Xenophon is quoted in an article of 28 September 2008 as saying when he addressed a rally:

> When John Brumby tries to lecture us about responsible water policy, it's a bit like Osama bin Laden calling for world peace.

I find myself in an unusual position. I never thought I would be quoting Senator Nick Xenophon or indeed reading the Adelaide *Advertiser*. He is reported as then going on to specifically refer to the fact that the Victorian Premier:

> … was behind Victoria's proposed north–south pipeline that would suck 75 gigalitres annually from the Murray–Darling Basin.

I also refer to the *Australian Financial Review* of 27 September 2008. It is not just Nick Xenophon who is anti this Premier, it is also the South Australian Premier, Mike Rann. An article of that day states:

> South Australian Premier Mike Rann hit back at Mr Brumby's comments, contrasting his government's efforts to reduce Adelaide's reliance on the Murray River by investing in desalination with Victoria's plan to build a pipeline to take 75 gigalitres from the stressed river for Melbourne.

But it is not just the Labor Premier, Mike Rann, who does not like Mr Brumby, it is also the South Australian Labor Treasurer, Kevin Foley. An article in the Adelaide *Advertiser* of 27 September states:

> … Treasurer Kevin Foley … said Mr Brumby should 'pull his head in'.

What a great quote from a Labor mate. The article reports Mr Foley as saying:

> This is just playing politics. He has been fighting us and the commonwealth for his own parochial interest … We are going to keep taking the fight up to Mr Brumby and get him to do the right thing not just for Victorians but for all Australians.

The point is made that other governments are putting more water into the Murray–Darling Basin and Victoria is the only state trying to take water out.

I also draw to the attention of members the fact that had the government upgraded the eastern treatment plant there would be at least 100 gigalitres of water available from that plant, which is more than the 75 the government is talking about only for 2010. Other governments on an international basis have drought-proofed their cities, but Victoria is lagging behind other Labor states. In Queensland and Tasmania dams have been built. In Perth, for example, a desalination plant has built. Other Labor governments were prepared to act on this water crisis much earlier.

I now want to make a brief reference to the Minister for Water. The Minister for Water instinctively attacks people who oppose his policies. On 21 November 2007 he said that people who were opposed to his plan were 'quasi-terrorists'. The instinctive reaction of the minister and the Premier when someone disagrees with them is to attack. They do not debate or discuss; when someone disagrees with them, they attack. It is a wonder they have not attacked the Auditor-General for making reference to the fact that the north–south pipeline was not rigorous in its planning and was a rushed job to try to give the impression that the government was doing something.

The Minister for Water was initially the Minister for Manufacturing and Export who had absolutely nothing to do. He then became the Minister for Police and Emergency Services, and his crowning glory of achievement in that job was failing to read a briefing note because it contained a spelling error. The briefing note contained a note that 20 000 pages of sensitive police information had been leaked, but the minister said it contained a spelling error and he would not read it. I was watching the motorcycle grand prix on Sunday and I noted that when the Minister for Tourism and Major Events got up to present the award he was booed.

Honourable members interjecting.

Ms ASHER — The Minister for Tourism and Major Events is also the Minister for Water. It is very rare for the minister for tourism to be booed. I make the point that the Premier clearly did not want to go into the electorate of Bass, where that grand prix event was being held. He sent along the minion, the Minister for Tourism and Major Events, and he was booed. I heard on the radio that the minister complained to the grand prix organisers about the booing. He has asked them to stop the booing next year. 'Stop the booing', he said to the organisers. This is the man who wants to be Treasurer — an aspiration I hope is not fulfilled.

The ALP will say and do anything. Prior to the 2006 election it said it would not take water from north of the Great Dividing Range and pipe it to Melbourne. It was a specific election promise. Prior to the 2006 election the ALP said a desalination plant, which was advocated by my side of politics, was a hoax. It said that desalination was a hoax and it would not take water from over the Divide. That is the ALP's record. It is now running around saying the complete reverse. That is a triple backflip with pike, is it not? It is a huge change and a breach of election promises and commentary prior to the election.

I call on the government to cease this project. Quite frankly I call on the Premier to do a cabinet reshuffle and make sure that we get a better Minister for Water, one who can come up with some better plans and some plans that are based on a bit of equity. As I said, the government did nothing from 2002 to 2007. It should have built a dam. It should have built a desalination plant. It should have fixed the leaks in the Melbourne system. It should have had more water available for recycling, and it should have used stormwater more.

Liberal Party: former state director

Mr NARDELLA (Melton) — Today I grieve for the Liberal Party. On 11 May this year the Leader of the Opposition identified a cancerous cell within his own party, which has been actively working to undermine the party leader and a handful of Liberal moderates around him. Today I want to detail to the Parliament how that cancerous cell within the party has not been dealt with but has just shifted and continues to actively work to undermine its leader in this place.

On 12 May this year the *Herald Sun* reported the Leader of the Opposition as having said:

> Their activities are a disgrace …
>
> They're at odds with everything that the Liberal Party stands for, but I don't believe they acted alone.
>
> (They are) a narrow, but deep-seated cell of people who are destroying this party …
>
> It is time to clean house. We have some cancerous elements … and they are destroying the Liberal Party.

Apparently Tony Nutt and Dr Kemp were brought in to excise this cancerous cell from the Liberal Party's Victorian division. Victorians were told that the problem had been fixed and that the disastrous blog affair that we saw in Julian Sheezel's period as state director was a one-off incident with no broader cultural problems in the Liberal Party. Sadly, however, it is my duty to report to the house that this is not the case. Worse still, it is now clear that these problems are spreading from 104 Exhibition Street to the heart of the Victorian division, the federal electoral division of Higgins.

Cultural problems within organisations such as this grow from just a few bad apples but spread aggressively. That is the case here. Ground zero is immediate past state director, Julian Sheezel. Mr Sheezel inherited his propensities from his long-time mentor and ally, disgraced former Queensland senator Santo Santoro. Mr Sheezel's political mentor is Santo Santoro, and that is how this endemic cultural problem was released into the Victorian division of the Liberal Party. Mr Sheezel and Mr Santoro — the Brian Burke of the Liberal Party — were often sighted having long lunches in a certain club on Collins Street during Mr Sheezel's tenure as state director. Mr Santoro had to resign from the Howard federal ministry and the Senate in disgrace after it was discovered that he had made a series of investments in aged-care companies which he was in charge of regulating in the aged-care portfolio.

You would think that this sanction would have been enough for Mr Santoro to realise that these links were now toxic and that he had done enough to damage the good reputations of these companies. However, in his bid to take over Higgins, Julian Sheezel invited Santo Santoro to be his special guest at the latest Higgins 200 Club budget breakfast on 16 May 2008, and the disgraced former aged-care minister bullied a series of managers from the aged-care profession into purchasing seats at this breakfast — companies from the very same industry he was caught red-handed improperly investing in. That the once-powerful Higgins 200 Club, chaired by Peter Bartels, should be brought to such lows is very sad.

While it was useful and amusing for those of us on this side of the chamber to be constantly in receipt of leaked documents and other information from Mr Sheezel over the years, his antics reached extraordinary lows. Many Liberal Party members have surely been wondering what Mr Sheezel achieved as state director other than banking a $1 million plus contract package, losing a few elections, wimping out on a few by-elections and racking up lunch bills on the party's tab, as I said, in a nice club at the end of Collins Street. The one bright spot in the lacklustre Liberal campaign at the last state election was Clem Newton-Brown and his innovative, groundbreaking campaign methods. Why Mr Sheezel pulled resources from that outstanding campaign in Prahran is a mystery to Labor. It was almost as though somebody at 104 Exhibition Street was attempting to ensure that the Leader of the Opposition did not do too well.

Then there was the blogging scandal which occurred under Mr Sheezel's watch. During the blogging scandal a shameful, anti-Semitic email from Susan Chandler emerged. Julian Sheezel advised the media that Ms Chandler had resigned and that had she not resigned, she would have been fired. Sadly I am forced to reveal that this was a blatant and cynical lie. A major Liberal Party supplier under Mr Sheezel was DPA Document Printing Australia Pty Ltd. It received the lucrative contract to print how-to-vote cards in the last federal election and the Kororoit by-election of a couple of months ago.

Immediately on leaving the Liberal Party, Ms Chandler was employed by the company. How it happened and on what basis has now become a matter of open gossip within the Liberal Party. It has been alleged by certain Liberals that Ms Chandler was immediately re-employed by Mr Sheezel through an artificial mechanism. It is alleged that Mr Sheezel organised for DPA Document Printing Australia to place Ms Chandler on its books and to covertly invoice the

Liberal Party for the cost of her wages while continuing to work at the day-to-day direction of the Liberal Party, including right through the recently held Gippsland by-election to this very day. Should this allegation be true, it is a gross insult to Liberal Party members, Victorians and, most importantly, members of Australia's Jewish community, all of whom have been lied to.

Today it is also my sad duty to inform the chamber of a new anonymous blogging scandal apparently linked to Mr Sheezel. I raise the anonymous blog www.fightfirewithfire.blogspot.com. This blog contains a number of fresh attacks on the Leader of the Opposition. An entry on 4 February says it is:

> … time for Ted to show some real leadership

and goes on to accuse the opposition leader of not supporting Andrea Coote as Deputy Leader of the Opposition in the Legislative Council. On 15 November 2006, in the middle of the last election campaign, a blog entry accuses the Leader of the Opposition of not having a clear message, while on 3 November, during the campaign, the blog made it clear that it was thought that the government's advertisements regarding the Leader of the Opposition's financial dealings with the Kennett government were accurate.

Honourable members would know that I do not purport to be Sherlock Holmes, but there are key facts pointing to the identity behind this blog. Let me dive into the murky world of the Collingwood Football Club. Fans of the Pies who regularly attend games often go by nicknames. There is one particularly mad keen fan who goes under the name Driver. Driver is responsible for a set of Blogger.com blogs on Collingwood, including 'Magpies arise — 2005' and 'Pleasure and pain 2006'. A key Sheezel factional ally is a former member for Monash Province, Peter Katsambanis. Indeed Mr Katsambanis's inaugural speech on 14 May 1996, which I had the pleasure of sitting through in the Council, gave special mention to his friend Mr Sheezel, while Mr Sheezel was campaign manager and strategist for Mr Katsambanis's losing campaign in 2002. Mr Katsambanis is also a Collingwood tragic. The fact that he spent most of his tenure as a member of the Legislative Council expressing his love for Nathan Buckley on the Buckley Surfers website is no secret.

I can now reveal that Driver is also revealed by Blogger.com as the author of 'Bracks watch' and 'Fight fire with fire'. In an amazing turn of events, it seems that certain Collingwood fan club members know Mr Katsambanis only by the nickname Driver. Who really is the driver behind 'Fight fire with fire'? Like Fox News, all I can present is the facts: you decide.

Further, it has become apparent that the Young Turks, the group that nearly unseated the shadow Treasurer, the honourable member for Scoresby, from his Liberal party seat in the lead-up to the last election, have now moved to Higgins. The leader of the Young Turks, Dan Feldman, is intimately involved with Mr Sheezel at many levels. Immediately upon Mr Sheezel becoming state director, Dan Feldman was appointed on a commercial basis to replace the previous party solicitor who donated his time. Simultaneously Visits Pty Ltd, of which Mr Dan Feldman has been a company director since 6 September 2001 and which is headed by Mr Feldman's brother, was appointed without tender to run the Liberal headquarters' information technology systems. Mr Feldman and his branch stacks have returned the favour by moving their memberships to Higgins, in an obvious payback for favours granted. They are there as stacked branches in favour of Mr Sheezel's candidacy for Higgins. Has the new state director, Tony Nutt, investigated these contracts? Have they been renewed? If not, is this an admission that they were uncommercial in nature? Has the party held an investigation into the enrolment of the Young Turk branch stacks into Higgins?

It is a truism of democracy that strong governments require strong oppositions. It is clear that the cancerous cells that the Leader of the Opposition spoke of have not been removed. They are growing faster than ever. It is time that the opposition got its house in order. The so-called investigation into the cancerous cells attacking the Leader of the Opposition was clearly a whitewash. The Victorian division of the Liberal Party has its own Santo Santoro. His name is Julian Sheezel. The Liberal Party must acknowledge the cancerous elements led by Mr Sheezel and deal with them or forever remain unelectable.

I now turn to the preselection deal to be confirmed at the special Liberal Party conference that will be held on Sunday. The deal is about saving the neck of one person and one person only — that is, the Leader of the Opposition. It is about protecting his support base in Parliament. It is about protecting his sitting members of Parliament. The 64-page Liberal renewal document confirms that factionalism is rife within the Liberal Party, which has had its membership reduce from a high of 45 000 under Menzies — the glory days — to 14 000 as at the end of last year. To fix this factionalism the report recommends plebiscites for all preselections in the future.

But this sleazy deal, which has just been agreed to and which was reported today, is to protect the Leader of the Opposition and will aid present members of Parliament in their efforts to retain preselection — and those problems have been detailed in this 64-page report. It is okay for those stacking and underhand factionalism methods to remain, because doing so supports the Leader of the Opposition, but all the new candidates will need to undertake this new process.

The Leader of the Opposition has form on this. We just have to look at the coalition deal with The Nationals — and haven't they been in trouble with that? One moment The Nationals are on *Stateline* saying one thing and the next moment it is retracted by the Deputy Leader of the Opposition. It shows he is prepared to do anything. How can you trust a party when it is — —

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

Drought: government assistance

Mr WALSH (Swan Hill) — Today I rise to grieve for all Victorians affected by the ongoing drought, which is not just about the farmers in country Victoria; it is about whole communities. It is about the fact that there is going to be a significant reduction in the cash flow through our country towns and a significant reduction in jobs in our country towns because of the drought. The results of the drought will be felt throughout the whole Victorian economy.

I grieve for the fact that we have a callous Brumby government which, despite all the indicators to the opposite, decided in the May budget that the drought was over. The drought in northern Victoria and parts of Gippsland most definitely was not over in May, and it is most certainly not over now. Treasury Place is obviously a long way from country Victoria when it comes to talking about drought. Treasury Place is also obviously a long way from reality when it comes to dealing with country Victoria.

Everyone in country Victoria is asking how the Brumby government could be so callous in not making allowances for ongoing drought funding in the May budget. Everyone is also asking how the Brumby government could be so financially irresponsible in not making ongoing allowances for drought funding in the budget when it knew, or should have known from all the indicators that were there, that the drought was most definitely not over. The cynics are starting to say, 'Is the Premier holding up an announcement on drought support so that he can use the community cabinet meeting in Horsham as an opportunity or a vehicle to make such an announcement just for cheap political points?'. What we are talking about here is people's lives and people's morale. They need to know the Victorian government cares about them and does not just want to use them as a pawn for a cheap political announcement at a community cabinet meeting at some time in the future. They need to know now.

If we look at the facts around the ongoing drought, we see water allocations for this season in the Murray system are now at 13 per cent; in the Goulburn it is 9 per cent; the Campaspe is at 0 per cent — and it was 0 per cent last year; and the Loddon is at 9 per cent again. There is no dam fill for a large part of the Wimmera-Mallee stock and domestic system. There is a critical shortage of water in northern Victoria.

This year for the first time the indicators are that Melbourne will use more water than the total amount used in northern Victoria to produce food for Victorians, for the rest of Australia and for the world, so there are some frightening statistics out there. The challenge for a lot of irrigators is going to be to find the credit to go and buy water in the market to keep their permanent plantings alive. A couple of weeks ago the South Australian government announced it is putting up $67 million to buy water to assist its growers with permanent plantings to keep them alive. It has started an interstate bidding war for water, and all we hear from the Victorian Premier is a condemnation of his Labor mate in South Australia for wanting to help his growers.

Mr Helper — So you agree with it?

Mr WALSH — No, I do not agree. The government should not — —

The DEPUTY SPEAKER — Order! The minister should not interject across the table, and the member for Swan Hill should not pick up the interjections.

Mr WALSH — I was just going to come to that. Governments should not be in the water market, but now that they are what is the Premier of Victoria going to do to make sure that Victorian growers are not disadvantaged by this decision by his South Australian Labor mate to buy water for the state's growers?

I also grieve for the lack of leadership by the Minister for Agriculture in seeking drought assistance for his portfolio. There is a catchphrase going around Victoria now which says, 'No-Help Helper'. It is spreading like wildfire.

An honourable member — Is that original?

Mr WALSH — That is original — No-Help Helper. Everyone is saying, 'Where is the Minister for Agriculture when it comes to sticking up for his portfolio and arguing in cabinet to get support?'. Or does he just want to be part of the media stunt at the community cabinet when it goes to Horsham to announce drought support?

What we need is a government that is going to show it actually cares. If it is dragged kicking and screaming to giving support, it is hollow support in the end, and the goodwill that has built up over time is destroyed. What we need is timeliness of decision making so that people can make plans with their lives. We need some long-term planning around drought. We need job security for the people who are involved in drought programs. We have some very good people who are on short-term contracts and are working with the community to find other employment because there are no ongoing announcements from the government. The relationship of trust they build up with people who are distressed and in trouble is destroyed, because it has to be rebuilt by the next person who is employed in that job. The corporate memory from those people is lost. We need certainty about what is going to happen into the future.

In recent times a lot has been said in this place about water, but I would also like to draw the attention of the house to the dryland areas, particularly of northern Victoria, where there are hundreds of thousands of acres of crops that will not be harvested this year. It is devastating to drive around northern Victoria now. Many crops there will not be harvested. Last year with the drought some people were fortunate to get enough body mass in their crops to cut them for hay; this year those crops will not even make hay. There will be no grain harvest and no hay harvest for lots of people in northern Victoria. As I said, it is soul destroying to go around that area at the moment. Our prayers go out to those people who do not know how they are going to manage in the forthcoming year.

Keeping up the morale of both individuals and communities is important in these sorts of circumstances. That is why we need a proactive announcement from the Brumby government sooner rather than later, so people know where they are going and are able to plan where they are going.

As anyone who follows the press will know, the costs of agriculture have doubled in the last 12 months. People will not only not have a harvest this year, but somehow they are going to have to find the money — when fertiliser has doubled in price, when chemicals have doubled in price, and when the cost of fuel has increased significantly — to put in another crop next year, and that is going to be a real challenge for a lot of people. Last week I spent a couple of days on an electorate tour, and people were saying to me, 'The banks have been good through this', but they are concerned that with the world financial crisis the banks may be more restrictive in their lending into the future. They need some certainty so they can plan how they are going to finance and put in crops into the future.

Deputy Speaker, you might ask what the federal government has done through this drought. The National Rural Advisory Council (NRAC) was proactive; it made an announcement before federal money ran out, and it rolled over drought support right across northern Victoria before it was due to cease on 30 September. It made sure people had some certainty until the end of March next year and until we knew what was going on with the season, so that people could plan. That is the sort of action that we needed from the Victorian government. Before drought support ran out on 30 June people needed some indication from the government as to what it was going to do in the future. People can deal with things if they have some certainty about what is going on. At the moment we do not have any certainty about what is going on.

There was a hiccup on the road in Gippsland where, without going to Gippsland, NRAC said that the drought was over there. I particularly commend the new federal member for Gippsland for the excellent job he did in raising this whole issue and bringing the federal Minister for Agriculture, Fisheries and Forestry, Tony Burke, to account about it. He also had support from members in this place, including the member for Gippsland South as well as a member for Eastern Victoria Region in the other place, Peter Hall, in making sure that NRAC's hasty decision was reversed. It was pleasing to see an announcement from the federal minister saying that drought support would be ongoing for a large part of Gippsland, particularly East Gippsland shire and a large part of Wellington shire. That is the sort of action we needed from the Victorian government so that people could have certainty as to how they could plan and go forward into the future.

Looking at some of the initiatives that were out there before 30 June for drought assistance and giving credit where credit is due, people have been very supportive of the state government and have said it has done some very good things in drought support, and I will acknowledge that for the Minister for Agriculture, who is at the table. People believe the municipal rate subsidy was a good program. I think in future the rules probably need to be changed so that everyone can access that. Needing to qualify for a health card to be eligible puts

restrictions on who can access that program. The $3000 on-farm productivity grant, when combined with the $20 000 grant from the federal government, was a great initiative. Not only did it get cash flowing through the farm businesses but according to the reports from rural supply businesses, that money went straight back into farm inputs and created employment in country towns.

The rebate on fixed water charges is another initiative that enables cash flow into businesses to allow people to either pay the bills for water that they were not receiving or just keep things ticking over. A program I have had very positive feedback on is the catchment management authority drought employment program. That had a twofold benefit for the community. The program has created employment in the community so that farmers can go and do some work to earn money to supplement their household budgets. Most importantly it has delivered very important environmental works in the community. I have had nothing but positive feedback about that program.

There is a whole range of other drought support mechanisms out there, but what we need — I implore the minister and the Brumby government to do it — is an announcement sooner rather than later so that people can have some certainty. This is about putting certainty back into the community. This is about how we deal with people who are under significant stress, who have dealt with drought for a number of years and who need to be dealt with with compassion. They need to be given some certainty in their lives so that they understand where they are going to go over the next 12 months.

Talking to the relief agencies I hear that the number of food parcels that are now going out has increased. Talking to the schools across my electorate — and I know my colleagues are talking to the schools in their electorates — I hear there are issues around the cost of children going to school. There is the issue of the cost of school uniforms and shoes; as we all know, it costs a lot to clothe a child for school. There is the issue of children not going on school trips because their parents do not have the money to send them. These are the sorts of symptoms we are finding in the community because of the ongoing drought. If you talk to the Salvation Army, St Vinnies or St Luke's, you find that all those organisations say the number of inquiries is increasing.

I implore the government to make a positive announcement on the drought sooner rather than later. It is absolutely critical. To say that the drought ended on 30 June because the budget line item ended then is absolutely wrong. The drought has not finished. This year will be pivotal for a lot of communities in country Victoria in how they get through this situation, how they survive it, and I think this government will be judged on whether it treats those people with compassion and decency and gives them certainty in their lives.

Liberal Party and The Nationals: water policy

Mr HARDMAN (Seymour) — I grieve for the Liberal Party and The Nationals and their dangerous incompetence on water policy. Their policies are incompetent because the position they take on the issue is divided and incoherent. They say different things when speaking to different audiences. They have not provided any real solutions to meeting the critical water needs of Victoria. Furthermore, they cannot even agree within their individual parties on what their policy is, let alone agree on a policy as a coalition.

Mr Weller interjected.

Mr HARDMAN — The incompetence of the Liberals and The Nationals is dangerous, because they have not learnt anything. They are stuck in the past, and that shows in their actions and words. They are playing politics on water. They are stuck on solutions from the last century, such as building dams. They do not understand the size or complexity of the situation we are facing in Victoria.

Mr Weller interjected.

The DEPUTY SPEAKER — Order! The member for Rodney will cease interjecting in that loud manner.

Mr HARDMAN — When backbone is required the best the Liberals and The Nationals can do is a backflip on water policy. Incompetence can be humorous when it does not matter, but we have a serious problem in Victoria.

I could spend a great deal of time today razzing the comical display of the Deputy Leader of the Opposition, the water spokesperson for the Liberal Party, announcing its scorched earth policy of not using the Sugarloaf pipeline to deliver 75 gigalitres of water paid for by Melbourne Water customers through their $300 million contribution to the upgrade of the food bowl irrigation system and ignoring the $750 million investment in the pipeline itself by Victorians. That is totally economically irresponsible. Then the following day the Leader of the Opposition announced that the opposition would break that promise and only take water at times of critical need. Again, that is dangerous because it demonstrates a total lack of understanding of the problem we are facing in Victoria. We do not even know who the water spokesperson is for the Liberal

Party — it could be the member for Swan Hill, it could be the member for Brighton or it could be an *Age* columnist.

The Victorian government would not be undertaking this project unless it was necessary. We on this side, and especially I, understand the political implications of tough decisions like taking water from the north of the Great Dividing Range to south of the Divide. But while we make the tough decisions to secure water for Victoria, the Liberals and The Nationals are interested only in securing votes for themselves. In fact it seems that the only thing they can agree on is that there are votes in this. Victorians ought to be very concerned about this opportunistic attitude of the opposition.

The people of Victoria expect our political leaders to understand the critical problems that are facing this state. Our political opponents to the government's water projects use spin, emotional arguments and half-truths, and they seek to demonise the government — individuals within the government — and others in the community who support our projects to make their case.

I quote from some of the opposition's press releases. The member for Brighton used similar quotes in her speech earlier. Quotes like:

> … 'local farmers, small business operators would struggle to survive in a barren dustbowl while watching their water sucked down … to keep Melbourne's lawns green and wash cars' or the oft-used line 'to flush down Melbourne's toilets'.
>
> It is inaccurate, unfair and cruelly divisive to portray all of Melbourne as water wasters and unfortunately ignores all that the government has done over many years to reduce water usage, recycle and expand our water grid through major infrastructure projects to provide water for communities across Victoria.

The DEPUTY SPEAKER — Order! If the member wishes to quote from a release, I ask that he state where the quote is coming from.

Mr HARDMAN — This is from a letter to the editor that I wrote. It quotes a number of press releases from the opposition which had been published in local papers.

This populism might work now, and indeed it has helped to garner support from Plug the Pipe for the Liberals and The Nationals, but in the end it fails the big test that the people of Victoria are going to ask themselves in 2010: does the alternative government have the solutions, the backbone, the vision and leadership to ensure Victoria has the policies and direction to get us through the tough times? The Liberals and The Nationals do not get the water crisis and do not take it seriously. They see this issue as an opportunity to secure votes for themselves and would rather do that than secure water for all of Victoria.

On desalination, the centrepiece of the Victorian government's solution to the lowest ever inflows to our streams and reservoirs, they campaign and protest as though they have a better place or a better policy. Wonthaggi was chosen because it was environmentally and therefore economically the best place to dispose of the sludge. The desalination plant will provide Melbourne with 150 gigalitres, or one-third, of Melbourne's water needs from non-rainfall-dependent water.

If the Liberals and The Nationals took the time to research and learn about the water situation that we are in right now — the volumes of water that our state requires, the options that are truly available to our state, the amount of water that it can provide to meet our needs which have come about due to the ongoing drought due to climate change — and balanced all of that against the social, environmental and economic impacts and benefits, they would see that the Brumby government has got its water plan right. That is the conclusion I have come to.

I have become convinced more every day as I continue to ask the hard questions of the government, its agencies and the food bowl proponents. I also carefully listen to, digest and question the information — I take it to Melbourne Water, to the Department of Sustainability and Environment and to the minister — of the people who oppose projects, especially the north–south pipeline in my electorate, and who propose alternative solutions. The alternative solutions on their own will not meet the key test of meeting the challenge of water security for Victoria. On their own the alternative solutions will not provide a timely, comprehensive and integrated solution that will protect our economy, restore health to our rivers or breathe life back into rural and regional communities which have been stressed due to unrelenting drought. I have tested many ideas that have been put to me, but none of them mitigate the need to do the projects that the Brumby government has decided to do.

On current projections, based on the last 10 years, Melbourne needs 240 gigalitres of water and we are providing 150 gigalitres of water — non-rainfall-dependent water from the desalination plant — 75 gigalitres of water saved through Melbourne Water's investment in the Sugarloaf interconnector and 15 gigalitres of water from Tarago Reservoir. If we go to a Western Australia situation, we might need more water. We have further plans for 100 gigalitres of water

that will become available from the upgrade of the eastern treatment plant. This water could be for industrial purposes or to replace water, for example, in the Yarra River for environmental purposes. Also we can upgrade the desalination plant by another 50 gigalitres.

Over our time in government we have also been conserving, recycling and capturing water. On the issue of conservation I would like to quote again from one of my letters to the editor, which talks about what our government has been doing. It states that we have been:

> … educating and encouraging people to reduce their water usage and save water. Water savings in Melbourne for 2006–07 were 28 per cent — saving more than 100 billion litres a year — compared to the 1990s. Industry savings were 31 per cent for the same period.

It is very unfair to describe the people of Melbourne, or the people of Victoria, as water wasters. On recycling, again I go back to my letter to the editor:

> … another of the government's major water security strategies — has also seen huge advances. Melbourne is now (2006–07) recycling 22.5 per cent of its total wastewater, as opposed to 4.25 per cent in 1998–99 and regional recycling was up to 29 per cent as at 2005–06.
>
> This has been achieved through investment in and development of new treatment plants across Victoria, with even more projects to come on line, including the eastern treatment plant upgrade which will make available 100 gigalitres of class A water.

On capturing water, we have a $1000 tank rebate for people who connect their water for household needs in the bathroom and laundry. We are doing that as well.

On dams, the Maribyrnong River, which was the Liberal policy, would provide 4 gigalitres of water, but it would hardly provide anywhere near the 240 gigalitres required. The Macalister and Thomson rivers are often put forward by spokespeople for Plug the Pipe and the opposition parties. Those rivers are fully allocated and the area has already upgraded its irrigation system, so few savings would be made.

The Mitchell River — a possible dam site — is now a national park. Other sites would cause significant environmental damage, and this also goes to the combined Plug the Pipe, opposition parties and Greens conglomerate opposition to the pipeline. If we were to develop that site as a dam, we would have the environmental damage when the dam was constructed, we would stress a river that is healthy, and we would cause problems in the Gippsland Lakes as well. I do not see that as an opportunity to have more water. Our reservoirs already have four times the capacity for Melbourne's water needs; the problem is that low rainfall over a long time has resulted in very low water inflows.

In contrast, our projects in northern Victoria will restore health to the Goulburn and Murray rivers by saving up to 175 gigalitres of water through the food bowl modernisation project. That water can be used for either environmental flows in the Goulburn and the Murray or for their stressed wetlands, as well as for the lakes in South Australia. It will provide up to 175 gigalitres of water that can be used for irrigators who are suffering from drought and climate change as well as enabling them, because of the modernisation, to use their water more efficiently and therefore get better value out of their allocation while, importantly, growing more food for our state and the rest of the world.

It will provide a capped 75 gigalitres of water to supply Melbourne, including the towns of Healesville, Yarra Glen, Wallan and Hidden Valley in the electorate of Seymour. Wandong, Kilmore and Heathcote Junction are having their supplies augmented by Melbourne Water at the moment. We are building a pipeline from Tallarook to Broadford to again take stress off the Sunday Creek Reservoir, which has not got the inflows to provide enough water for the towns in the shire of Mitchell that are reliant on that system.

In conclusion, I contrast the government's comprehensive plan and integrated solutions with the opposition's wrong-headed ideas and proposals and its inability to see beyond tomorrow's headlines. The opposition does not have the answers, because it does not understand the question. The opposition's view of the water security challenge is, to its members, part of the political theatre. It is at odds with industry and it fails to understand that we need a strategy that utilises several solutions. In the spring 2008 edition of *Business Excellence* — a magazine everyone has probably got — the senior manager of public affairs for the Victorian Employers Chamber of Commerce and Industry (VECCI), Chris James, said:

> However, based on similar principles to the national electricity market, which has been crucial to Victoria's energy security, a water grid system has the potential to deliver similar benefits in terms of water security with supply directed in a flexible manner to areas of greatest need.
>
> For this reason, VECCI is broadly supportive of pipeline projects. Desalination plants also make practical sense because they provide a completely new source of water not reliant on fickle rainfall.

On water policy The Nationals and the Liberal Party are a joke, but no-one in my electorate or anywhere else in Victoria is actually laughing.

I will respond briefly to the shadow minister for urban water, who talked earlier about industries that have been affected by the government's policies. I talked to members of the Nursery and Garden Industry Association and the Australian Car Wash Association, both of which are full of praise for our government's introduction of stage 3a water restrictions, which saved their jobs and their industries. They are very complimentary of that action.

With regard to the turf industry, the projects we are undertaking will give the turf industry benefits for the future. In the electorate of Seymour there are four major turf farms that will benefit from these projects. In her contribution to the grievance debate the Liberal shadow minister for urban water said the pipeline will be a white elephant because she doubts the savings, but some opposition members say they want the food bowl modernisation project. Members of the opposition should make up their minds, get some backbone and start standing up for all of Victoria rather than trying to win some votes at the next election.

Claims that the Minister for Water attacks people who oppose water projects are absolutely silly. As soon as the opposition member made that claim she began a personal attack — as other opponents from Plug the Pipe also do — on the Minister for Water.

Schools: Catholic sector

Mr DIXON (Nepean) — I grieve for the state of Catholic education in Victoria, and more specifically I mention the recent government offer to Catholic schools announced earlier this week. This minuscule offer is really an insult to the parents who not only pay their taxes but also pay their school fees and give a lot of their time when they make the choice to send their children to Catholic schools. It is also an insult to teachers who teach larger classes in facilities that are not as good as their government school counterparts, even in the same block, and also have fewer programs and other extras that go to make up a good all-round education for young people. And it is also an insult to the children who attend these schools and deserve an equal education system to the one enjoyed by their friends who go to a government school down the road in the same suburb and in the same community.

These people — the parents, the teachers, the principals and the broader community — have campaigned very hard for extra funding from this government and have not let up. They have continued to campaign. I encourage them to do so because they have only been half listened to — not even half listened to, one-tenth listened to — by this government. It is a government that has attempted to buy their silence for the next 12 months. The same arguments were presented to us by all in the broader Catholic school community — by the teachers, the principals, the parents, the school boards and the parish priests, who have all spoken to MPs from all parties in this place. They have put forward their arguments and the facts of the matter. It is the coalition that has actually listened and actually acted.

The government did not listen, would not listen and had to be forced kicking and screaming to the offer it made this week. There are many MPs on the government side who have been quietly urging their government to do something about this, because they looked at the facts and recognised the inequality of what is happening to funding for Catholic schools in Victoria.

Once again, in education policy the coalition is leading and once again the Labor Party has followed. Five hundred Catholic schools throughout the state educate 186 000 Victorian children, which means that more than one in five children in Victoria attends a Catholic school. It is interesting that a petition that has recently been out and about in Catholic schools — it will be presented in this place — calling for a better deal for Catholic education has 50 000 signatures. The 186 000 children in Catholic schools probably represent about 140 000 to 130 000 families. More than one in three families of children in Catholic schools have taken the time and effort to sign this petition. That is an incredible return rate. It sends a very strong message to the government.

What is the government's record on funding Catholic schools? If you listen to the government, you would think their funding was the best in the country. It is not. When you look at what this government is spending per child in terms of funding to Catholic schools in Victoria, you see that according to the latest available figures that have been published, it is $1368 per child in Victoria. The Australian average is $400 per child more than that — that is, $1776. Imagine the difference $400 multiplied by 186 000 would make to our schools. The Victorian figure pales into insignificance when you look at the Queensland figure of $2065 per child. There is an almost $700 difference between the two states. It is another very interesting statistic.

The government likes to say it has increased in percentage terms the amount of money to Catholic schools since it has been in power since 1999. In that year state government funding to Catholic schools accounted for 17.4 per cent of their total income. By 2006 that had slipped to 15.1 per cent. Although the figures for 2008 have not been released, following that

trend and the fact there has been no extra funding, that figure is now 14 per cent. There has been a massive decrease in the actual amount and percentage that this government in real terms has given to Catholic education in this state.

The government has offered $38.9 million. That is broken up into $24.3 million this year and a further $14.6 million next year. It is a good amount of money — you cannot look a gift-horse in the mouth — but it is capital funding. This has to be followed carefully, and it is interesting. The state is giving capital money to the Catholic system so that it can free up the money it is paying for recurrent costs, so it can use its recurrent money to pay for programs in schools, because the biggest need in the schools is actually recurrent funding and those sorts of programs. I will come to that in a moment.

There is this roundabout way of capital funding being redirected through channels to turn into recurrent funding. It raises the question: why do all that? Why go through that whole process when the state government could have just handed recurrent money straight across to the Catholic Education Commission of Victoria to distribute for recurrent means? Is there not enough recurrent funding? The $38.9 million over two years is not a lot of money in the total state budget, in fact the total education budget, and yet this government cannot even find that amount of money. It has had to do it from capital sources through this obscure route so that in the end some recurrent programs in Catholic schools will be able to be met.

Again, look at the numbers: $38.9 million is roughly one-tenth of what is needed and what the coalition policy is. What is the coalition policy? The coalition has promised it would contribute $394 million over four years to meet all the needs of Catholic schools, both recurrent and capital. The main priorities are to pay for the teachers salary increases that have just been approved. There is equity in the pay between teachers in the Catholic system and in the government school system, and it is important that equity is kept. That is the no. 1 priority so we can attract the good teachers and so the teachers will stay and deliver the great work they have been doing.

There are also many needy schools in disadvantaged areas, and many government schools have access to a lot of funds to meet those sorts of needs and to run those sorts of programs. That has been a major priority for Catholic education. They need those special programs, those early intervention programs, those follow-up programs, those social programs, those welfare programs — all the things that needy schools and their students need. I remind the house that the students in the local Catholic primary school are the same as other students; they come from the same community, the same streets, the same neighbourhoods as the children in local government schools.

The government funds only one-third of the costs of students with a disability in a Catholic school as compared to a government school. For example, if a child was in a government school and moved to a Catholic school, funding for their integration aide and their special assistance would actually be reduced by two-thirds. That is incredibly inequitable. We would address that in our policy by doubling the actual amount of funding for students with a disability.

Part of our policy is also to give funding to the Catholic education system to enable Catholic schools to access the fibre-optics that in some towns and suburbs are actually going right past the door and delivering high-capacity, high bandwidth and speeds to government schools. As in the past, and as is the case now, Catholic schools and any non-government schools have to pay extra to connect into that, even though it is going right past their door.

In the coalition policy, money would go towards the costs of meeting the professional development of teachers and principals. If there is one thing we have learnt in the education debate over the last couple of years it is that the thing that makes the biggest difference to the quality of education in our schools is the quality of our teachers. It is not only about attracting the best people but keeping them there and professionally developing them all the way through their career, and not just during the first few years. Our policy includes funding for professional development as well.

The government calls for more and higher compliance and accountability requirements for non-government schools, and there is a cost to that. People have to be employed to do that. It is important to keep that out of the schools so that the teachers and the principals can concentrate on education. People have to be employed in the central offices and the bureaucracy to meet all these compliance costs. If there is no money for it, which is the case now, it means money has to be taken out of schools and directed to the bureaucracy to meet these compliance costs. Part of our policy meets that as well.

Again, there is the issue of capital grants and maintenance. Catholic schools need capital grants and they need maintenance just like government schools do as well. The total needs of the Catholic education

system really are recurrent and not capital. Capital funding is an important part, but it is certainly not the biggest part. The coalition policy meets all of that, unlike the government's meek and poor response to the funding needs.

The government has said — and yesterday the minister said this during question time and the government's media release says this — that since 1999 when it came to power there had been a 72 per cent increase in funding for Catholic schools. That is correct, but the bottom line is that that is actually a drop in real terms, because the rate increase in the cost of education is a conservative 6 per cent compounding each year. From 1999 to 2008, that increase has not met the costs. You can just look at the difference between the income of the government and the costs in education to see that that gap is widening. The government's own figures that I talked about before have not met that percentage drop. In real terms there is a drop in funding. It is dishonest to give only half of the argument and half of the reason behind what the government calls its record that it proudly stands by. It is not a record to be proud of; it is a decrease in funding in real terms.

It was interesting when we announced our policy. None of the education ministers were around — I think they were all overseas at the time — so the Minister for Regional and Rural Development was wheeled out to comment on our policy. She said, 'Of course we are not going to match the funding of Catholic schools; we give them enough money!'. There was no argument on the merits of our policy, and there was no argument or discussion at all about money for students with disabilities, needy schools, maintenance costs, compliance costs or broadband width.

The minister said, 'We have found a black hole; there is a $90 million black hole'. In terms of the $90 million, our policy over four years had to be benchmarked so the government knew what the costs were for the next funding year. We were helping the government. The $90 million amount was put forward. We said that was what was needed and that is what the figure was. We applied the $90 million figure for the 2009–10 year, and then that was increased by the inflation amount for education for the years after that. It is not a black hole. It is the benchmark: it is what is needed by Catholic schools in 2009–10 to meet their basic needs.

We did the same thing when we announced our teacher salary policy, which this government has also followed. The government did not complain about it then. We benchmarked the figure to the next available year so that the benchmark could be set and so that from then on the government and the community knew what the costs were. It was disappointing, again, that we did not even engage in an discussion about educational policy; it was about this supposed black hole which does not exist.

The Minister for Education has again been talking about costings. She said, 'Yes, the costings are out and we want to see the costings. The opposition's costings are all over the place'. I challenge the minister to a costing exercise. I would like her to show the opposition costings, but I am digressing from Catholic education here.

What is the Rudd — I nearly said 'the dud' — digital revolution going to cost education in Victoria, schools in Victoria and parents in Victoria? Who is going to pay for the software, maintenance, training, professional development and rewiring of schools? None of that money is coming from the Rudd government. The minister said that schools are going to meet those costs, that they are fine and they have plenty of money. I would like to see the costings for that policy.

Yesterday during question time the minister also said that she would not copy the coalition's education policy. I would like to remind the minister that it was the coalition which first proposed pay increases for all government school teachers. That policy was then copied by this government. We are the ones who have been talking about performance pay for years. It is only recently that the government has said that that is a good thing; even the unions say that it is inevitable. Technical schools were closed by this government. We put out a policy to bring them back and the government followed. Selective entry schools were brought forward as a policy; the government knocked it and then introduced selective entry schools. We said that kindergartens should be under the Department of Education and Early Childhood Development; the government knocked that, but kindergartens are now under that department. The minister has a cheek to say that she would never copy coalition education policy.

Nillumbik: Diamond Creek stadium

Ms GREEN (Yan Yean) — Today I want to grieve about the inordinate delays and funding blow-outs of the long-awaited sports stadium in Diamond Creek. Local kids in Diamond Creek and in the surrounding district, sporting clubs, including the Diamond Creek Force Netball Association, the Diamond Valley Basketball Association, the Diamond Creek East Primary School and the Diamond Valley College ably supported by Diamond Creek traders have all waited for this project for years. On 24 April 2007 Nillumbik

Shire Council voted to build a stadium with three courts at a cost of $10 million. I said at the time that this was way too much money for a project of this scale, but I committed to work with the council. I also expressed concern about the funding model which proposed that a third of the funds would come from local council, a third would come from the state government and a third would come from the federal government.

I alerted the council at the time that there was no particular state government funding source that offered $3.3 million and that the council was making the delivery of the stadium impossible through such a funding model. However, I said I was committed to working with the council. Despite whatever political differences there may be between the council and the then federal government, I said the only way that such a stadium could be delivered would be if everybody worked together and did not play politics. But, sadly, some of the proponents involved in this project, rather than choosing the honourable path, which would have delivered and built a stadium for the kids of Diamond Creek, have chosen to play politics.

What do we have now? I will give members of the house a bit of a history lesson. I was elected to this place in 2002. In 2003 I noted there had been numerous funding applications by Nillumbik Shire Council to Sport and Recreation Victoria which had been continually unsuccessful despite the high level of sport participation in the shire and the number of elite athletes that come from the area. I took it upon myself and made a commitment to improve the standard of sporting facilities and leisure facilities in my electorate, and in particular within the shire of Nillumbik.

In 2003, as part of my commitment to improve this situation, I led a high-level delegation of Nillumbik Shire Council representatives, including councillors and the then chief executive officer, to meet with Justin Madden, who was then the Minister for Sport and Recreation, and senior departmental officials from Sport and Recreation Victoria to discuss how Nillumbik could improve its success rate for both major and minor facilities grants. At that meeting the Sport and Recreation Victoria officers indicated that in their view the quality of submissions from Nillumbik had been poor. The meeting concluded with all sides committed to a greater level of success through the grants process.

Following that meeting, my parliamentary colleague the member for Eltham and I have continued to advocate strongly in favour of improved sporting facilities, and we have secured a range of funds, including funding from State and Regional Development Victoria, for a multipurpose facility at Panton Hill, now used for football, cricket and community use. I have also worked hard on obtaining funding commitments for major capital projects at the Greensborough Hockey Club. In 2003, during the time of the previous council, I indicated my commitment to a major indoor sports centre in Diamond Creek. As part of the forward planning for this, I was able to secure sport and recreation funds for council comprising $20 000 for a leisure facility plan for Diamond Creek in the 2004–05 financial year.

Some years after that time I found the need to write to council again, because there had been a number of funding applications that had been successful, but council had shown an inability to deliver. I wrote to them in 2005 because I was concerned that Nillumbik would again find itself in the situation of having unsuccessful applications if they could not prove that they could deliver projects on time and on budget.

That is the background on why I was concerned that council would have gone down the path of funding $10 million for a three-court sporting stadium. As I said, I was absolutely committed to it, but very concerned from the outset that it was $10 million for only three courts, because we have seen other examples of stadiums that have been built in the region in the last four to five years, including a netball stadium at Macleod which was built jointly by the netball associations and project managed by the city of Banyule at a cost of $5 million for four courts. Currently under construction in the local area is a new stadium based at Montmorency Secondary College which will be used by the Eltham Wildcats, and I know my colleague the member for Eltham has been a strong advocate for that. That will be a two-court facility at a cost of $4 million, so I reiterate that I do not understand why the community of Diamond Creek and the community of Nillumbik are saddled up with a $10 million stadium with only three courts.

I also note that across the metropolitan area in the Cardinia municipality they have been able to build a four-court extension to an existing facility for $5 million, so imagine my disgust and concern when the Nillumbik council recently issued a press release that said costs had further blown out for a stadium on land at the Diamond Valley College. The original three-court project was costed at $10 million in April 2007 and has now blown out to $13.7 million for three courts. This is absolutely ridiculous, and there has been no reason given. Quite a bit of funding has been committed. The council itself has committed $3.3 million; $3.5 million has been committed by the federal government; and the maximum amount which

is available from Sport and Recreation Victoria of $500 000 has been committed. In total we have got $7.3 million plus the value of the land, which is about $1 million, so we are looking at something in the vicinity of $7 million to $8 million that has actually been secured.

I put it to this house and to the Diamond Creek community that with $7 million to $8 million, given what other councils across Melbourne and in the neighbourhood are able to do, there is no reason why this council should not have turned the sod and started building this stadium. I have tried to work with the other project partners in this. I have committed to working with the schools. They have acted in good faith, and I have not wanted to play personalities with this.

The day before the former Prime Minister, John Howard, announced the federal election, the federal member for McEwen, Fran Bailey, announced that she had secured $3.5 million of cold hard cash towards the stadium. Despite our political differences, I welcomed that announcement because I knew it was good for the community of Diamond Creek and good for the kids of Diamond Creek because they had been waiting years for this facility. The Diamond Creek Force Netball Association spends in excess of $50 000 a year in hiring indoor courts outside the municipality. They are a top club, a fantastic club, and they should not be having to spend that sort of money and have kids and senior players travel outside the area.

I welcomed that $3.5 million. I also welcomed the matching of that $3.5 million by the then Rudd opposition and Labor's candidate for McEwen, Rob Mitchell. Imagine our shock and surprise when Nillumbik council received a letter some two weeks after that announcement by Fran Bailey telling them that in fact the $3.5 million had not been ticked off before the caretaker period. It was not cold, hard cash. Fran Bailey said it was not a cobbled together election promise, like that of her opponent; it was cold hard cash. But the federal Department of Transport and Regional Services in fact confirmed that no such commitment had been made.

Around the same time I welcomed a visit from the Minister for Sport, Recreation and Youth Affairs, the member for Monbulk in this place, who confirmed the maximum amount of $500 000 from Sport and Recreation Victoria, which was in addition to the land, and so it turned out we then only had a stadium with the land and $500 000.

Following the federal election I made serious representations to the new Rudd government, including meeting with the incoming Minister for Sport, Kate Ellis, and making representations to the new federal Minister for Infrastructure, Transport, Regional Development and Local Government, Anthony Albanese. Imagine my surprise. The election happened at the end of November. I discovered in February that the council still had not followed up with the new federal government to secure the $3.5 million.

I do not think this council is serious at all about this stadium. All it has done is play politics. The local ward councillor, Bo Bendtsen, who has been happy to be seen as the champion of the project, has been out there — he and Fran Bailey — saying that he was the local champion of the project, when in fact it was the previous council and the Diamond Creek Traders and the Diamond Creek Force Netball Association's idea, but he was prepared to own it. I did not mind that because I thought, 'We need to get this done'. But he has been out there.

I have been prepared to work with Cr Bendtsen from the outset. When he was elected a lot of people said, 'Look, he is just a tool of the ratepayers association. He is an absolute conservative. He will work only for people on the conservative side of politics. He will not work for the benefit of the community'. At the time I said, 'I do not believe that. I have met him a few times, and I do not care what his politics are. I will work with anyone for the benefit of the community'. But he showed that he was more interested in playing politics and supporting his mate Fran Bailey in her fib to the community. Since then he has done nothing to lobby the incoming federal government to secure the money Fran Bailey had told her porky about and he has continued to attack me personally. I have got a thick skin; I do not mind that. But in the end personal attacks from Cr Bendtsen will not deliver this project.

Under his watch we have seen a 40 per cent increase in rates from this council. He has talked about projects and wanting to fund the stadium at a cost of $10 million, when we know it would cost a half to two-thirds of that. Under his watch the project cost has blown out to over $13 million. I remain absolutely committed to this project, but I grieve that we have had such an ineffective councillor who has worked on only one single issue. In four years I have rarely seen him at an Anzac Day event and I have never seen him at other community events.

The only reason he has been on the council is to run a conservative agenda in favour of his mates on the conservative side of politics. He has not been prepared

to put aside politics and work with those who could deliver on this project, whether it is in the Rudd government or the Brumby government. No, he has preferred to play politics rather than build a stadium. I urge the local community to support a councillor at the upcoming Nillumbik elections that will deliver this stadium in a timely manner and in a cost-effective way.

Brookland Greens estate, Cranbourne: landfill gas

Mr R. SMITH (Warrandyte) — I grieve for the people of Brookland Greens estate in Cranbourne. A few weeks ago I attended a public meeting in Cranbourne where about 400 or 500 residents of Brookland Greens estate had gathered to try to understand how the methane gas leakage at the adjoining Stevensons Road landfill was going to affect them.

People may wonder why the member for Warrandyte should bother travelling across town to Cranbourne to hear about an issue that has no impact on his electorate, but this issue is nothing short of a crisis. Fire authorities have said that the safest option is that people should not be there, and they have admitted that Brookland Greens estate may not be declared safe for years. Parents are understandably very worried about the health of their children, and they do not know what effect, if any, the gas leak will have on them.

While this event is unprecedented in Australia, it is especially alarming to hear Environment Protection Authority chairman Mick Bourke say that similar events in the United Kingdom, United States and New Zealand have resulted in explosions. House prices have plummeted as the financial impact of the disaster has hit home and many people fear they will be left homeless because they have absolutely nowhere else to go. I would like to make that point again: these people have nowhere else to go. The Minister for Police and Emergency Services, displaying his usual insensitivity, said that if he was in that situation he would leave. An article in the *Age* of 13 September reports the minister as saying:

> … I'd be thinking about going to stay with relatives at least for a short time.

The minister may have relatives who would take him in, but many people do not. What will happen to the people who evacuated and are now being taken to the Victorian Civil and Administrative Tribunal (VCAT) by landlords because they have broken their leases? The trauma faced by these people has been written about at length in the media and we have seen the stories of residents like Gordon and Carlee Cooper, who reportedly had to pack up and move in with relatives in Seaford. In an article in the *Herald Sun* of 11 September Mr Cooper is quoted as saying:

> My wife was crying, packing her suitcase after work. It's not a nice feeling.

The list of those affected goes on and on, and we have all read about them. I felt it was important to go beyond these media stories and to meet with these people personally, to listen to their concerns and fears and try to understand how their concerns are actually going to be dealt with. What I saw at that meeting were the faces of the people affected by the crisis on their doorstep. I saw anger and confusion, I saw tears and frustration and I saw desperation and a real need for action. What I did not see were government representatives giving them any answers.

The members for Narre Warren North and Cranbourne were at the meeting, but they offered nothing but excuses to the assembled residents. The member for Narre Warren North, with the member for Cranbourne standing meekly next to him, desperately tried to absolve the government of any responsibility. They attempted to keep people quiet by telling them that the government had ordered a thorough investigation by the Victorian Ombudsman. The Attorney-General, in his capacity as Acting Premier at the time, was also reported as saying that the Victorian Ombudsman would be conducting an inquiry into the crisis. In an article in the *Age* of 17 September he is quoted as saying:

> If it was me I'd be wanting to know what the hell happened.
>
> How on earth can you be living in your dream home one day and the next day be being told the safest thing for you to do is vacate?
>
> I'd certainly be pretty angry, pretty frustrated, and I'd want to know answers and I'd want to know the government was setting up an inquiry that's going to deliver those answers, and that's just what we've done.

It is a shame that the righteous indignation of the Attorney-General is not matched by appropriate government action. A thorough investigation, the government says. Let us look at how thorough this investigation will be.

A quick look at the website of the Victorian Ombudsman shows us the limits of the Ombudsman's powers. On that website those powers are described as:

> The Ombudsman inquires into or investigates administrative actions taken by a government department or public statutory body or by any member of staff of a municipal council.

The main players in this whole thing are VCAT, Peet Ltd, which is the developer, the tip operators and the council. Certainly the Ombudsman can investigate the City of Casey, but the Ombudsman's website shows us that he cannot investigate VCAT, being a judicial body, and neither can he investigate private companies. Further to that, the Ombudsman conducts his investigations in private, and he may ultimately conclude that he will not make public the contents of his report. Residents can rightly ask, 'How thorough is this investigation going to be?'. At the meeting the member for Narre Warren North did his best to gloss over this, and he attempted to mislead residents by claiming the Ombudsman had powers to investigate all the parties concerned. But when residents started asking inconvenient and pointed questions, the member for Narre Warren North went very quiet.

Then the member for Cranbourne had his say. I can honestly say that if I represented my electorate in such an appalling manner I would rightly expect to be thrown out of office by my constituents at the next election. Besides doing nothing to make himself heard, he offered even less than the member for Narre Warren North. It is amazing that the opposition has to stand up in this house in defence of these Cranbourne residents while their elected member remains absolutely silent. What the member for Cranbourne fails to realise is that it is his job to represent his electorate to the government, not the other way around.

Last year when the member for Kilsyth was strongly advocating for funding for the Casey Kidz Club, which is a social activities program for disabled children and is based in the Cranbourne electorate, I remember sitting here and wondering why the member for Kilsyth was advocating for this funding and not the member for Cranbourne. I think this latest example shows us the complete lack of support shown by the member for Cranbourne for his electorate is pretty much par for the course.

The government admitted that it knew about the potential threat in 2006, yet the member for Cranbourne did not even raise the issue in this place until residents were in the midst of the crisis, and then he spoke about it only to provide the Minister for Police and Emergency Services with a Dorothy Dixer at question time. Whether it is from his reluctance to engage with his electorate or perhaps because he knows he carries no weight with his government colleagues, the fact of the matter is that his lack of action will come back to haunt him at the next state election.

I was very interested to see the member for Cranbourne rise last night during the adjournment debate, and I thought that he would be asking government ministers to do something about the Brookland Greens estate. But with all the uncertainty that is going on there and with all the concern, he asked for traffic lights in Carrum Downs. That was his major concern of the evening regarding his electorate.

Mr O'Brien — To facilitate the traffic moving out of Brookland Greens!

Mr R. SMITH — Absolutely. It is just unbelievable. There is no doubt that traffic lights are important at different intersections, but surely the member for Cranbourne has some sense of priority on these matters. However, I will give him one thing: at least he showed up to the public meeting. In that action he certainly put himself head and shoulders above the Premier. One of the most common questions I heard that evening from residents was, 'Where is the Premier?'. I could tell the residents of Brookland Greens estate that this is one issue that the Premier has put in his too-hard basket.

Can members believe that on the same day that the public meeting in Cranbourne took place, on the same day that the Premier could not be bothered to get across to Cranbourne, on the same day that he declined to talk to people whose very homes are at risk, he did make time for a photo opportunity in my electorate. That is right, the Premier made time for the TV cameras and the newspapers to come to the electorate of Warrandyte so he could make a warm and fuzzy speech and get his photo taken. That is what this government is all about: ensuring that the Premier and his ministers are involved in friendly, tightly controlled media opportunities while avoiding the actual responsibilities of office.

On the other hand, members of the opposition, including the Leader of the Opposition, were at the meeting. In the absence of the Premier and in contrast to the inadequacies of the members for Cranbourne and Narre Warren North, the Leader of the Opposition actually did offer residents something. He clarified the Ombudsman's powers for them, he advocated the uniting of the Cranbourne community and he called on the Brumby government to step up, as the only one that is able to, and help the residents of Brookland Greens. He pledged his support for the government, if the government would do that.

I can only imagine how embarrassed the local Labor member would have been to see the Leader of the Opposition being given a standing ovation by members of his community, and to see people lining up after the meeting to speak to him, to me and to my colleagues in the other place, Matthew Guy, a member for Northern

Metropolitan Region; David Davis, a member for Southern Metropolitan Region; and Inga Peulich, a member for South Eastern Metropolitan Region. I also have to say that judging from the very positive response and acknowledgement that Mrs Peulich received from the crowd, it is very easy to see who actually actively represents the community there.

It was during the talks following the meeting that I got a real sense of how much this crisis was affecting people, especially when one lady just broke down in tears while talking to me. I understood how much people's homes meant to them when another resident told me that he did not want to move, that he could not care that the value of his house had fallen. He just loved living in Brookland Greens estate and just wanted to be safe. Another gentleman said that he bought his property because he was told a park was going to be established behind his house for his kids. He certainly now does not expect that park to be established at all, and I can understand how let down he must feel. Yet another woman told me that she had been a community activist all her life, but she had recently decided to let others take up local issues in future. However, she said this issue had dragged her out of activist retirement. She said this was one issue she could not ignore and that those at fault must be held accountable. Yet still the Premier refuses to speak with these residents and see for himself the human side of the crisis.

Let us look at the government business program for this week. It is all very well to fill up the Parliament's agenda with these various social re-engineering issues that we have been debating, but how about spending some time on the very real and immediate issues that Brookland Greens estate residents are facing right now? This side of the house strongly believes the Premier should accept responsibility and set aside a significant amount of money to allow families to relocate in line with advice from the Country Fire Authority.

The government will point to the funds it has made available to residents, but the comments made by resident Kym Oakley in the *Cranbourne Leader* provide an example of the community's views. The article states:

> Kym Oakley said the further $8650 grant was not enough to cover their expenses over the 12–24 months it could take to fix the problem let alone address the devaluation of their home.
>
> 'In our situation, we don't have a choice but to live here', the mother of three said. 'I'm angry because they seem to think it's okay for us all to be here while they decide what to do. If it's so unsafe, why haven't we been moved out at their expense?
>
> Better measures should have been put in place to get people out of here. They're sitting back while we are here in the middle of it'.

This government has received between $10 million and $15 million in stamp duty and land tax from this residential development. It has the capacity to look after these people, and the Premier should hang his head in shame for refusing to meet these residents and see for himself how much this crisis is affecting them.

It is certainly telling to look at some of the comments that have been made by people on the *Herald Sun* website in response to articles on the Brookland Greens estate crisis and to read their views on the government's response. I will just go through some of those comments. Russell of Camberwell said:

> Given that the council involved was over-ridden by the state government (via VCAT) which allowed this residential development to go ahead — wouldn't it be appropriate that the government provide the council with the amount of stamp duty it raised (plus interest) to help pay for the clean-up?

Mark of Malvern said:

> … the government is more concerned about rubbing their hands at the windfall of taxes, than ensuring the livelihood and safety of Victorians.

Mark of Frankston South said:

> Different day but same story and insult to those who didn't elect this lame, inept, incompetent and reactive government? The EPA probably submitted their concerns at the time of approval; however, all Brumby as Treasurer could think about was stamp duty $$$, stamp duty $$$ and more stamp duty $$$.

DD of Goulburn Valley said:

> It's about time governments were made accountable for their actions. They are happy to enforce regulations, issue permits and take moneys but take no responsibility. I see no legal reason for them to take this money if they are not going to ensure that by paying these fees there is some legitimate service provided.

Mark of Melbourne said:

> The local community there should be up in arms about this, demanding from the state government … some compensation …

Finally, Scott of Dandenong North said:

> What is the government going to do to help the people made homeless and that don't have family to support them to put a roof over their heads? It's all fine for everyone to move but where are they going to go? I think it's time for the government to go all out on this to help the families that are hurt by all of this.

The comments go on and on.

It is a shame that I have to stand up and defend these people because their own local member and their government will not do it. That the government has denied any responsibility for the situation is unbelievable, and its attempts to shunt the blame onto Casey City Council are nothing less than typical. Further, it is reprehensible that Cr Kevin Bradford of the City of Casey, whom I understand is the member for Narre Warren North's electorate officer, is out and about in Cranbourne, doing the bidding of the Brumby government in trying to apportion blame to the council. Indeed when the issue was first raised in this house the Minister for Police and Emergency Services did his best to distance the government from the situation.

Casey City Council does not have the capacity or the funds to adequately deal with the crisis. The government does. The government has the capacity to compensate these people now and chase those at fault at a later date. What we would like to see is a public inquiry, not one which is conducted behind closed doors but one that has the power to investigate all parties concerned. We do not want an inquiry that fails to tick all the boxes and is unable to conduct the full investigation that this community needs.

This issue will not go away easily. While we sit in this house, members of the Brookland Greens community sit in their houses wondering what the future holds. They cannot afford to wait indefinitely for a protracted, closed-door investigation. They cannot afford to wait indefinitely for those at fault to be dragged through the courts for compensation. They need action right now. The Premier needs to commit his government to supporting Brookland Greens estate residents right now. The Premier must ensure that residents are adequately compensated and, for the sake of these residents, he must give their needs his immediate attention.

Cancer: awareness

Ms GRALEY (Narre Warren South) — I seek some indulgence today. I grieve that approximately 12 million people around the world were diagnosed with some form of cancer last year. I grieve that 1 in every 11 Australian women will develop breast cancer during their lives. I grieve that in Victoria alone 3000 women are diagnosed with breast cancer every year.

As the house will know, I have been on leave from the Parliament since the diagnosis of my breast cancer in February this year. Thankfully I am now well on the way to a full recovery. While I grieve today for the incidence of cancer in our community, I would also like to share some observations from my own experience. Being diagnosed with cancer is a harrowing experience. As you sit across the desk from the doctor she looks at you with a furrowed brow and grave countenance and the very word strikes you like a cold blade; its fearsome reputation causing you to shudder. Then, equally gravely, the doctor informs you of the surgery, the tests, the possible months of chemotherapy and the radiotherapy. You are filled with an acute sense of injustice: why has this happened to me; what have I done? These questions often recur. You often feel very sad. There is often not an answer.

In this time it is important that you feel supported, loved, valued and engaged. I will be forever grateful to those who have supported me through this time. Most importantly, I would like to thank my family — my husband, Stephen, my daughters, Vanessa and Rebecca, my son, Lucas, and my parents-in-law, Douglas and Eleanor Graley. They have all been a source of strength during this time.

I would also like to thank some wonderful friends. I cannot name everyone who sent me messages of support, visited, called or prayed for me, but I appreciate each one. The staff at the hospital noted that my room looked more like a flower shop than a medical centre. In fact they used to bring people who did not receive as many to look at the flowers. It gave me great joy to share that with patients who were also battling the disease. I would like to mention a number of friends by name: Janice Gray and Denise Hassett, who constantly brought around delicious meals; Val McKenna, who provided me with a wonderful source of books — I have read so many great novels; and Yasmin Wood, who shared her experiences with me and decked me out in this gorgeous blonde wig! Thank you.

I especially want to thank my colleagues here in the Parliament, from both sides of the house, for their messages of support and, just as importantly, for keeping me in the loop. Quite seriously, I have continued to feel engaged in the activities of the government, the party and the Parliament, and this has helped me enormously. I thank you all very much. My constituents, the people of Narre Warren South, were another major source of support. It is amazing to receive such heartfelt messages from people who are often asking you to do things for them. My staff have helped them enormously while I have been away, and I would like to thank Joy, Efstratios, Stuart and my volunteer envelope-stuffer, Gayle, who stoically and expertly looked after my office. Thanks, team.

Throughout my episode I have been amazed by the medical facilities and attention provided to cancer sufferers. At this point I would like to publicly thank my surgeon, Miss Belinda Brown, and my oncologist, Dr Romayne Holmes, two of the most remarkable women you would ever like to meet. They were kind and comforting but their skills were just amazing. We are so lucky to have this quality of medical attention available to women, especially from other women, in Victoria. The nursing staff at Beleura Hospital and the Peninsula private oncology unit were fantastic. I would also like to thank my radiotherapy oncologist, Dr Blakey, whose service, incidentally, I helped attract to the Mornington Peninsula when I was a member of the Peninsula Health board. Do not ever doubt that something you do in your public life does not have amazing repercussions — in this case not just for myself but for so many thousands of other people who will now use this service close to their homes. I must say at this point that I have gained an even greater appreciation of the doctor-patient relationship. In all our deliberations on health issues we must never compromise the trust, openness and support that this relationship provides.

Finally, I would like to recognise a number of community organisations and foundations which were a great source of information, comfort and solidarity. We are very lucky to have in Victoria the Breast Cancer Network, the Gawler Foundation and the wonderful women at Zonta. I would especially like to thank the Look Good … Feel Better cosmetic industry group, which arranges makeovers for women in our situation. It lifts the spirits immensely. Anne Carter from BreastCare is a gorgeous lady who makes prosthesis fittings a positive and uplifting experience.

I have gained a much more intimate understanding of the emotional, psychological and spiritual needs of people with cancer. At this point I would like to commend the state and federal government's funding for the Wellness Centre, which will form a major component of the Olivia Newton-John Cancer Centre at the Austin Hospital. This centre will be specifically dedicated to the psychological, emotional and spiritual needs of patients. It is a major step forward for cancer patients in Victoria.

We have made significant advances in the medical treatment of cancer but there is still much to do. In Australia we are blessed with researchers and health systems that are continually improving treatments and survival rates. Cancer is increasingly a chronic disease to be managed rather than a fatal illness. I firmly believe, as I know most people in this house do, that guaranteeing access to the highest quality of health care for each and every one of our citizens is a fundamental responsibility of government and those who are advocates for their constituents. I believed this when I sat on the board of Peninsula Health, I believe it today as a patient with a serious illness, and I will fight for it for as long as I remain a member of this Parliament.

Recent Victorian and commonwealth government initiatives have demonstrated a genuine commitment to the prevention, detection and treatment of chronic diseases such as cancer. I am pleased to say that the recent state budget included $150 million for a new Victorian cancer action plan which aims to save 2000 lives that would have otherwise been lost — a most commendable project. Specifically, $24.4 million was committed for improved screening and diagnosis — a major step forward — and $78.8 million was provided to help the Victorian Cancer Agency link different research projects and convert this research into treatment. As I mentioned earlier, the state government has also invested significant funds — $25 million — in the new Olivia Newton-John Cancer Centre at the Austin Hospital.

There is a real clarity and force about our response to cancer today. Both the Victorian and commonwealth governments are focused on prevention, detection, treatment and care. Moreover, both governments also recognise the need to distribute the technologies for detection, treatment and care throughout society. There is a focus on communities that are not currently well served: outer suburban and rural communities, culturally and linguistically diverse communities, young people, and older people in nursing homes who will now receive support for their prostheses.

However, it is worth noting at this point that cancer is not exclusively a disease of developed countries. The World Health Organisation estimates that cancer causes 12.5 per cent of all deaths globally. This is more than HIV/AIDS, malaria and tuberculosis combined. Over 50 per cent of cancer diagnoses and 75 per cent of global cancer deaths occur in low or middle-income countries where insufficient primary and public health care, clinical treatments and expertise and palliative care condemn many millions to preventable and painful deaths.

In Africa, for instance, only 21 of the continent's 53 countries have radiotherapy machines, leaving 80 per cent of the population without access to this vital treatment. Moreover, and this is a tragic statistic, only 5 per cent of childhood cancers in Africa are cured compared to 80 per cent in the developed world. In our immediate region cancer kills around 1 million people in South-East Asia each year, and it is in the top five

causes of mortality in almost every country in the Western Pacific region.

It does not need to be this way. The World Health Organisation estimates that around 40 per cent of cancer cases are preventable. Moreover, many of those that are not prevented can be inexpensively treated, and those people whose cancer cannot be treated can have their pain inexpensively relieved. This could be achieved by the promotion of healthier lifestyles, education around cancer awareness, training for primary health workers and improvement of access to cheap vaccines and drug treatments. I grieve that so many in our world today suffer so unnecessarily. In a previous grievance speech I urged the federal government to increase aid to third-world countries. That is especially needed in the health field.

Finally, I would like to share some observations on our work here in the Parliament which have been prompted by my recent experiences. As members of this Parliament we have a responsibility to represent our constituents with energy, integrity and wisdom. While we may sometimes tire of sitting in endless meetings or listening to complaints our role is unique, and its significance should never be disregarded. The treatment of our sick, the schooling of our children, the planning of our cities and the wealth of our society all depend on the debates, decisions and votes conducted here. Today, I am more intimately aware than ever before of the importance of this chamber.

Earlier, I mentioned that it is easy to ask yourself the question, 'Why me?'. Since my diagnosis, I have moved from saying, 'Why?' to saying, 'How?'. I do not ask myself, 'Why do I have to deal with this?' but rather, 'How will I deal with this?'. I do not ask myself, 'Why am I one of the 12 million people diagnosed each year?' but rather, 'How can I use my unique position, especially in this house, to assist the 12 million people with whom I share this experience?'. I have recommitted myself to the work of this Parliament even more strongly than before. I feel very proud to stand here today as a Labor member of Parliament representing the good people of Narre Warren South. I feel more strongly than ever that the Labor values of solidarity, equality, opportunity and community are what I will strive for and what will keep me going in the future. I know also in my heart and in my head that I have a new group of constituents to represent, and I will be barracking for them in every way I can.

October is breast cancer awareness month. Members will see pink ribbons, pink banners and pink wrappers everywhere; they will be in abundance. I urge every member and their family and friends to make a difference in the lives of people who, like me, have been diagnosed with breast cancer and to support breast cancer awareness month in any way they can.

Speaker, I thank you for this opportunity, and it is great to be back.

Motion agreed to.

PERSONAL EXPLANATION

Mr MULDER (Polwarth) — I wish to make a personal explanation. On Monday, 6 October, the Road Safety Committee met in Melbourne. As a member of the Road Safety Committee I was an apology for that meeting as shadow cabinet was meeting at Monash University at Clayton. The following day the agenda, minutes and documents from the Road Safety Committee's meeting were delivered to my parliamentary office. Two media releases were prepared by my office in relation to a level crossing at Swanston Street, South Geelong, and a pedestrian crossing at Prospect Hill Road, Riversdale using information contained in documents attached to the Road Safety Committee's agenda and minutes.

I was contacted by the executive officer of the Road Safety Committee last night and alerted to the fact that committee documents had been used in the preparation of the releases. I immediately halted any further media releases being prepared using these documents, contacted the chairman of the committee and other committee members and alerted them to the action that I had taken. I accept full responsibility for the oversight, and will report on the matter to the committee when it next meets.

STATEMENTS ON REPORTS

Rural and Regional Committee: rural and regional tourism

Ms ASHER (Brighton) — I wish to make a couple of observations on the Rural and Regional Committee's inquiry into rural and regional tourism and its final report dated July 2008. This report provides an excellent blueprint for the government. I hope the minister, rather than playing politics with it, as he initially indicated he wanted to do, will take note of the committee's work, research and recommendations. There are 39 recommendations and 104 submissions were made to the committee. I hope the minister looks in particular at recommendations 2 and 3 of the committee's report. The committee recommends improved signage throughout regional Victoria. This

has been a consistent source of complaint by tourism operators right across country Victoria, so I hope the minister will look at these recommendations and have VicRoads do an audit, as well as taking up the other specific recommendations put forward by the committee.

Of real significance is recommendation 3 in relation to planning laws. It states:

> In particular the government must:
>
> a. Develop plans, with the assistance of Tourism Victoria, to ameliorate the effects of restrictions on tourism developments associated with the new farming and rural activity zones.

In my role as shadow minister I know this is a source of constant complaint by the tourism industry, and again I wish to pay tribute to the committee. It has done an excellent job in travelling throughout country Victoria and taking evidence from the sector. I hope the minister will regard this as a blueprint for action by the government.

In the light of the sitting in Gippsland next week I want to make particular reference to a recommendation from the committee on air services. The committee recommended that the state government continue to provide funding for the upgrading of regional airports. The committee made the observation that there is a lot more air travel taking place. Clearly in trying to get international tourists into Victoria, if there are services and a decent regional airport then an area will have the capacity to attract tourists. Indeed the committee said that the provision of air services at reasonable cost is becoming more and more important for tourism in rural and regional Victoria.

The committee examined in detail the cases of Mildura and Albury airports. At paragraph 5.27 of its report the committee goes on to say, and this is very significant given the sitting in Gippsland next week, and perhaps this is something the government might like to consider in advance:

> While airport developments in Mildura and Albury Wodonga were viewed positively, witnesses from Gippsland and the west of the state, saw a need for improved air access to their regions. The Gippsland region was seen as particularly disadvantaged due to the fact that both Tullamarine and Avalon airports are located on the western side of Melbourne.

The report goes on to say that the committee would like to see support 'continued and extended'. As I said, the report provides a blueprint for the Minister for Tourism. He is a busy young man. He needs to deal with water, he needs to deal with finance, he has to deal with his ambitions to become Treasurer and leader and he also has to deal with tourism. He has many things on his plate.

What this committee has done is to provide the minister, as I said, with a list of actions. He does not have to do any work other than just implement them. I would urge him very strongly to do so. I know he likes stunts and I know he does not like being booed, which certainly happened to him at Phillip Island last weekend. I think what he could do is read the recommendation at paragraph 5.27 and do some work on what could be done to support the Gippsland community in its desire for aviation upgrades and regional upgrades. I imagine, Acting Speaker, that you would be strongly in favour of this recommendation of the committee. And I would urge the minister prior to going to Gippsland not to indulge in stunts but to actually do something concrete for the tourism industry, such as acting on this recommendation.

Outer Suburban/Interface Services and Development Committee: local economic development in outer suburban Melbourne

Mr SEITZ (Keilor) — I want to talk today on the Outer Suburban/Interface Services and Development Committee inquiry into local economic development in the outer suburbs of Melbourne. It is a lengthy report, as everyone can see, and it was very economically produced. First let me thank the staff — Sean Coley, who led the team, Geoff Russell and Natalie-Mai Holmes — who have done an excellent job with the committee. It was a pleasure to work with them. I also want to thank all of my fellow committee members: from this house, the member for Bass, the member for Yan Yean, the member for Kilsyth and the member for Melton, and Mr Elasmar, Mr Guy and Ms Hartland from the Legislative Council.

I want particularly to single out the member for Melton, the former chairman of the committee, and thank him for the advice, assistance and support he gave me in the process of developing this report, and also Ms Colleen Hartland, MLC, who has attended nearly every meeting and made it possible for us to have a quorum. The rules require an upper house member to be there, and it was very difficult for Mr Elasmar, who always had a clash between our meetings and meetings of the Education and Training Committee. Of course the member for Kilsyth was also committed to these hearings, and in spite of all his electoral and party activities he was very diligent in attending. I single out those committee members for special thanks.

It was a pleasure to be on a committee with such fantastic staff and members working towards achieving

the recommendations we have provided to the government. We made 171 recommendations. I hope the minister has time to address them and respond favourably on them, because they are basically about cooperation with local government in outer Melbourne areas, which is important.

I would also like to place on record our thanks for the hospitality and service provided to us by the municipalities the committee visited, which made it possible for the committee to produce the report on such a low budget. Our budget was cut this time round, and I hope the next inquiry will not have such a tight budget and will be able to manage. During our inquiry the committee visited nine outer suburban municipalities — Wyndham, Melton, Hume, Whittlesea, Nillumbik, Yarra Ranges, Casey, Cardinia and Mornington Peninsula. We had the opportunity not only to talk firsthand with the local governments but also to see and visit the communities. Local government officers and councils assisted members of the community in presenting their cases to us. We also had public hearings here at Parliament House, with numerous representatives from the peak bodies of Victoria and also the minor groups.

I think one of the beneficiaries of that was Western Melbourne Tourism, for which the minister announced a $50 000 cheque the other day at Williamstown. The organisation made a strong representation to the committee at the public hearing at Wyndham, so some of the recommendations of this report have already had a positive outcome, and I am grateful to the minister. We took it up with the minister at the time, rather than waiting until the end of the report. I thank the minister for that action and also the member for Williamstown, who backed the Western Melbourne Tourism proposal. Naturally the tourism organisation's members meet with the local council to support tourism promoters, because the tourism industry is a big employer. Western Melbourne has achieved a high rate of tourist growth and there has been an influx of people. If you promote tourism more, it will create more jobs in our community, and the whole aim is to create sustainable jobs in the outer suburbs.

An observation made by a lot of the municipalities and the various operators was that there are fluctuations in some areas where they only get summer tourists. They were not talking out of selfishness but out of genuine interest in providing good services. In the west of Melbourne we have the wineries, the Open Range Zoo, Scienceworks in Williamstown — —

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

Rural and Regional Committee: rural and regional tourism

Dr SYKES (Benalla) — I wish to comment on the Rural and Regional Committee's inquiry into rural and regional tourism. I commence by congratulating the committee, in particular its chairman, Mr Damian Drum, on an excellent assessment of the rural and regional tourism issues and some very sound recommendations that are already being picked up by Tourism Victoria. I recently attended some tourism meetings organised by Tourism Victoria, and I was most impressed by the issues raised by the public there and the local tourism operators and how they accurately linked up with the recommendations from the parliamentary inquiry. That suggests to me that the Rural and Regional Committee has linked up well with the thought processes of the tourism operators and identified the needs to progress tourism in rural and regional Victoria.

North-eastern Victoria relies very heavily on tourism. It is not the only source of income, but it is a major source of external income, and given that north-eastern Victoria is such a great place to live, work and raise a family, and to visit, I would like to see further support from all sides of the house. We have the alpine resorts, where skiing is a very popular pastime for a number of ministers, both present and past, and we have the alpine valleys, where the slow food and fabulous wines provide options, but we also have a developing adventure and nature-based tourism industry.

The key thrust of the recommendations in this report relates to increasing the power of local people to have a say in the development of tourism in their area. That then comes down to setting up some form of regional management that is adequately supported with professional tourism staff, is adequately funded and with appropriate delegations.

There is also a key recommendation on signage. Given a large proportion of the tourists visiting rural and regional Victoria travel by road, certainly in my area it is critical that there be clear signage directing people to the tourism activities that they wish to go to. In recent times there have been ongoing battles with VicRoads about signage on the Hume Highway, but hopefully that has been worked through. We also have issues in relation to planning, which the member for Brighton touched on. There is a major issue on the upgrading of roads and bridges to enable people to get to certain areas.

The recommendations of Tourism Victoria in relation to key activities in north-east Victoria focus mainly on

the high country and the iconic Mount Buffalo Chalet, which must be upgraded because not only is it an icon in its own right but it underpins a massive amount of tourism visitation to the area. It needs to be got going again by this government rather than the current situation of the Minister for Environment and Climate Change appearing to want to blame the lessees for inaction. It was also pointed out by various attendees at recent meetings that, to use the government's own words, more needs to be done.

Murrindindi Shire Council felt disappointed that there were no specific recommendations of projects in its area. It highlights the Goulburn River high country rail trail as a project that should be supported for the benefit of all. Mansfield Shire Council recommends that same project, but also the sealing of the Eildon-Jamieson Road, linking Mount Buller to Mount Stirling by a sealing of the Corn Hill Road, and the investigation of a gondola to link the two ski fields. Alpine Shire Council, as I said, in addition to emphasising the importance of getting Mount Buffalo Chalet up and going, highlighted the importance of supporting the development of the regional airports, particularly at Albury and Mount Hotham.

It is a good report. The recommendations are very sound. I call on the government to implement those recommendations in the interests of rural and regional tourism throughout Victoria.

Outer Suburban/Interface Services and Development Committee: local economic development in outer suburban Melbourne

Mr NARDELLA (Melton) — I rise to talk about the inquiry into local economic development in outer suburban Melbourne undertaken by the Outer Suburban/Interface Services and Development Committee. I start by thanking the chair of the committee, the member for Keilor. His leadership in this report has been excellent and he has worked with all the members of the committee to come up with this excellent report.

I also want to thank the staff of the committee. Sean Coley is a fantastic executive officer who works his guts out for the committee, thinks about the things that need to be in the report, thinks about the way it is going to be presented and does that extremely well. The administrative officer, Natalie-Mai Holmes, is a terrific and hard worker who has put in beyond the call of duty; she drafted the chapter on business incubators. Once people sit down and read the report, like I know all members will do over the course of the next month or so, they will see the excellent work that she has undertaken. The research officers — Geoff Russell, who has just recently left the committee but played a fantastic part in the report, and Keir Delaney, who was responsible for the first parts of the report undertaken during the previous Parliament — also did a terrific job with their parts of the report.

The committee reports that are undertaken and published by the Parliament are a real team effort. One of the satisfying things about this committee is that the team has stuck together. Sean has been with the committee the longest, joining when the committee was established in 2002–03, and Natalie came not long after. We have tended to keep our team — Kier will come back at the end of the year — and they work in a harmonious way.

The report has 171 recommendations and it covers 643 pages. All the recommendations are excellent, because we have worked through them with the interface councils, some of the peri-urban councils like Moorabool and Mitchell shires, developers, interest groups, interested parties and stakeholders. We got their ideas, we developed them and came up with these recommendations. The recommendations stretch from having a look at the existing economic development units; the barriers to economic development; the incentives that may be or should not be provided; the role of economic development units; encouraging economic development in the outer suburbs to promote employment opportunities and attract new investments; export opportunities in the outer suburbs and emerging sectors, like business incubators — as I said, Natalie-Mai Holmes drafted that chapter — home-based businesses and social enterprises.

One of the things I wanted to make sure of with this committee is that all its reports are readable. You can take a section and actually read that section in isolation. Not only can you do that but you can also understand it. One of the things we tend to do is to make reports difficult to read and full of acronyms — although this is full of acronyms — and things that make it much harder for people to understand. Something that demonstrates the leadership of the executive officer, Sean Coley, was that when we visited KANDO, which is the Kinglake Action Network and Development Organisation, people came up to me and said, 'I have one of the reports from the committee; it is on my bedside table and every now and then I pick it up and read it because it is readable'.

Mr Weller — Puts them to sleep!

Mr NARDELLA — Seriously, it might put her to sleep, but it demonstrates that these are valuable

documents. By working in partnership with the councils, developers and the stakeholder we can manage economic development better in the outer suburbs. I commend the report to the house.

Public Accounts and Estimates Committee: budget estimates 2008-09 (parts 1 and 2)

Mr WELLS (Scoresby) — I rise to speak on the Public Accounts and Estimates Committee's report on the 2008-09 budget estimates parts 1 and 2, and I will address some comments by ministers in both parts of that report.

The first point I raise, which I also spoke about the last time I spoke on a committee report, is the issue of the debt the government is facing. I raise it again because obviously since the last time I spoke on this issue the credit crunch around the world has been having an impact following the United States subprime collapse and the consequential financial issues that have come out of that. When the Treasurer appeared before the Public Accounts and Estimates Committee he was specifically asked to give an assurance that the debt level would not increase over the forward estimates. Unfortunately at the time of the budget, amounts were given of $11 billion in 2009, $16 billion in 2010, $19.5 billion in 2011 and almost $23 billion in 2012, and we raise our concern again as to what the debt level will be moving forward.

The opposition is also concerned about the cost of the interest on that debt level. During the committee hearings the point was made that the Victorian government spends $1.7 billion on the Victoria Police force, but by 2012 it will be spending $1.8 billion on interest repayments. An issue for us is that we want some assurance or guarantee that the $1.8 billion in 2012 will remain at that level and there will not be any cost blow-out in interest payments over that period. I suspect the government will not be able to give that assurance.

There are concerns now about the cost of some of the infrastructure proposed by the government. One such project is the desalination plant. The Treasury first gave a cost of about $3 billion, and we would expect the public sector comparator to be released, to be open and transparent and to include all on-costs and a total cost. We suspect that with the increase in the cost of credit and the supply of money, the cost of the desalination plant will also increase.

The opposition is still waiting for a list of the debt tagging. What I mean by that is that if the government has $23 billion worth of debt, we want to know on which infrastructure projects the government has used that $23 billion in the forward estimates up to 2012. The reality is that a transaction has created the debt. If a transaction has created the debt, then that debt is able to be tagged. We understand there is a rolling level of debt that Treasury is able to roll over, but the reality is that we want to know what value for money the Victorian taxpayer is receiving for that level of debt.

Lastly, I raise the issue of the north–south pipeline. The member for Benalla asked a straightforward question regarding the unit cost of water to flow down the north–south pipeline. I followed that up with the Minister for Water. For the life of him the minister was not able to answer that question. There is a capital cost. Is that capital cost being amortised over 20 years or 30 years? What is the operational cost? At the end of the day I ask the government not to tell me that a calculation has not been made of the unit cost per financial year, and therefore it is not able to be provided to the Victorian taxpayer. The taxpayer needs to be reassured that we are getting value for money in this north–south pipeline.

The minister, when appearing before the Public Accounts and Estimates Committee, was unable to give that figure. Surely there would have been an enormous amount of planning for this infrastructure project.

Road Safety Committee: vehicle safety

Mr TREZISE (Geelong) — I rise to speak briefly on the Road Safety Committee's report on the inquiry into vehicle safety that was handed down in August 2008. Firstly, as a proud member of the Road Safety Committee since my election in 1999, I know that the reports by the committee are much respected by the road safety and transport profession and of course the wider community, and this report is no exception.

I therefore acknowledge the bipartisan work — and that is an important part of the work of our committee — of my fellow committee members: the members for Lara, Ivanhoe, Polwarth and Rodney in this house, and from the other place, David Koch and Shaun Leane, members for Western Victoria Region and Eastern Metropolitan Region respectively. I also acknowledge the work of the committee's executive officer, Alex Douglas; the research officer for this report, David Baker, and other staff.

The committee was asked by the Parliament to inquire into, in summary, vehicle safety technologies that would reduce accidents; a comparison of the rate of fitment of leading edge vehicle technologies in cars in Australia as compared to other developed international

economies; the issue of specifying safety technologies for vehicles entering this country; and also to recommend strategies for ensuring vehicle manufacturers fit leading edge technologies into vehicles sold in Australia.

I am sure you, Acting Speaker, and other members can see that this is an important report, because every year people are killed on Australian roads in cars that are not fitted with basic safety technologies, let alone state-of-the-art technologies. As the committee chairman noted in the foreword to the report:

> Buying the right car is a very important decision that people will make in their lives, in fact it could be a matter of life and death.

In my contribution I would like to briefly comment on the issue of vehicle safety de-specification. As part of our inquiry, the committee heard factual evidence of vehicles imported into Australia having safety technologies stripped out of them, primarily to make them more economically attractive to local consumers — that is, despecification driven by price competition. In addition, and just as concerning to the committee, was evidence suggesting that cars manufactured in Australia are also having safety features removed from models sold in Australia. That is not to mention the practice of bundling, where local manufacturers bundle in with luxury features such as leather seats and 10-stacker CDs other important safety features.

It must be noted that in addressing the issue of de-specification manufacturers argued the practice was not a reality in Australia. However, with much respect to our manufacturers and importers, when one hears evidence from the Royal Automobile Club of Victoria, those associated with the Australasian New Car Assessment Program (ANCAP), VicRoads and others noting the concerns, the committee has to take notice. In its evidence provided to the committee the RACV stated:

> … Australian car manufacturers and importers are less likely to fit safety technology as standard equipment across their model ranges, in comparison with other some developed markets …

This message was further highlighted by the chair of the technical committee of ANCAP, who stated in evidence before the committee:

> De-specifying — in other words, bringing vehicles into the country with less safety features than they have overseas — is still a problem.

With the short time I have left, I would like to say that it is therefore incumbent on the industry and governments, both federal and state, to ensure that each car driver or purchaser of a vehicle is educated on the importance of buying a vehicle that is fitted with safety features, because where there is demand retailers and thus manufacturers will react to meet the market demand. As I said, this is an important report. I congratulate the committee members and the staff on the work that they have done. I look forward to working with the committee in a bipartisan way in the future.

ENERGY LEGISLATION AMENDMENT (RETAIL COMPETITION AND OTHER MATTERS) BILL

Second reading

Debate resumed from 11 September; motion of Mr BATCHELOR (Minister for Energy and Resources).

Mr CLARK (Box Hill) — The principal purposes of the Energy Legislation Amendment (Retail Competition and Other Matters) Bill are to change the way in which retail electricity and gas tariffs are regulated, change the cost recovery mechanism that will apply to so-called smart meters or interval meters and to modify the regulation of gas market rules.

The bill proposes that the so-called standing offer tariffs that apply at a retail level for gas and electricity will in future only be able to be regulated at a state government level if the Australian Energy Market Commission has found that retail competition in the relevant sector is not effective and has recommended that price controls be retained or reintroduced.

The bill will also require retailers to publish standing offers and various other offers on their websites, to publish notices of changes in tariffs in newspapers and to advise customers in writing of changes. It will also require the Essential Services Commission to publish a standing offer and other relevant published offers on its website and to report annually on the tariffs and the terms and conditions on which electricity and gas is sold.

The bill proposes to modify the information about greenhouse gas emissions and electricity consumption that retailers are required to provide to residential customers. At present, as many honourable members will know, gas and electricity bills contain details not only of the history of consumption of the particular consumer but also of an indication of how much emission of greenhouse gases is associated with that level of consumption.

The bill seeks to encourage or allow retailers to instead provide other information such as how a particular consumer's consumption or emissions compare with the consumption or emissions of other similar consumers.

The bill also enables the Governor by order in council to establish what the minister in his second-reading speech somewhat euphemistically referred to as a 'more efficient mechanism' for the recovery of costs for the rollout of what is now described as an 'advanced metering infrastructure', which again is another term that refers to the so-called smart meters or interval meters.

The bill proposes to transfer responsibility for the approval of gas market rule changes and have the fees charged to participants. It provides for dispute resolution processes to be included in retail gas market rules. The bill also proposes to amend the definitions of 'standard' and 'complex' gas installations for the purposes of gas safety regimes and to allow regulations to be made relating to electricity and gas safety regimes. Finally, the bill makes some further transitional provisions for the transfer of the economic regulation of electricity and gas distribution to a national level. That follows on from legislation that has previously been considered by the Parliament.

We in the coalition parties have benefited from helpful comments and feedback we have received from a range of parties, including the Energy Action Group, the Energy Users Association of Australia, the Energy Networks Association, the Victorian Council of Social Service and a number of individual energy companies. We thank all of those parties for the very informed and constructive comments we have received on the bill.

There are a range of concerns and issues relating to the bill which I will canvass. However, before turning to that I should say at the outset that the principal change being made by the bill is removing at the state government level the regulation of standing offer retail gas and electricity tariffs. So long as there is effective retail competition this is one change that has, in principle, the support of this side of the house. As I have remarked in relation to a number of energy sector bills that this house has debated in recent times, it is amazing to see the conversion of and the seeing of the light by members of the government, particularly ministers. The member for Seymour would well remember the time when it was politically correct for those on the Labor side of politics to denounce the Kennett government reforms, the introduction of retail competition and the disaggregation of the industry. We were told at great length how it would not work, how it was the height of folly, how it would lead to the demise of an efficient and energy sector in Victoria and that it would bring all sorts of dire consequences for consumers.

Now we have the Minister for Energy and Resources and many other members on the Labor side of the house from right across the factions, including the Socialist Left faction, of which the Minister for Energy and Resources is a leading member, all extolling the virtues of competition and the contribution of the private sector to the energy and gas industry in Victoria. Well may they make those remarks, because the reforms of the Kennett government have left Victoria with an energy sector that is head and shoulders above that of those in other jurisdictions around Australia; it is indeed the envy of other jurisdictions. This current government, having decried and denounced the reforms when they were being undertaken by the Kennett government, now proceeds to continue to implement those reforms and carry through their remaining elements. That is something that we on this side of the house are very pleased to see.

In that respect we welcome the move to remove this element of government regulation while retail competition is effective in this state. However, one caveat we raise in relation to this aspect of the bill concerns something which we all hope does not eventuate but which nonetheless is a risk that needs to be thought about and protected against. That risk is that at some point down the track, for whatever reason, retail competition in this state may cease to be effective. We hope that will not happen and that we continue to have a thriving and competitive retail energy sector which gives an ability to customers to vote with their feet and choose from among a number of retailers offering competitive packages, but there is a possibility that down the track events will occur that will impede that.

A risk that is a worry is that while government in Australia is still dominated by the Labor side of politics, notwithstanding the recent change of government in Western Australia, regulation of the energy sector will become increasingly complex and bureaucratic both at a state and a national level, and that will tend to stymie and reduce competition. Another risk is that matters associated with the introduction of an emission trading scheme at a national level will also disrupt the market. We have seen that neither at the state nor the federal level has the Labor Party done the hard work that is required for the smooth and effective introduction of an emission trading scheme. It has talked loud and long about it, particularly when it was

in opposition or not in a position to do anything about it.

We can all recall the state government in Victoria thumping its chest, saying that if the Howard government did not act on emission trading, then it would. But it said it would not do anything just yet; it would wait to see what the federal government did. Now at the state level the government is saying, 'The Rudd government is going to do it, so it is not our problem'. But of course it is its problem that the poorly considered introduction of an emission trading scheme can have far-reaching implications for the state of Victoria, for its economy and for the Latrobe Valley in particular.

It has become increasingly apparent that the state government has just not done the hard work that is necessary to model, anticipate and prepare for the effects on the Latrobe Valley that are likely to flow from an emission trading scheme. It was up to the private sector to commission that modelling, and now we have modelling which is consistently saying that on the best available estimate, the introduction of an emission trading scheme may well see the closure of four out of the five the Latrobe Valley power plants with only Loy Yang A being able to remain in business.

That is because the introduction of an emission trading scheme disproportionately impacts on brown coal generation, as of course it is intended to do, because it wants to impose a cost on greenhouse gas intensive activity. That changes what is called the merit order for dispatch of generating capacity, and that has the effect that gas-generated electricity will become more competitive than brown coal-generated electricity, squeezing the Latrobe Valley plants very substantially and, as is estimated, leading to the closure of four out of the five existing plants. This would have a pretty devastating and far-reaching effect on the Latrobe Valley and a major upheaval for the Victorian power industry and is not something that appears to have been foreseen or anticipated by the state government. The government, as I say, appears not to have turned its mind to the nuts and bolts of how to implement and how to respond to an emission trading scheme. It confined itself to a political level of promising to do great things but not being geared up to do so.

There is a real risk that the introduction of an emission trading scheme at a national level will have serious and unforeseen implications at a retail level, and that is heightened by the fact that the Rudd government seems to have done as little hard work when it was in opposition, or indeed on coming to government, as the state government has done in terms of working out exactly what the real world implications are of how it goes about introducing an emission trading scheme.

Our view, to put it beyond doubt, is that we on this side of the house believe an emission trading scheme is necessary, given the best available scientific assessment of the risks of greenhouse gases, but we have said all along that it is going to be a very difficult and painful task to implement an emission trading scheme, particularly when one begins to move beyond the initial reductions, and it is going to become harder and harder as the mandated reductions become deeper and deeper. It needs to be done, but it needs to be done properly and with proper preparation to minimise the adverse consequences.

The fear is that due to the failure to do that at both a state and a federal level to date, and the fear that it will not be done before the scheme is implemented, it could be that the introduction of an emission trading scheme may also have an effect of driving up prices or causing great volatility or inability to predict future prices that will drive a number of retailers out of business and lead to a cessation of effective retail competition. If retail competition ceased to be effective, our concern about this bill is that it appears it would take a considerable period of time before there was a capacity for the state government to do something to protect consumers from rapidly rising prices because it would need the Australian Energy Market Commission to conduct an assessment or investigation and reach a conclusion that retail competition had ceased to be effective and to make a recommendation that price controls be retained or reintroduced, and then they would need to be reactivated.

There is a risk that Victorian consumers will not be protected against a very significant and sudden rise in power prices due to a cessation of effective retail competition. We certainly hope that does not happen and that the government will not allow the situation to develop as we fear it could, but that risk needs to be anticipated and protected against. We are concerned that the bill does not do that.

Other issues have been raised with us about the bill from the point of view of electricity companies. The point has been put to us that the timing of the way in which retailers will be allowed to introduce retail price changes does not fit with the timing of the introduction of changes to distribution tariffs. Distribution tariffs are determined on a regulated basis, which is moving from a state level to a national level. As we are told, the distribution tariffs for a forthcoming period are likely to be announced towards the end of the year prior to the year in which they commenced, but the timing is such

that the retailers are going to have to set new retail prices if they want to change them before they know what the distribution tariff changes will be. The retailers have to incorporate the distribution tariff into the charge that they make at a retail level to their customers. There seems to be a timing issue there that concerns retailers.

It has also been put to us that standing offer tariffs are not permitted to be varied more often than every six months, and that is going to make it hard for retailers to adapt to wholesale price shocks. We can understand the objectives of the government in imposing a requirement that these tariffs cannot be changed more than every six months to provide some continuity and stability for consumers and not have them confronted with rapidly changing prices under a standing offer. It is worth making the point that the standing offer tariffs, which is what this part of the bill relates to, are the tariffs that apply to customers who have not changed their retailer or have not negotiated a particular price package with their existing retailer. In other words, it is for the customers who have just continued on from the regime as it applied previously before there was choice of retailer.

It makes sense that the government does not want those customers to be frequently confronted with changing prices. However, if the limitation is too onerous on retailers, it is going to create a barrier to entry, a risk factor for retailers, because they are going to have to carry the risk that there will be a significant change in wholesale prices that will squeeze their margins before they have an opportunity to adjust the retail price to suit. This uncertainty and risk factor is going to be a barrier to entry, which could diminish competition. We raise that issue, and I welcome any comments the minister might make as to how he judges that six months is suitable and how he intends to protect against that risk I mentioned.

We have also had raised with us a question regarding the adequacy of competition in the Victorian market for poorer consumers. Again, I would be interested in the minister's comments on the government's assessment of how the position of poorer consumers will stand up under this legislation.

Another aspect that has been raised with us is whether or not the legislation should contain provision to put offers from different retailers into a more standard and/or more comparable format. As consumers we all know that one of the most difficult aspects of shopping around is where the terms and conditions can differ in many separate respects and where it is very hard to line up the offers that are being made from different suppliers because of that variety and that degree of detail. I suppose those of us here and those in the community who have to grapple with mobile phone pricing plans will know of the detail and difficulty of lining up plans from different phone companies.

The argument has been put to us that there should be an encouragement, if not a requirement, that the key aspects of retail offers and any significant non-standard aspects of an offer need to be made readily available to consumers in order to make it easier for customers to shop around and to promote competition. I make the point that in recent times there has been a website set up to assist customers in shopping around for different tariff deals, and that is a welcome development. The question is whether that comparability could be furthered by additional specifications in the legislation.

Sitting suspended 1.00 p.m. until 2.03 p.m.

Business interrupted pursuant to standing orders.

QUESTIONS WITHOUT NOTICE

Economy: performance

Mr BAILLIEU (Leader of the Opposition) — My question is to the Premier. Is it not a fact that the most recent Australian Bureau of Statistics state accounts show that Victoria has suffered the largest relative decline in productivity, or gross state product per capita, of any state in Australia, dropping from 5 per cent above the national average in 2000 to almost 5 per cent below the national average last year?

Mr BRUMBY (Premier) — You would think that in the current environment of a global economic slowdown the Leader of the Opposition for the first time in his life might find something positive to say about the Victorian economy. Just one thing positive! But it is too difficult for the Leader of the Opposition to say a single thing about the Victorian economy which is positive.

The SPEAKER — Order! The Premier will not debate the question.

Mr BRUMBY — I am proud of the performance of the state economy of Victoria. Most of the commentators who talk about how Victoria is performing are equally proud. Yesterday I remarked in this place that the front page of the *Age* of 4 September carried an article headed 'Victoria the nation's economic engine'. In the *Age* of 18 September there was an article headed 'Tourism bucks gloomy economic trend'. Victoria's state final demand growth over the last year was 4.9 per cent. Victoria is leading

Australia in housing starts, leading Australia in new housing loans and leading Australia in new private sector investment. I would have thought these were positive things: a strong budget position, a AAA credit rating and a major capital works program going forward.

Mr Baillieu — On a point of order, Speaker, the Premier is debating the question. I wonder whether you would ask him to address the question, which was about a relative decline in productivity.

The SPEAKER — Order! I do not uphold the point of order.

Mr BRUMBY — The performance of our economy in all the circumstances is very sound indeed. We are not a resource state — we do not have iron ore resources like they do in Western Australia — yet our economic performance is the best of all the non-resource states in Australia.

I have not seen the data to which the Leader of the Opposition referred, but I know that when you do these calculations the key elements are the size of the economic growth, the size of the workforce growth — how many people are actually employed — and the related issue of the population growth. Over the last few years we have enjoyed very strong labour market growth. We have enjoyed very strong population growth. It is often a fact — if the Leader of the Opposition cared to look at productivity curves in Australia over the last 25 years, he would find this to be so — that at times of strong economic growth and strong labour market growth the productivity growth, the growth per person, tends to slow because there are a lot more people being employed in the labour market.

Mr O'Brien interjected.

Mr BRUMBY — I am sure the member for Malvern, as a former adviser to the federal Treasurer, understands that point. I am sure I have heard similar things and similar points made by the former federal Treasurer, Mr Costello. We have got a good economic story to tell in this state. Our economic fundamentals are sound, and it is disappointing that on this occasion the Leader of the Opposition has again shown himself to be a Liberal first and a Victorian second.

Housing: affordability

Mr LANGUILLER (Derrimut) — My question is to the Premier. Can the Premier update the house on the Victorian government's efforts to keep Victoria's housing affordability the best on the eastern seaboard?

Mr BRUMBY (Premier) — I thank the member for Derrimut for his question and for the strong support he has provided on behalf of his electorate and his region for strong policies to support first home buyers in particular. Last week I said publicly that I believed three things were important to continuing the performance of the Australian economy during this difficult period. Firstly, I said that there needed to be a significant cut in interest rates and called on the Reserve Bank of Australia to do that. We saw that — —

Honourable members interjecting.

Mr BRUMBY — I am surprised by how excited the opposition gets about a statement of fact. The Reserve Bank cut interest rates. I know there were some people around who said the government should not be in the business of saying whether interest rates should be cut or not. We took the view that interest rates should be cut, and we welcome the fact that interest rates were cut.

Secondly, I said governments needed to enhance and accelerate capital works programs, and we had an excellent outcome from the recent Council of Australian Governments meeting in the bringing forward of the Building Australia Fund, with the interim priority projects to be listed in December.

Thirdly, I have said that it is important for governments across Australia to be providing support for first home buyers in particular.

In answer to the honourable member's question, I want to say I am proud of the fact that Victoria is the most affordable housing state on the eastern seaboard. This has not happened by accident. Victoria is the only state in Australia which has committed to 15 years of land supply. This has kept supply on board and kept the price of entry-level housing at responsible levels. We were the first state in Australia to abolish stamp duty on mortgages, which saves homebuyers around $1400 on an average home. We have introduced the most generous concessions in Australia for pensioners. A Victorian pensioner can buy a home valued at up to $330 000 and pay no stamp duty.

Honourable members interjecting.

Mr BRUMBY — The limit under the former government — and its members are interjecting now — was $100 000. It is now $330 000. We have cut stamp duty, saving homebuyers $2460 on a median-priced home. I am also proud of the fact that Victorians now pay less stamp duty as a percentage of the median house price than they did under the Kennett government.

Mr Wells interjected.

Mr BRUMBY — I don't think we will rely on your numbers, my friend.

The SPEAKER — Order! I ask for the cooperation of the Premier and the member for Scoresby in not having a conversation across the table.

Mr BRUMBY — We are also the first state in Australia to introduce an additional bonus. As I am sure honourable members know, the original $7000 first home owner grant is now paid for by the states and has been for a number of years. We pay for that. We were the first state to pay an additional bonus on top of that, which we introduced in May 2004, which brings the total assistance to a first home buyer to $10 000. That provision has paid bonuses to more than 130 000 first home buyers. I want to say too that we were the first state to introduce a regional bonus, which means for a newly constructed home, a house and land package, we now pay a bonus of $12 000 for properties in the Melbourne urban growth boundary area, and since this year's budget, $15 000 for first home buyers in regional Victoria. These are the most generous first home owner grants anywhere in Australia.

If you look at that and take a house and land package in Ballarat, for example, that is worth $325 000 — it could be in Ballarat, it could be in Bendigo, it could be in Geelong — you see that the stamp duty on a house and land package of that size is around $2750. The first home buyer is getting a cheque from us for $15 000 and stamp duty is $2750. It is a cash-in-the-hand bonus for someone living in those regional areas of around $12 000. It is not surprising, therefore, that we are leading Australia in this area of the market.

I am pleased to say to the member for Derrimut that since May 2004 his area has seen the highest number of first home bonus recipients. If you take into account the broad area of Derrimut, Point Cook and Werribee, you see that 3344 bonuses have been paid there by our government. In Ballarat and the electorates of Ballarat East and Ballarat West, we have paid out 1633 first home bonuses. In Melton we have paid out 1610.

Honourable members interjecting.

Mr BRUMBY — I can keep going if you like. In Fountain Gate and Narre Warren, 2139 bonuses were paid.

Mr Ryan — On a point of order, Speaker, the Premier has been speaking for more than 4 minutes, and I would ask you to have him conclude his answer.

The SPEAKER — Order! I uphold the point of order. The Premier has been speaking for well over 4 minutes, and I ask him to conclude his answer.

Mr BRUMBY — This is a good news story for our state. It is a good news story about the policy decisions that we took, policy decisions which see our state in a leadership position in terms of first home owner investment in Australia. I am proud of the fact that we have the most affordable housing on the eastern seaboard. We certainly could not make that claim back in the 1990s.

Mr Thompson — On a point of order, Speaker, the Premier was giving national statistics but only configured Victoria against the eastern seaboard. I was wondering if he could extend his answer to give us where we stand nationally.

The SPEAKER — Order! I warn the member for Sandringham. I spoke yesterday of frivolous points of order being taken. There is no point of order. The Premier has finished his answer.

Exports: performance

Mr RYAN (Leader of The Nationals) — My question is to the Premier. I refer the Premier to recent Australian Bureau of Statistics data which shows that since 2001 the value of Victorian exports has slumped by 10.9 per cent while in the same period exports in the non-resource states have increased by 35 per cent in New South Wales, by 24 per cent in South Australia and by 46 per cent in Tasmania. I ask: is it not a fact that Victoria's share of national exports has almost halved under Labor when that of every other state has increased, and that nine years of economic mismanagement has left Victoria and its manufacturing sector in particular seriously vulnerable?

Mr BRUMBY (Premier) — Again, I have not seen the data to which the honourable member refers — —

Mr Burgess interjected.

The SPEAKER — Order! I warn the member for Hastings. I suggest to members of the opposition that I will not allow ministers and the Premier to be shouted down in the first 10 seconds of their answers.

Mr BRUMBY — I have not seen the data but I make a couple of observations. I know that during that period of time our dairy industry has been significantly affected. Certainly around 2003, 2004 and 2005 it was affected by a combination of drought and low international prices. I mention that because dairy is our largest single export from this state. It is a much larger

export out of our state than the export of dairy out of New South Wales.

I also make the self-evident point that we have been affected very seriously by the drought over 2002, 2003, 2004, 2005, 2006 and 2007. As the Leader of The Nationals would be aware, as he has been studying his ABS (Australian Bureau of Statistics) statistics so assiduously, in the drought in 2002–03 Victoria was affected in a significantly worse way than New South Wales in terms of its impact on agricultural production and gross domestic product.

I also make the point that the statistics that provide a state breakdown generally provide it on the basis of traded goods and that usually the ABS does not distinguish traded services between states. In terms of traded services my understanding would be, and I quoted from an article about tourism in an answer earlier today, that if you look at the export of services overseas and at professional services like accounting and architectural services, and if you look at tourism, which is essentially the export of tourism — that is, people visiting Victoria — you see that we have certainly outperformed New South Wales. If you look at education and full fee-paying overseas students, we have had huge growth in our state. We now have more full fee-paying overseas students per head of population than any other city in the world apart from London.

If you put all of those things together, you get a picture of strong economic performance. That is why we have an unemployment rate which is in the 4 per cent range and we have had state growth in national demand over the last year of 4.9 per cent. We had growth in the last quarter which exceeded the national figure, and growth which was well in excess of that which occurred in New South Wales.

Water: Victorian plan

Ms THOMSON (Footscray) — My question is to the Minister for Water. I refer the minister to the Brumby government's water plan and the commitment to secure Victoria's water through creating, saving and sharing, and I ask: can the minister inform the house how this plan is assisting industry and businesses in Victoria and how business is responding to the government's plan?

Mr HOLDING (Minister for Water) — I thank the member for Footscray for her question. Like all honourable members on this side of the chamber, she understands the importance of providing the best possible framework to enable businesses to create jobs and to generate growth. Our water policies are doing exactly that. Our water policies are providing certainty for business. What business does not need is to invest in water projects and then have uncertainty about whether or not those projects will deliver the results the Victorian people expect from them. It is for that reason that we are investing in water projects and water infrastructure that are creating jobs and generating growth right across Victoria.

We are investing in the food bowl modernisation. As honourable members heard yesterday, this is the project members opposite want fast-tracked but do not believe will work. We are investing in the food bowl modernisation because we know that as well as creating greater water security for irrigators, returning vitally important water to stressed rivers and providing water for urban communities, this project is also creating jobs and generating investment. We have already seen from the early works program on the food bowl modernisation the generation of something like 400 local jobs through local contractors and local businesses in the area that will benefit from the food bowl modernisation. Stage 1 of this food bowl project involves $1 billion of investment. This plus the Sugarloaf pipeline — $750 million worth of investment — will generate something like 1720 jobs in Victoria and inject $320 million into local economies. That is why this is so important.

The desalination plant is another important project because it is generating a non-rainfall-dependent source of water, which we know is enthusiastically supported by the member for Bass! This project is generating jobs in the Wonthaggi area. It is already generating jobs with local contractors working on site. It will create thousands of jobs during its construction period, and it will generate and inject much-needed investment in that local economy. That is why these projects are so important.

The Wimmera–Mallee pipeline and the goldfields super-pipe are themselves creating jobs and generating investment in local communities. Of course business is welcoming these important investments. However, it is also fair to say that business is concerned where uncertainty exists. Business is concerned about the proposition that we would invest $750 million in constructing the Sugarloaf pipeline but not one drop of water might run down it. That is why we saw the headline 'Coalition wrong on water: business'. That is why we saw the headline 'Farmers join backlash as Liberals flip on Sugarloaf pipeline' in the *Herald Sun* and that clanger in the *Australian* 'Gaffe sinks Baillieu's credibility'. What was the quote? It was:

> If it had been (to shadow cabinet) we might have been able to point out the lunacy of it — —

Mr K. Smith — On a point of order, Speaker, in the words of Gordon Ramsay, 'This is just crap on top of crap on top of crap'.

The SPEAKER — Order!

Mr K. Smith — I ask you, Speaker, to bring the minister back to the question that he is supposed to be answering and not just give us all this rubbish.

Questions interrupted.

SUSPENSION OF MEMBER

The SPEAKER — Order! I have already warned one member today for raising a frivolous point of order. Under standing order 124, I ask the member for Bass to leave the chamber for 30 minutes.

Honourable member for Bass withdrew from chamber.

Questions resumed.

Mr HOLDING (Minister for Water) — The article states:

> 'If it had been (to shadow cabinet) we might have been able to point out the lunacy of it', one source said.

Who was the source? We know it is somebody from the shadow cabinet. We know it was not the member for Brighton.

The SPEAKER — Order! The minister is debating the question, and I ask him to stop.

Mr HOLDING — Business is looking for certainty, and it is looking to be reassured that the important investments that the state government is making to provide water security for all Victorians are actually going to realise the benefits and not be left to be white elephants. If you shut down the north–south pipeline — if you shut down the Sugarloaf interconnector — then you risk wasting the $750 million investment being made by Melbourne Water in providing greater water security for Victorians. You would waste the $300 million invested by Melbourne Water customers in modernising the food bowl in the state's north.

These are not only vitally important investments for all Victorian households and Victorian irrigators, they are vitally important projects for Victorian businesses and Victorian industry. They are creating jobs, and they are generating investments. We are getting on with the job of delivering these vital projects. Those opposite continue to backflip and sidestep on these important projects for Victoria.

Economy: performance

Mr WELLS (Scoresby) — My question without notice is to the Premier. I refer the Premier to the most recent Australian Bureau of Statistics (ABS) national accounts, which show that household consumption in Victoria fell by almost 0.5 per cent in the last quarter, and to a comment by the federal Treasurer, Wayne Swan:

> Consumption has been particularly hard hit in New South Wales and Victoria.

I ask: is it not a fact that Victorian families have been forced to reduce spending because they are carrying the burden of this government's economic mismanagement?

Mr BRUMBY (Premier) — The honourable member asked a question two weeks ago, and I said in answering that question that the claims being made by him were unlikely to be true. I must say — —

The SPEAKER — Order! The Premier is debating the question. I ask him to address his answer to the question.

Mr BRUMBY — Of course the response from the former Reserve Bank of Australia governor to the claims made by the honourable member was:

> Such ill-informed and suspiciously malicious assertions — —

Mr Ryan — On a point of order, Speaker, the Premier is debating the question, and I ask you to have him answer the one he has been asked.

The SPEAKER — Order! I uphold the point of order. I ask the Premier to direct his response to the question asked today.

Mr BRUMBY — The claims that are made by the honourable member in this place are usually not correct. Be that as it may, let me remind the member that the household consumption figures to which he refers go to make up the total state final demand. The state final demand — as I am sure the honourable member would be aware! — takes into account consumption, private sector investment and government investment. Lo and behold, when you put them all together you see that our growth over the last year was 4.9 per cent. I am sure the *Herald Sun* wrote similarly positive stories, but an article in the *Age* carries the headline:

> Victoria the nation's economic engine.

It states that Australia's economy:

> … grew 0.3 per cent in the June quarter, well down on the 0.7 per cent recorded …

That is what happened in the Australian economy. Our growth in the last quarter was much, much stronger than that.

Mr Wells interjected.

Mr BRUMBY — I give up.

The SPEAKER — Order! I ask the member for Scoresby to stop interjecting. I also ask the Premier to ignore interjections.

Mr BRUMBY — We went through this issue a couple of years ago when the honourable member was first appointed and when the honourable member had difficulty — —

The SPEAKER — Order! The Premier will not debate the question.

Mr BRUMBY — I am not debating the question, Speaker. As I have attempted to explain in answering the honourable member's question, when you look at state final demand figures, you see they take into account household consumption, private sector investment and government investment, and when you get all of those figures together what you have is growth in state final demand for our state over the last year of 4.9 per cent. Most commentators have said that that is a pretty good number. By the way, over the same period, growth in New South Wales was 2.7 per cent and the national growth figure was 4.3 per cent.

I will just say a couple of other things, if I can. Over the last year — the period to which the honourable member referred — business investment in our state grew by 14.2 per cent ahead of the national average of 10.8 per cent. I have said on housing affordability that we are the most affordable capital city on the eastern seaboard. We are forecast to lead Australia in terms of housing starts, and we have been leading Australia in terms of first home buyers. Over the last year to the end of August — the latest figures that are available — the state which had more building approvals than any other state in Australia was Victoria. I know — —

The SPEAKER — Order! The Premier has been speaking now for 5 minutes, and I ask him to conclude his answer.

Mr BRUMBY — I am not sure what the point of the honourable member's question was, but it seems that the opposition has had a day going through some ABS statistics. It would be better for the opposition to acknowledge the circumstances in which the Victorian economy is performing positively and strongly. That should be acknowledged by the opposition.

Water: sporting clubs

Ms MARSHALL (Forest Hill) — My question is to the Minister for Sport, Recreation and Youth Affairs. I refer the minister to the Brumby government's water plan and the commitment to secure Victoria's water through creating, saving and sharing, and I ask: can the minister update the house about how community sporting clubs across Victoria are being assisted to deal with a shortage of water supplies?

Mr MERLINO (Minister for Sport, Recreation and Youth Affairs) — I thank the member for Forest Hill for her question and for her excellent work with sporting communities right across the state. We have just concluded another record-breaking year of local footy and netball. Every season in the state was played in full, a fact only made possible through the support of the Brumby government. Take Coughlin Park in Horsham, which has just hosted a capacity crowd at the Horsham and District Football League grand final. Coughlin Park would not have been available had it not been for the Brumby government's drought funding, which helped keep the playing surface alive.

Now the focus turns to summer sports. Just a fortnight ago I was in the Mildura region to announce further Brumby government drought assistance, this time to bowling clubs, helping them convert to synthetic greens. But synthetic, drought-resistant turf and the like are only part of the solution. Our sporting clubs simply need more water.

As we know, the Brumby government has a $4.9 billion water plan. Through expanding and connecting Victoria's water grid, through desalination, through modernising our irrigation system, through increased water recycling — through all of these projects — we are freeing up, creating and saving more water. The benefit for our sporting clubs is enormous.

In Bendigo, the Brumby government has invested close to a quarter of a million dollars connecting local soccer grounds, footy and cricket grounds and bowling greens to the new Epsom-Spring Gully recycled water pipeline. This recycled water is available only because the Brumby government secured Bendigo's water supply through the goldfields super-pipe — a project

opposed vigorously by the Liberal-Nationals coalition. The outcome is clear: more water for Bendigo means more water for Bendigo's sportsgrounds. In the Wimmera we are preparing sportsgrounds in Murtoa for connection to the Wimmera–Mallee pipeline. The pipeline is a lifeline for those clubs, yet it is another water project opposed by the Liberal-Nationals coalition.

Some people in our community say they understand the importance of our sporting clubs. I quote the member for Lowan:

> Local sport … is vital to the continued development of country communities and it is a way of keeping our younger people in rural areas.

The member for Lowan is exactly right. Or this quote:

> I think all of us here will acknowledge that drier seasons will be with us as a matter of course well into the future, so it is imperative that we address these issues and make certain that we come up with a strategy that will enhance our sporting fields in dry climates.

The former Deputy Leader of the Liberal Party in the other place is right also in what she says. Yet if members of the coalition genuinely believe this, why are they so ardently opposed to the Brumby Government's $4.9 billion water plan? You cannot have it both ways. You cannot say you support community sport and yet reject those vital water measures which will increase water supply.

The SPEAKER — Order! The minister is debating the question.

Dr Napthine interjected.

The SPEAKER — Order! If the member for South-West Coast wishes to take a point of order, he knows the process. I ask the minister to cease debating the question and to conclude his answer. He has been speaking for almost 5 minutes.

Mr MERLINO — Only through the water plan will we be able to replicate projects like those in Bendigo and those in the Wimmera. Only through the water plan will we be able to secure, create and share the water needed to keep our sporting communities alive. Our footy clubs, our cricket clubs, our soccer clubs, our bowling clubs and our swimming clubs need more than just easy sympathetic words; they need real water security. Only the Brumby government truly understands the importance of community sport, and only the Brumby government can be trusted to deliver the water they need to survive and thrive well into the future.

Drought: government assistance

Mr RYAN (Leader of The Nationals) — My question is to the Premier. I refer to the Premier's answer to my question yesterday regarding drought relief, in which he stated in part:

> We will finalise these matters in the near future …

I ask: given that drought-stricken farming communities are desperate for immediate assistance, and given the fact there are 13 established and well-recognised systems of government assistance ready to go, is the government delaying the announcement for a photo opportunity at the Wimmera community cabinet on 21 October, or does it just fail to understand the dire urgency of the situation?

Mr BRUMBY (Premier) — One thing I can say about the drought assistance provided by our government is that throughout the period we have been in government we have never hesitated during times of unprecedented drought to provide significant support for our rural communities. There have been many people outside this place, on various sides of politics and in various organisations, who are on the public record as saying that the assistance we provided right through last year, in the year before and in 2002–03 has been assistance properly targeted as required to help our regional and rural communities. That is in stark contrast, by the way, to the situation that occurred in this state in the previous decade.

Mr Ryan — On a point of order, Speaker, the Premier is debating the question. I would ask you to have him answer it.

The SPEAKER — Order! I do not uphold the point of order.

Mr BRUMBY — I have been asked a question about the drought, and I am making the point that we have provided significant assistance and far more assistance than was ever provided in the 1990s, when farmers in this state, whether in Gippsland or in the Mallee, campaigned for months and months and never got a cent out of the former Liberal and National party government. That is the fact of the matter.

The SPEAKER — Order! The Premier is now debating the question. I ask him to confine his response to the question.

Mr BRUMBY — As I said yesterday, the package which was announced last year — —

Honourable members interjecting.

The SPEAKER — Order! The member for Kew will cease interjecting in that manner, and I will not warn the member for Hastings again this question time. I ask the Deputy Leader of the Opposition to cease interjecting across the table.

Mr BRUMBY — As I indicated yesterday in question time, my recollection was that the drought assistance we announced last year was in late October. I am advised that last year, in 2007, we announced the drought package on 24 October, and I am advised that in 2006 the drought package was announced on 23 October.

There is a reason for that — that is, because it is generally the case that the primary industries departments at the state and federal levels want to make a proper assessment of the early start to spring rains. It is a fact of the matter that until September this year, certainly in the north-west of the state in many of the grain-producing areas, the season was progressing well, but we had, again, a failure of rains in September. The government has therefore sought all of the latest information before making final decisions in relation to this matter.

I might say, again as I think I indicated in my answer yesterday, we had a Council of Australian Governments meeting in Canberra last week. On our agenda we discussed the issues of water and climate change, and it was appropriate to have a discussion with the Prime Minister and the federal government about their approach to these matters.

Finally, I say to the Leader of The Nationals that there are of course many existing programs which are continuing. In light of the contact he may have with some groups, he may care to advise them that we have an ongoing program through rural financial counselling — $3.5 million through to 2011–12 — and that funding is committed; we have our rural futures program — $3.7 million through to 2011–12; we announced earlier this year sustainable farm families, which is $5 million in funding through to 2010–11; we have the support for councils, planning for change — $1.4 million through to 2009–10; we have a further $2.6 million this financial year for the synthetic surfaces program; we have $1.5 million for the financial year 2008–09; and we have a further $1 million in the financial year 2008–09 for emergency volunteer support.

On top of that we are making record large investments through our infrastructure programs. We have just heard reference made today by the Minister for Sport, Recreation and Youth Affairs in his answer to the question about the Wimmera–Mallee pipeline. That project is bringing water security to a region which has previously not had water security. I would think this would be a major program, a long-term drought prevention program, for the whole of the Wimmera Mallee. As the Leader of The Nationals would be aware, even this year with just 5 per cent in water storages in that system if that whole system were piped, as it will be by 2010, even at 5 per cent there is enough water to provide a full water entitlement for every farmer throughout the area.

Mr Ryan — Just announce the package.

Mr BRUMBY — I note the interjection by the Leader of The Nationals.

The SPEAKER — Order! I ask the Premier to conclude his answer.

Mr BRUMBY — The government is getting on with the job of doing it, delivering programs right across the state, drought-proofing the state and providing significant assistance to our farmers — $178 million in 2006–07 and a further $124 million in 2007–08. These are good programs supporting our farmers and rural communities.

Water: emergency services

Ms GREEN (Yan Yean) — My question is to the Minister for Police and Emergency Services. I refer the minister to the Brumby government's water plan and the commitment to secure Victoria's water through creating, saving and sharing water. I ask the minister to inform the house how that commitment will work to protect Victoria's homes, farms and communities from bushfires and to support hardworking Country Fire Authority members in their important work?

Mr CAMERON (Minister for Police and Emergency Services) — I thank that Country Fire Authority volunteer, the member for Yan Yean. To her and to all of the CFA volunteers, some in this house — they make up a tremendous firefighting team, a great firefighting machine in Victoria — we say congratulations and thank you.

In relation to volunteer firefighters, we have seen the urban brigades association and the rural brigades association come together to become Volunteer Fire Brigades Victoria — and that has only occurred in the last week. The Premier, the member for Kew and the member for Yan Yean went along to that announcement. We wish the organisation all the best, because, particularly in its new role, it will continue to

play a very important part in the ongoing development of the Country Fire Authority.

That work has been underpinned by Labor's enormous commitment to and support of the CFA. During Labor's time the CFA budget has increased from $113 million per year to $295 million per year, including the provision of over 600 new and replacement firefighting appliances. This has increased the firefighting capacity of the state.

Access to water for firefighters is a concern during the dry years, and that is why emergency bores are being put in; alternative firefighting techniques, particularly dry firefighting, have become more prevalent; and mobile water tanks have been provided. That is why there are more water tanks at fire stations; water projects have been put in place by the government which help increase water security; and there are now pipelines like Labor's Wimmera–Mallee pipeline which is able to move water to areas of need. Great projects like Labor's goldfields super-pipe, which is a beautiful pipe, have meant that central Victoria did not run out of water last summer and there was water to tackle fires.

There is a new pipeline, the Sugarloaf pipeline, which is part of the food bowl project. There will be six access points for Country Fire Authority tankers: Henderson Road at Yarra Glen; Dixons Creek; Castella Road on the Melba Highway near the Kinglake turnoff; outside the CFA station in Glenburn; at Murrindindi Road South at the Melba Highway, Devlins Bridge; and the Murrindindi Road North at Melba Highway. Those tapping points were developed in conjunction with the CFA. Much of that area is highly treed, and we know access to water is an issue. This will enable those CFA units, which do a tremendous job in protecting the region's family farms and homes, to have access to that water.

Labor's food bowl project means water savings — that is, more water for irrigators, more water for the environment, more water for urban users and more water for community fire safety.

Hospitals: government performance

Ms ASHER (Brighton) — My question is for the Minister for Health. I draw the attention of the minister to the AMA Victoria website being operated by the Australian Medical Association (Victoria), which is encouraging doctors to report concerns over the government's mismanagement of hospitals, and to a recent report on this website which states:

> Today a patient of ours died — because of the system. He was stuck in the emergency department in need of at least three critical care acute services. We had not a spare bed in the hospital. No critical care, no ICU, no HDU, no coronary care bed for them to go to.

I ask: given that AMA Victoria has confirmed that reports of this type reflect its own concerns, can the minister advise if the department has received similar reports?

Mr ANDREWS (Minister for Health) — I thank the member for Brighton for her question. What I am concerned to do and what this government is concerned to do is to ensure that hospital doctors — there are now, as confirmed in the recent *Your Hospitals* report, more than 2500 additional doctors compared to the number in 1999 — and our other dedicated health professionals across the health system are given the resources they need to treat more patients and to provide better care. That is what we have been absolutely committed to doing. That is what we have done in each and every budget in each and every year of our government and at each and every health service across this state.

I have been up-front from the moment I became health minister about there being more that we could do — —

Honourable members interjecting.

Mr ANDREWS — You cannot have it both ways. These are the people who advocate improvement — —

The SPEAKER — Order! I ask for some cooperation from opposition members to allow the minister to address the question he has been asked.

Mr ANDREWS — The choice is very clear. Either you are motivated to bring about improvements in the system or you are motivated by cheap politics. It is very clear what motivates those opposite — —

The SPEAKER — Order! I suggest to the Minister for Health that he also has a role in allowing for the smooth running of question time. Deliberate provocation of the opposition will not be allowed. The minister should stop debating the question and relate his answer to the question.

Mr ANDREWS — The member for Brighton can be assured, as can all honourable members and all Victorians, that this government will continue to work with AMA Victoria, with hospital doctors, with our health services and with communities right across the state to ensure that we continue to grow resources and that health services have more money to treat more patients — and that is the dynamic we face. What is more, the member for Brighton and all honourable members can rest assured that this government will continue to drive the hardest possible bargain with

Canberra to ensure that we get further support to continue to treat the record number of patients that present to our health system. We have provided more resources, that is our record, and we will continue to do that.

Mr O'Brien interjected.

The SPEAKER — Order! I suggest to the member for Malvern that if he wishes to ask a question he needs to stand in his place and he will be given the call. To shout questions across the chamber at other members is not the way to conduct question time.

Water: goldfields super-pipe

Mr HOWARD (Ballarat East) — My question is to the Minister for Regional and Rural Development. I refer the minister to the Brumby government's water plan and the commitment to secure Victoria's water through creating, saving and sharing, and I ask: can the minister update the house about the benefits that the goldfields super-pipe is providing to the communities of Ballarat and Bendigo?

Ms ALLAN (Minister for Regional and Rural Development) — I thank the member for Ballarat East for his question. Like the members for Ballarat East, Ballarat West and Bendigo, I know how vital the Brumby government's super-pipe is to delivering water to Bendigo and Ballarat. This super-pipe is helping to provide water to homes in Bendigo and Ballarat and water for industry. This massive investment in water infrastructure is also providing significant new investment in jobs and in industry.

This $278 million goldfields super-pipe project is making a major contribution to regional development in central Victoria. This is a 158-kilometre pipeline that is providing water security for our biggest inland regional centres supporting a population of nearly 200 000 people. This is water security for businesses and water security for homes that simply would not be there today if it were not for the Brumby government super-pipe plan. It certainly would not have been there if others had had their way with this project.

This project was jointly funded by the Victorian Labor government and the former federal coalition government. I remember well when, along with the member for Bendigo West, I joined the then federal water minister, Malcolm Turnbull, when he made his announcement of commonwealth funding for this project. In the day-to-day operation of government ministers are given various different sources and pieces of advice along the way. I am very pleased that there was one piece of advice given to the federal government about funding for the super-pipe that it did not listen to. That piece of advice was that on the merits of this project the then Prime Minister, Mr Howard, should not provide the funding. Who said that? That came from the Leader of The Nationals.

The goldfields super-pipe is absolutely critical to the future growth of our regional centres and in helping local communities and industry to manage the challenges we face with drought and climate change. The alternative to this policy was to leave Bendigo and Ballarat 'high and dry'. This was what the *Bendigo Weekly* labelled another policy which was to put a ban on permanent water trading between systems until the drought was over. Whose policy was that? That was the policy of the Liberal Party. These are policies we have rejected. It is this government's water plan that is about providing greater water security, and that in turn provides a jobs boost to our region. The construction of the goldfields super-pipe alone created an additional 194 jobs. That is 194 jobs along the pipeline route that would not have been there if others had had their way.

The Brumby government has a dedicated water plan for the whole of Victoria. It is a plan that benefits irrigators and farmers, a plan that benefits our rivers and the environment and a plan that benefits industries and urban communities. The Liberal Party and The Nationals have from the outset opposed Labor's water plan, which provides a grid of pipelines to support Melbourne, Bendigo and Ballarat. Of course they say they do not oppose these plans now. Now that benefits are flowing to communities and now that water security has been provided to homes and industry, opposition members come to the party and say they support these plans. But who knows? Tomorrow they might have a different view. We will just have to wait and see.

We will not be changing our course. It is the Brumby government that is getting on with the job of delivering vital infrastructure projects that are about securing water supplies for all of Victoria: for regional communities, for regional businesses and for our urban communities as well.

ENERGY LEGISLATION AMENDMENT (RETAIL COMPETITION AND OTHER MATTERS) BILL

Second reading

Debate resumed.

Mr CLARK (Box Hill) — The other issue that I believe needs consideration when looking at how the retail competitive environment in Victoria for electricity and gas can be improved is the phenomenon that has been emerging in recent times of door-to-door canvassing of consumers to change their retailer. This was an issue that was raised with the coalition parties by the Victorian Council of Social Service. It is probably also an issue that a number of us have had personal experience of, with people calling door-to-door seeking to persuade us to change our retailer.

In a sense that is part of healthy competition. One is much better off having a multiplicity of offers than having few or none. However, it is also fair to say that there are a number of instances in which those canvassing door-to-door seem to have stepped beyond the limit of what is appropriate in terms of the claims they have made to customers or the lack of information that is being provided to customers.

In part this may be an issue governed by consumer affairs legislation and a job for the consumer affairs office within the Department of Justice, but it is also an issue that appears to be emerging particularly in relation to gas and electricity tariffs. It is something that I believe the minister and the government need to consider in ensuring that we have a competitive retail energy sector in Victoria but also one that observes appropriate standards of provision of service and frank, accurate and thorough provision of information to consumers.

The last, but certainly not the least, issue I wish to touch on in relation to this bill is that of the so-called smart meters, otherwise known as interval meters or what the bill describes as advanced metering infrastructure. As I indicated earlier, the bill proposes to give a general power for orders in council to establish what the minister described in his second-reading speech as a more efficient mechanism for the recovery of costs for that rollout. I should at the outset express concern that the minister in the course of the second-reading speech and in any other information he has made public has given the consumer virtually no indication of what this so-called more efficient mechanism is going to be. When such indirect terms are used it is usually because the consumer is likely to be stung for additional amounts. A euphemism like that is deployed to conceal that fact.

Consumers may already, from what has been put to the coalition parties, be subject to charges built into the current distribution business tariffs which have been authorised by the Essential Services Commission and be liable for a component of those charges which represent the cost of so-called smart meters, which supposedly were to start being deployed in 2006. That allegation has been made very strongly to the coalition parties by various organisations that have contacted us. Their argument is that since 2006 consumers have in their electricity bills been paying for meters which still have not yet been provided to them. The estimates we have received from industry as to the amount of that cost range from about $22 to $100 per year. I think the minister owes this house and the public an explanation of whether customers are already paying through their electricity charges for meters which they have not yet received.

Beyond that and going forward, I was very concerned by an announcement made by the acting Minister for Energy and Resources late last month about the government's revised plans for the deployment of new meters in Victoria. They are being hailed as smart meters, but as far as I am concerned these meters are not only late, they are also dumb and expensive. They are not going to contain many of the features that customers will need if they are to be able to manage their power usage and greenhouse emissions, or they will lack a number of features which would assist consumers to take advantage of savings that may be offered by retailers to those customers who reduce their power use at times of peak prices.

A proper smart meter should give the customer real-time information about their consumption over any particular half-hour period and should have built-in features such as the capacity for the remote control of appliances within the home, connection to the householder's computer or home network, an in-house display of information and the ability to interoperate with other devices. But it appears that the meters that are going to be deployed in Victoria will have none of these facilities available to customers — either they will not be built into the meters as functions at all or they will be built in but they will not be switched on for many years to come. Even the daily supply of meter data to retailers is not intended to start until December 2012.

So for many years, if not indefinitely, the main feature of these meters is going to be simply to allow retailers to remotely collect usage data rather than having to send a meter reader around to each household Some industry participants have even questioned with us how soon it will be before that functionality is available. These meters will also provide the power companies with the capacity to connect and disconnect the power supply remotely. The government has been saying they will have a swathe of features which will allow

customers to better manage their energy supply and energy usage and get better deals from retailers, but the vast majority of those features will be lacking.

Smart meters have been under investigation in Victoria and on the agenda for many years. The Essential Services Commission began an investigation of a smart meter rollout in 2001 and announced in July 2004 that their deployment by power companies would be mandatory. The deployment for consumers with off-peak metering was supposed to start in 2006. The start date was later delayed until 2008, and it is now not due to commence until the middle of 2009.

The opposition parties strongly support the deployment of genuine smart meters, because we think they are important both to assist individual consumers and to assist in reducing spikes in power demand, because they can send signals to consumers to encourage them to reduce their power consumption at times of peak demand and reward them for doing so. That reduces spikes in the price of electricity and slows down the need for additional electricity infrastructure to be deployed in Victoria.

It is very regrettable that the deployment of genuine smart meters has been so long delayed, and that the entire project has been poorly managed under the Bracks and Brumby governments. We urge the minister to have another look at what is going on with these meters. We urge him to make changes so we can get a genuinely competitive and accelerated deployment of smart meters that have the full suite of facilities and capabilities which are already available on meters currently available on the market. Distribution companies do not look set to deploy such meters for many years to come. In conclusion, the opposition does not oppose this bill, but we raise a number of concerns about it.

Mr HARDMAN (Seymour) — I am pleased to rise to speak in the debate on the Energy Legislation Amendment (Retail Competition and Other Matters) Bill 2008, and I am pleased to hear that the opposition is supporting this bill. The bill amends several acts, including the Electricity Industry Act 2000, the Gas Industry Act 2001, the Gas Safety Act 1997, the Electricity Safety Act 1998, the National Electricity (Victoria) Amendment Act 2007 and the National Gas (Victoria) Act 2008. The bill makes further provisions in relation to the operation of the existing gas and electricity customer safety net provisions that we have in place in Victoria now to protect and provide a good competitive market for our consumers.

Amendments to the Electricity Industry Act 2000 include requirements for electricity bill benchmarking as an alternative to the current requirement to publish greenhouse gas emission information on customer bills. Amendments to the Electricity Industry Act 2000 will allow the rollout of advanced metering infrastructure, which has been covered in some detail by the member for Box Hill.

The amendments to the Gas Industry Act 2001 provide for the Governor in Council to make retail gas market rules for the gas transmission and gas distribution system. It also provides for transfer of the responsibility from the Essential Services Commission to the Australian Energy Regulator for approvals of amounts payable by gas retailers in respect of costs incurred by VENCorp in relation to the implementation, operation of and provision of services in connection with arrangements for competition in the retail gas market. The amendments to the Gas Industry Act 2001 repeal a redundant tariff or order provision.

The Electricity Safety Act 1998 will be amended to remove the provisions and references relating to the acceptance of electrical equipment by Energy Safe Victoria. The bill also amends the Gas Safety Act 1997 and the Electricity Safety Act 1998, and again makes further provisions in relation to the making of regulations. The National Electricity (Victoria) Amendment Act 2007 makes further provisions in relation to advanced metering infrastructure. The bill clarifies the application of the Australian Energy Regulator's powers in relation to the accounting and cost allocation information requirements for the economic regulation of gas distribution businesses under the National Gas (Victoria) Act 2008.

This bill supports our government's energy competition reform and provides a robust and comprehensive consumer protection regime at the same time. It does that by extending the head of power for the minister to be able to make an order in council that requires retailers to publish tariffs, terms and conditions. The government requires this information to be publicised on the retailer's website and the Essential Services Commission website, but also by using other channels.

The Bracks and Brumby Labor governments have a very proud record of achievement in creating a competitive market that protects consumers in Victoria. This goes back to the Keating Labor government which established the National Competition Council that began the national reform process.

The member for Box Hill has, again, made a number of claims about government members jumping on board

with the opposition and the policies of the former Kennett government. The clear difference is that what we are trying to do is create a competitive market for consumers that protects their interests, whereas the intention of members of the Liberal Party and The Nationals when they were in government was to flog off electricity assets at possibly fire sale prices. Perhaps they got it at a good price, I do not know, but the big thing for them was just to flog off our state's assets. That obviously drew some ire at that time from Labor Party members, and rightly so.

In 1999, when we came to power, Victorians had no choice at all in regard to who their energy retailer would be, so there was not really any competition. We got to work to bring together a system for all Victorians so they would have competition. Labor introduced an energy retailer of choice in 2002. Since that time 60 per cent of Victorian energy customers have exercised their right to choose between retailers. Research is showing that customers are finding they have been able to save between 5 per cent and 10 per cent on their energy bills.

Another piece of research and publication that we are really proud of — and it rebuts much of the member for Box Hill's criticism of our government's efforts to create a place of competition and consumer protection for all Victorians — is that First Data Corporation ranked Victoria no. 1 as the hottest electricity market in the world. It is pretty hard to beat the no. 1 ranked hottest electricity market in the world. Yes, there is always more to do. Yes, there is always further to go. So what are we doing now? We are amending the legislation and bringing forward more plans to make Victoria's electricity system more competitive and also with a focus on consumer protection. I commend the bill to the house.

Mr CRISP (Mildura) — The Energy Legislation Amendment (Retail Competition and Other Matters) Bill 2008 is before the house. The purpose of this bill is to amend the Electricity Industry Act 2000 and the Gas Industry Act 2001, and it relates to the operation and customer safety provisions.

I am going to quickly run through the main provisions of this legislation. It provides that standing offer retail gas and electricity tariffs may only be regulated by the state government if the Australian Energy Market Commission has found that retail competition is not effective and recommends that price controls be retained or reintroduced.

It requires retailers to publish standing and various other offers on their website, publish notice of changes in newspapers and advise customers in writing of changes and require the Essential Services Commission to publish standing and relevant published offers on its website and to report annually on tariffs, terms and conditions on which electricity and gas is sold.

It modifies the information about greenhouse gas emissions and electricity consumption that retailers are required to provide to residential customers. It enables orders in council to establish a more efficient mechanism for the recovery of costs for the rollout of the advanced metering infrastructure.

It transfers responsibility for the approval of the gas market rule changes and of fees charged to participants, and provides for dispute resolution processes to be included in retail gas market rules. It amends the definitions of standard and complex gas installations, and it makes further transitional provision for the transfer of economic regulation of electricity and gas distribution.

It is a maintenance bill in some ways with a couple of new areas that I want discuss. The issue of smart meters and the adequacy of competition in country areas are the two issues that I wish to focus on. Smart meters are being rolled out with limited functionality and at considerable cost to consumers. I believe they will do little to help consumers manage their electricity use. Going forward, we want consumers to become aware of how this precious resource of electricity is used, and I believe the meters that are proposed are inadequate to give consumers the sort of information they require.

Not only that, I think the rollout is late. We should have had these meters with consumers a long time ago. They are expensive and lack the features that the consumers require. Smart meters have been on the drawing board since 2001, and they are now going to be deployed in 2009. The Essential Services Commission has been talking about smart meters for a long time. They too go back to 2001. The meters are expensive. Consumers are going to pay for something that does not give them the features they want. Despite the limited benefits of these smart meters, consumers are still being to forced to pay for these meters through their power bills.

The following features should be included because these are the things that people out there want to know about: they want to save on electricity and they want to be involved in limiting their carbon footprint. The smart meter rollout should have had an in-home display of information, customer supply monitoring, interoperability with other devices and remote load management and connection to a home area network.

These are the things that people have been seeking over time. Who benefits from this if it is not the consumer? It appears that the main benefits are achieved by retail companies that can now be involved in reading their meters remotely, and connecting and disconnecting the power remotely. So it appears that it is not about the consumers when it ought to be. It is about the retail companies and therefore we are not hitting the mark as we need to.

The adequacy of competition, particularly for country consumers, is of concern. Small country users with no access to mains gas are facing effectively little competition. If you are a larger consumer or are in the metropolitan area, everybody wants you as a customer. If you are out in the country, you pay. Bottled gas prices have skyrocketed, and without gas as a real alternative there is little effective competition to the electricity network. The loss of the network tariff rebate has further disadvantaged country people. The rebate took into account the losses that occur in transmitting power to those living in the country. There are many disadvantages to living in the country, and this is now one of them. Country users will be paying more because there is not the base competition that is required for tariffs to be comparable to those available to metropolitan users.

I am now going to talk about some of the other energy saving areas which smart meters would have permitted. If you have the money to invest in home generation, the current limits on cogeneration size and the feed-in tariff structure do not offer effective competition. If there is not another electricity retailer out there who wants your business, you cannot go to gas. You can generate your own power, but to do that you have to have a structure that supports it. The smart meters that are proposed will not encourage that and neither will this legislation, given its structure. The feed-in tariff debate rages around us and will no doubt be the subject of further legislation. I also note that there are delays in effecting changes to this legislation. If effective competition is deemed to cease, which will be difficult to prove, the government will take too long to amend the legislation.

It is a difficult world out there for consumers. With this legislation we will make choosing an electricity supplier, if you have a choice, require the comparisons we have to make when choosing so many other services and products. In the marketplace products are designed in such a way as to be not comparable. Some of the more difficult choices now seem to relate to mobile phone or other plans that are said to be right for you. From my reading of this legislation, there is no obligation on the part of electricity retailers to introduce a standard comparable format. Country people, and anyone else in Victoria for that matter, will not know how to compare the products. Will they be comparing apples with apples or apples with oranges? The choice, if it exists, is complicated and thus is a chance lost.

In conclusion, with so much of this legislation it is a case of an opportunity lost. The meters are not as smart as they could be, should be or need to be. They have been referred to as dumb meters, and I agree with that. We can do better than this in 2008. So much more could have been achieved with effective competition in country areas. Melbourne may have effective competition; I am concerned that country people, particularly small country users, will not have it. There is concern over the possible temptation for a carpetbagging market opportunism. If there is a lack of competition in the country areas and there is a lag while government responds, country people will pay.

The Nationals in coalition will not oppose this bill. It is at least a step in the right direction, but I expect to see further legislation in the future as the Brumby government plays catch-up in this vital area.

Ms BEATTIE (Yuroke) — The member for Mildura made the point that he hoped to see something. Doing nothing is not an option with this bill, because the existing legislation is sunsetting. Something has to be done, but the bill will not change retail price regulation and will not change consumer protections.

I am disappointed that the member for Box Hill is not here. He has gone out of the chamber. I want to refute a couple of the things he said. The member for Box Hill laid all the glory for this legislation at the feet of the Kennett government. As people are wont to remind us, the Kennett government was in power nine years ago, and the world has moved on. It is the Keating government reforms that this actually stems from, because the Keating Labor government established the National Competition Council that began the national reform process. It was the Keating government that deregulated the banks and thereby laid the foundation for the strong economic position that Victoria now finds itself in, with a strong buffer against the financial crisis affecting the rest of the world, and it was the Keating government that introduced the National Competition Council.

The Keating government encouraged the states to address deregulation and the introduction of competition in the provision of government. To suggest otherwise is simply scurrilous and wrong. It was the Keating government. When it came to energy legislation, all the Kennett government did was sell off the family jewels to big business and forget about

looking after consumers. That was very typical of the Kennett government: looking after the big end of town and forgetting about the community in general. We should not be surprised that the Kennett government flogged off electricity services: it flogged off just about everything else. People were frightened to leave their chairs in case they might be sold.

Full retail competition in electricity commenced in January 2002, and full gas retail competition commenced in October 2002, enabling all domestic and small business consumers to choose their energy retailer. A statutory safety net was provided by amendments to the act in 2001, which was designed to protect consumers. Competition is very keen. As honourable members would know, I live in one of the growth areas where there are lots of new homes. I can assure members that every couple of months somebody knocks on the door to talk about the products that they have on offer.

One has to carefully consider all these products and the various incentives which are offered to people to change over. Many consumers change over because they can see that competition is good for them. It has driven the price of electricity down — —

Mr Wakeling — The private sector.

Ms BEATTIE — Yes, the private sector, as the member for Ferntree Gully said. After those wonderful Keating years, that national reform process has enabled the competition to flow on to the benefit of consumers, and that is what the Labor government focuses on: what is the benefit for the consumers?

There are others who want to speak on this bill. I just repeat those few words regarding the fact of it, that the Keating Labor government established the National Competition Council and it was the start of a process that has stood us in good stead to go forward into the future. As I said, doing nothing is not an option here. We have got to move on because the legislation is sunsetting. I was pleased to hear from the various speakers who have been on their feet that the Liberal-Nationals opposition does not oppose the bill. I commend the bill to the house and wish it a speedy passage.

Mr WAKELING (Ferntree Gully) — It gives me pleasure to rise to contribute to the debate on this important piece of legislation, the Energy Legislation Amendment (Retail Competition and Other Matters) Bill. As has been mentioned by members speaking before me, the main purpose of this bill is to modify the regulation of the retail electricity and gas tariffs, to change the cost-recovery mechanisms for smart meters, and to modify the regulation of gas market rules.

The bill will introduce a number of provisions. They include providing that the standing offer retail gas and electricity tariffs may only be regulated by the state government if the Australian Energy Market Commission has found that retail competition is not effective and recommends that price controls be retained or reintroduced. It will also require retailers to publish standing and various other offers on their websites; publish notices of changes in newspapers and advise customers in writing of changes; and require the Essential Services Commission to publish standing and relevant published offers on its website and report annually on the tariffs, terms and conditions on which electricity and gas is sold.

It will also modify the information about greenhouse gas emissions and electricity consumption that retailers are required to provide to residential customers. It will enable orders in council to establish a more efficient mechanism for the recovery of costs for the rollout of advanced metering infrastructure. It will transfer responsibility for the approval of gas market rule changes and fees charged to participants, and will provide for dispute resolution processes to be included in retail gas market rules.

It will also amend the definitions of standard and complex gas installations for gas safety regimes, and allow regulations to be made for electricity and gas safety regimes. It will also make further transitional provision for the transfer of economic regulation of electricity and gas distribution.

As the member for Box Hill and the member for Mildura have indicated, the coalition will not be opposing this piece of legislation. However, there are certainly at number of areas in which this government could be moving at a much quicker rate. Let us not forget this is a government that has only been in power for nine years. It has only had nine years in which to try to fix this obviously important area of concern.

Mr Eren — There's more to be done.

Mr WAKELING — There is certainly a lot more to be done, as government members rightly point out about their own government.

A number of people have indicated their concerns about the way in which the government has managed the rollout of its so-called smart metering. It is late, it has got limited functionality and it is at considerable cost to consumers. It is interesting to note that the Essential Services Commission began investigating smart meter

rollouts in 2001. This issue was investigated a number of years ago, but like a number of programs that are managed by this government, time is never of the essence, and we have seen a long, slow and protracted process by which this government has handled this smart metering process.

In July 2004 it was announced that deployment by power companies would be mandatory. That was three years later. The deployment for consumers with off-peak metering was supposed to start in 2006, five years after it had been discussed. But still it had not been implemented. This was later delayed until 2008. Now we are told it is going to be delayed until at least mid-2009. One can only hope the government will achieve this target and have it rolled out by mid-2009. But even if it rolls the program out, there are a number of concerns that not only members on this side of the house but also people in the general community have about the way in which this smart metering is going to work.

A number of functions will not be included. These include: in-home display of information; customer supply monitoring; interoperability with other devices; remote load management; and connection to home area network. This information was sourced by the opposition spokesperson from correspondence from the Minister for Energy and Resources, so it is not scaremongering on the part of the coalition. It has in fact come from the minister himself.

In addition to that, despite the delays and the limitations in terms of what the service is actually going to provide, we are still unclear what cost is going to be borne by Victorian consumers for this system. The Victorian government has approved the inclusion of charges for the meters as part of the tariff charged by electricity distribution companies, but it has not disclosed what this charge will be. The industry has given estimations that it could range anywhere from $22 a year to around $100 a year. This so-called smart metering, which is meant to provide such a great boon for Victorian consumers, has been delayed, it will not have all the functions consumers want, and they are going to be paying potentially up to $100 for the benefit.

Mr Mulder — It sounds like myki.

Mr WAKELING — I do not know where we go on myki. Do not let me start — we only have 10 minutes each, and I have only got 3 minutes left. This is symptomatic of a government that cannot manage projects. It talks big, it delays, it reannounces, but it still cannot manage projects and get them delivered.

I thought it was very interesting to hear members opposite discussing this program of having a decentralised electricity and gas supply industry in this state. Any good socialist government would ensure that it regulated gas and electricity supply. It was the Kennett government that introduced this scheme. It was attacked and denounced by those opposite. It was the devil incarnate. One would have thought that the first thing Steve Bracks would have done when he became Premier was re-regulate that industry.

Mr Nardella — No.

Mr WAKELING — I know socialism is strong in the heart of the member for Melton. He would have stood up in his party room and said, 'We must fight for the re-regulation of this industry'. However, in nine years not only have members opposite not stood up in this house and called for the re-regulation of this industry but they have sought to continue the reforms put in place by the Kennett government. The best they can do when they talk about the decentralisation of the electricity and gas supply industry in this state is try to give credit to the Keating federal government. The reality is that this is a system that promotes the decentralisation of the gas and electricity supply system in this state. It strikes fundamentally at the heart of any socialist in Victoria, yet those sitting opposite are not only supporting a system of deregulation but are standing up in this house and supporting legislation that continues the work put in place by the Kennett government.

I wish we could go back to the early 1990s when the Kennett government introduced the principal legislation and tell the members opposite that, despite their bleating in opposing the reforms that were being put in place by the Kennett government, they or future members of Parliament on their side would be introducing legislation to continue the legacy of the Kennett government in this important area.

As has been indicated, there is a lot wrong with the way this government has handled smart metering. The opposition will not be opposing this piece of legislation, because it is a move in the right direction, but it is a very small incremental step. As I have already indicated, we have gone from 2001 to 2004 to 2006 to 2008 and now possibly to mid-2009. However, as we know from myki and a number of other projects, we should not expect this program to be rolled out by mid-2009.

Mr EREN (Lara) — I am pleased to be speaking in support of the Energy Legislation Amendment (Retail Competition and Other Matters) Bill 2008. This bill

modifies the Electricity Industry Act 2000 and the Gas Industry Act 2001. The previous speaker mentioned some of the legacies of the Kennett government. One thing this government will not do is sack teachers, sack police and continue down the road of closing hospitals and schools.

Mrs Fyffe — On the bill.

Mr EREN — Back on the bill, correct. I am absolutely sure that we all appreciate the freedom to make our own decisions, choose our own products and research competitiveness in our local marketplace. I speak from experience in saying that, having five kids. Families on tight budgets with lots of kids need to shop around. As I said, I speak from experience. You can save yourself a lot of money; I have saved hundreds of dollars. Whether it is shopping for furniture or whitegoods or whatever, it is worthwhile shopping around to get the best deal.

We remember when the Kennett government came to power and all Victorian families were forced to buy their gas and electricity from the retailer allocated to them in their suburban area. That was not competition at all; it was basically a monopoly. I do not think there was real benefit to the consumer when they were assigned to a certain provider and had to cop whatever its price was. There was no shopping around; there was no competition. The meaning of privatisation in that context was a monopoly and I do not believe it benefited the consumer much at all. In an electorate like mine, which has a high number of low-income earners, I am sure that situation would have been very concerning to those people.

This situation led the Labor government to make changes. Since the welcomed changes were made in 2002, over 60 per cent of Victorian consumers have received a 5 per cent to 10 per cent discount off standard energy bills. This is one of the many benefits you can gain when given the opportunity to shop around. And the Australian Energy Market Commission agrees; a report distributed earlier this year by the AEMC pointed out the benefits of having a flexible retail market which passes on a fully competitive retail price to Victorian energy consumers.

This bill has been designed to support all Victorians in their bid for a competitive market. They will be given access to a wide range of information through the Essential Services Commission website — www.esc.vic.gov.au — and the energy choice hotline on 1300 134 575. This includes consumer information such as a choice to contact up to a dozen energy retailers, the ability to compare energy offers and information on consumer protection, as well as access to published costs and terms and conditions. The added comfort of understanding the requirement for energy retailers to comply with the industry codes of practice will be pleasant news for consumers.

To ensure all Victorian households are fully informed of the changes set to take place, the Victorian government has organised an education and awareness campaign, which will be running throughout October and November 2008. The messages within the campaign are likely to include the following: competition in the Victorian gas and electricity markets has worked; what is changing; consumers can exercise choice; how consumers may exercise choice and what factors they must consider when doing so; where consumers can obtain further information on the choices available; how to understand the safeguards such as price monitoring; and all existing non-price protections will remain the same. By February 2009 it is expected that the campaign will be nearing its completion and all Victorians will be fully informed of the amended energy bill. That is a great thing for the vast majority of consumers out there, who are obviously finding it very tough at the moment.

I believe making services such as energy affordable will assist working families throughout the state of Victoria to put their trust back into the energy market. Having said all of that, I support the bill before the house and hope it has a speedy passage.

Dr SYKES (Benalla) — I rise to speak on the Energy Legislation Amendment (Retail Competition and Other Matters) Bill. The purpose of this bill, as outlined by previous speakers, is to amend four acts — that is, the Electricity Industry Act 2000, the Gas Industry Act 2001, the Gas Safety Act 1997 and the National Electricity (Victoria) Amendment Act 2007.

I will look at some of the implications of the amendments contained in the bill. Previous speakers have raised the issue of the impact on electricity prices and the benefits of retail competition. I accept that if consumers have shopped around, there has been an opportunity to make savings of between 5 per cent and 10 per cent on their retail electricity accounts. But that having been said, it is at times difficult to compare apples with apples because of the different ways in which information is presented to the consumer. But those savings should also be put in the context of overall increases in electricity prices of around 17 per cent. An average increase of around 17 per cent was announced by the government, as I recall, at the end of 2007.

That was an average increase, and there are substantially greater increases in electricity prices. For example, an article in the *Weekly Times* on 28 May states:

> Country businesses pay up to 40 per cent more for electricity than their metropolitan counterparts.
>
> A study by the City of Greater Bendigo and the Bendigo Manufacturing Group found that Victorian country network prices are 19 to 30 per cent higher than Melbourne.

Similarly, an article in the *Shepparton News* of 4 June states:

> Electricity costs for Greater Shepparton City Council's high-use metered sites has soared by 30 per cent under a new contract.

There have been substantial increases in electricity costs under the watch of this Labor government. In discussions earlier today I was told that we can expect these costs to continue to escalate and to expect an increase of maybe of the order of 50 per cent in electricity costs in the next few years. Part of the costs impacting on country Victorians are caused by the removal of the network tariff rebate that this Labor government has progressively removed to the point where country Victorians are generally paying substantially higher electricity costs than their city counterparts. That is a significant disadvantage to businesses that are attempting to operate in country Victoria, and of course it is a disadvantage to individual households and particularly to the many country Victorians who are suffering from the drought.

I have an excellent working relationship with one of the electricity retailing companies and in particular with Larry Westney, who was very obliging in helping me deal with not only individual consumer concerns but also area problems. In particular the work Larry, his company and its field staff did during the bushfires and in the post-bushfire period of 2006–07 was absolutely outstanding. They worked under extremely difficult conditions, first of all in the face of fire and then later under appalling icy conditions, during the Christmas period to restore power to remote locations such as Woods Point. They also worked very hard to keep consumers advised of their progress. Equally, recently Larry was quick to advise us of a problem in the Euroa area when there was a power surge. He provided contact numbers for people to access the helpline, and as soon as the company recognised that it was at fault, it was quick to advise consumers that it was accepting liability and fast-tracking the compensation arrangements.

As has been mentioned by other speakers, this bill relates to the introduction of the so-called smart meters, which it has been pointed out are really not so smart; in fact some would say they are dumb. In line with being dumb, we have had a late rollout of these meters courtesy of a government which has a consistent track record of being unable to deliver any project on time or on budget. As has been mentioned by other speakers, the main feature of this bill at this stage is that it provides greater information to retailers for use in billing consumers, but it gives little benefit to consumers. In spite of that, consumers are expected to pay between $22 and $100 for the pleasure of having these not-so-smart meters.

We also have the issue of the feed-in tariff, which has been mentioned by other speakers. That is raised with me repeatedly by residents from the Mount Beauty area and elsewhere in my electorate where the government's intentions of encouraging solar power and green forms of energy are not being matched with an ability to provide the appropriate incentives and market signals.

Talking about environmental concerns I must ask the question about the government's environmental credentials. In relation to the plan to pump 75 gigalitres of water from drought-stricken northern Victoria to Melbourne, it has been estimated the power that will be required to pump that water will produce of the order of 130 000 to 150 000 tonnes of CO_2 equivalent each and every year. I say of the attempt by the member for Seymour to convince Parliament about and by other means to support the unsustainable raping and pillaging of drought-stricken northern Victoria, including much of his electorate, that his time will come.

I will move on to the Gas Industry Act 2001, which relates to retail gas marketing rules. That is fine for those communities in my area that are connected to reticulated gas, but unfortunately a large part of the electorate of Benalla has been cheated and deceived by the Bracks and Brumby governments. Promises were made to connect natural gas to towns such as Alexandra, Yea — where the water from the Goulburn River is going to be pumped to Melbourne — Bonnie Doon, Myrtleford, Mansfield, Porepunkah and Bright. Those people are still waiting for that promise to be delivered. That part of the bill bears little relationship to the people in my electorate for those reasons.

As has been mentioned before, overall this legislation is a step in the right direction, but it is one small step in the right direction. The government needs to ensure affordable energy for all Victorians. That includes reinstitution of the electricity equalisation rebate so that country Victorians are not disadvantaged in accessing

electricity. Needy people need to have access to electricity. There is a need not just for the winter heating rebate, as occurs at present, but also for a summer cooling rebate in the hotter parts of northern Victoria. We need those rebates as well as the network tariff rebate, and of course we need the Brumby government to honour the commitment to deliver natural gas.

Finally, if the Brumby government is fair dinkum about making all of Victoria a great place to live, work and raise a family, then there is more to be done. It starts with delivering on promises. It is not about making promises to spend $560 million on infrastructure upgrades in country Victoria and then only delivering $270 million worth of upgrades and investment. What we need is the government to deliver on the noises it makes in here about what it is doing. I challenge the government to make all Victoria a great place to live, work and raise a family — and that includes north-eastern Victoria.

Ms MARSHALL (Forest Hill) — I am pleased to make a contribution to the debate on the Energy Legislation Amendment (Retail Competition and Other Matters) Bill 2008. To place this legislation in context, as of January 2000 electricity began to be supplied under full retail competition, and as of October 2002 gas began to be supplied under retail competition. This enabled all domestic and small business consumers to choose their energy retailer. Under the Australian energy market agreement all jurisdictions agreed to phase out the exercise of retail price regulation where retail competition was able to be demonstrated.

In February this year, following extensive public consultation, the Australian Energy Market Commission completed its investigation into the effectiveness of competition in the markets in Victoria, and it found that both electricity and gas retailing in the state is not only effective but that the majority of consumers are the beneficiaries of the increased competition. The AEMC found that the higher standards across a number of key indicators were very much consumer driven, not industry driven. The AEMC also noted quite importantly that:

> While effective competition negates the need for price regulation, it does not eliminate the need for regulations dealing with other types of market failure, such as those addressed by prudential and consumer protection regulation.

This bill will amend the Electricity Industry Act 2000, the Gas Industry Act 2001, the Gas Safety Act 1997, the Electricity Safety Act 1998, the National Electricity (Victoria) Amendment Act 2007 and the National Gas (Victoria) Act 2008.

The combination of effectively competitive retail sectors and the established consumer protection framework is considered to provide an appropriate foundation for the AEMC recommendations on how retail price regulation could be phased out. This bill will provide for Victorian consumers by enabling greater access to information regarding energy retailers' prices, so through comparisons an educated decision can be made as to the best option for their gas and electricity providers.

The Bracks and Brumby governments have ensured greater transparency when it comes to governance than at any other time in Victoria's history, and consumer pricing transparency has been high on the government's agenda. In ensuring that the best prices are easier to find, this bill will strengthen existing energy consumer protection in Victoria, which is considered to already be the most robust and comprehensive in Australia.

Whilst existing consumer protections remain unchanged, new protections include provisions for the Essential Services Commission to undertake expanded price monitoring and to report publicly on energy retailers' prices. Retailers will also be required to comply with codes of practice for energy retailing, marketing and other industry guidelines. This is a terrific piece of legislation from a government that understands that companies have a social obligation as a provider of an essential service and that Victorians appreciate a Labor government's acknowledgement of the importance for Victorian consumers to have a fair go. I commend the bill to the house.

Mrs FYFFE (Evelyn) — I am pleased to rise to speak on the Energy Legislation Amendment (Retail Competition and Other Matters) Bill. Before I talk about the bill in detail I would like to respond to a comment made by the member for Yuroke when she mentioned former Australian Prime Minister Paul Keating and referred to him as 'the great reformer'. I very well remember those days when Paul Keating was the Prime Minister and we had mortgage interest rates of 17.5 per cent on homes. That was also the time when this state was in darkness, and many people said, 'Would the last person leaving Victoria turn out the light?'. That is certainly applicable to this energy legislation.

The main provisions of this bill provide that standing offer retail gas and electricity tariffs may only be regulated by the state government if the Australian Energy Market Commission has found that retail competition is not effective and recommends that price controls be retained or reintroduced. It requires retailers to publish standing and various other offers on their

websites and to publish notice of changes in newspapers and advise customers in writing of changes. It modifies the information about greenhouse gas emissions and electricity consumption that retailers are required to provide to residential customers.

Clauses 17 and 18 of the bill amend the Electricity Industry Act 2000 to enable orders in council to establish a more efficient mechanism for the recovery of cost for the rollout of advanced metering infrastructure in Victoria. Smart meters monitor electricity used and automatically send the information back to the energy provider. The system uses time-of-use billing and is based on how much electricity is used in peak, shoulder and off-peak pricing periods. The intent is for householders to have more control over their electricity costs and to pay less for electricity outside peak times. Customers can save money by adjusting usage of appliances to take advantage of off-peak times. The energy providers welcome the smart meters because they will no longer have to send someone out to manually read the meter. Energy providers could also vary the price of electricity during the day as demand and supply vary.

But there are issues for consumers that need to be addressed. For example, in a *Sydney Morning Herald* article of 28 January 2006 EnergyAustralia reported that while smart meters in homes in Sydney had cut many power bills by between 10 and 30 per cent, heavy users, such as people who use air conditioners during peak periods, are now paying more than they did before. This means that senior citizens will become very concerned about the cost of the energy and will sit there not using their air conditioners, and in winter here in Victoria they will not use their heating.

In a September 2007 consultant report requested by the Ministerial Council on Energy a cost-benefit analysis by National Economic Research Associates of the consumer impact of smart meters showed that increases on non-peak days would outstrip savings on critical peak days. While household energy use would be reduced by almost 30 per cent on 12 critical peak days over summer, NERA modelling showed it would increase by 1.5 per cent every other day over summer and by 2.1 per cent every day in winter.

This rollout does not provide in-home displays to households with meters, so consumers will not have easy access to information about their energy use. The magazine *Choice* believes the plan could lead to worse greenhouse gas emissions because it might shift consumption away from peak times, when electricity providers switch on cleaner but more expensive power stations that use gas.

Existing household wiring may not be up to the standard required by the smart meters, and energy providers will not be able to install meters until wiring is redone to the correct specification. Who is going to pay for the rewiring? The wiring may well be up to the standard that applied at the time the house was built and be working adequately and safely. Low-income households could have difficulty meeting the rewiring cost and not be able to take advantage of any energy savings. Landlords may be reluctant to upgrade wiring, leaving their tenants unable to do so. There have been insufficient numbers of smart meters installed overseas to be able to work out what durability they have and what happens if they break down and cut power supply.

Another area of concern is the issue of towers. A tower will be needed for transmissions every 20 to 30 kilometres. Who is going to pay when there are no other towers for space hire available, or will individual properties have very high aerials raising questions about visual aspect, safety and the fear of Big Brother watching us?

Clause 15 of the bill introduces a new division 5B into the Electricity Industry Act requiring the bills for residential customers to provide information that motivates residential electricity customers to better manage their electricity usage. The bill also transfers responsibility for the approval of gas market rule changes and the fees charged to participants and provides for dispute resolution processes to be included in retail gas market rules.

In the brief moment I have left I would like to talk about the issue of gas. Despite the recent natural gas extension program, which has brought natural gas to many townships in the Yarra Valley, there is a 1.5 kilometre section of the Warburton Highway at Lilydale that is not yet connected to natural gas. It is in a no-man's-land between the end of the existing gas main from Lilydale and the end of the new main, which comes from the other direction back down the Warburton Highway from Wandin.

In November 2007 Alinta advised that gas would only be connected in that area if Alinta deemed it financially viable for it to do so. In the meantime there has been another gas main connected, which diverts around this section of Warburton Highway and still leaves several residents without natural gas connection. Smart meters might be very important to many other people who are on the electricity supply, but the people on the Warburton Highway who have missed out on natural gas think it would be much better if the money being spent on them were spent on providing them with natural gas.

The actual cost of the smart meters is something else that is causing great concern. Information is that there will be a $780 million cost of rolling them out. The Minister for Energy and Resources has said that the wholesalers will absorb this cost. I do not think the wholesalers are going to absorb the cost. Obviously it is going to come down to the poor old customer or the taxpayer. The smart meters need more research. They are way behind, and they are going to cost a heck of a lot more. I guess it is the energy equivalent of the myki. There are a lot of concerns out there, not just in the general community — —

Mr Walsh — What? They'll cost that much, will they?

Mrs FYFFE — The cost has gone up so much. There will be a cost of $780 million to roll out 2.3 million smart meters — and the minister said it would be borne by the electricity distributors. We all know that is a furphy.

Mr INGRAM (Gippsland East) — It is a pleasure to speak on the Energy Legislation Amendment (Retail Competition and Other Matters) Bill. The bill before the house makes various changes in the regulation of tariff management both in the electricity industry and the gas industry. It also sets out changes concerning the publishing of greenhouse gas emission information on customer bills and deals with smart meters, as other people have indicated.

I have listened fairly intently to a number of the speakers and have been following the issue of the regulation of power. It is an incredibly important issue, particularly for regional consumers. When I was in the chair I listened to the lead speaker for the opposition, the member for Box Hill. He made a couple of interesting points, and I would like to expand on some of those.

The member for Box Hill commented that under these changes there was a risk that competition could evaporate and prices could rise and affect people with a limited ability to respond — poor consumers, particularly regional consumers. It is very interesting, because this is an issue I have raised many times in this chamber. We are already at a great disadvantage in the supply and quality of power that is provided to our consumers, particularly in areas like mine where incredibly long grid networks go out into small communities. The quality of the maintenance of those lines has deteriorated since privatisation and in many cases the quality of supply is not adequate. I know work has been done by the companies to attempt to address some of these issues — the mechanisms are there to penalise the companies if the quality drops or if there is a particular number of outages — but much of the problem is the fluctuation in power which means that electronic equipment does not operate properly.

Following on from the member for Benalla, I think his rear-view mirror has fogged up a bit because he was taking a very selective view of history. The reason I have raised this issue in the chamber many times is that part of the problem is that when the electricity network was privatised and split up the cost of the distribution lines in regional Victoria was borne solely by regional consumers. They were ring-fenced out of the efficiency gains that are potentially there in metropolitan areas. This is a major problem with the way the network was split up in the first place. We currently have the outrageous and totally inequitable situation where a consumer — a business operator — sitting right beside the power station in the Latrobe Valley pays a higher tariff than a business that uses the same power smack bang in the middle of Melbourne, because they have to bear the cost of the distribution lines right up to Mallacoota and Omeo and everywhere else in eastern Victoria. That is the problem with how the system was broken up in the first place.

On top of that there are a whole heap of other subsidies which are provided to power companies by the ratepayers of those local government areas and which should be borne by the rest of the state. There are some really inequitable situations, and I acknowledge that the current government has not dealt with these issues. It made real commitments in 1999 to address some of these inequities, and it has not done so. It is important that we do not get lost in the fog of rose-coloured glasses. The member for Benalla said that it is the current government's fault totally. It is this government and the previous government that are equally to blame for the large costs — —

Mr Walsh interjected.

Mr INGRAM — I know I should not take up interjections, but clearly there are some issues where once the system is privatised it is very difficult to go back. When you have flogged off the network in a particular way, you cannot then go back and fix it. That is one of the challenges with privatisation.

Other issues outlined in the bill include amendments to the Gas Industry Act. A number of members have made comments about the provision of natural gas, and we have seen the rollout of natural gas into towns like Bairnsdale and Paynesville. Through my office we have had a fair bit to do with the companies dealing with the rollout of natural gas. The difficult thing for

most rural communities is that they do not have the access to a power source like natural gas that people in urban areas or metropolitan areas have.

Another issue that comes up regularly is the lack of regulation or control over liquefied petroleum gas and its high cost. I have made a number of comments in this place previously about there being no reason why liquefied petroleum gas (LPG) should not come under some form of regulation. In the past the Essential Services Commission has looked at whether the provision of LPG is a fair market and its report indicated there was a severe lack of competition in the LPG market. My view is if we are going to provide a regulatory arrangement for natural gas — I know it works in a slightly different way — we also need to make sure we are not unfairly discriminating against those people who live outside the natural gas network.

It is high time the government provided further funding through the Regional Infrastructure Development Fund to further extend natural gas provision across regional areas, particularly for communities in my area like Lakes Entrance. People at Lakes Entrance have a particular interest in this because almost all of the gas that is provided to Melbourne and up and down the eastern seaboard to Sydney through the eastern gas pipeline comes out of Bass Strait. You can sit in your premises at Lakes Entrance and look out of the front window at the gas rigs in Bass Strait but not have access to that resource.

While we are dealing with legislation to change the regulatory arrangements for natural gas it is important that we recognise there are a lot of people in our community who, firstly, have higher prices because of the inequitable way the electricity network was privatised, or secondly, do not have access to natural gas. It might be good for members representing urban areas to come in here and say this is a great piece of legislation — and I have made a number of comments about that — but it is my view it is not in the interest of my constituents to further remove our consumers and this Parliament from the ability to have an input into the way the regulation is conducted. I suggest that passing on our responsibilities to the commonwealth regulator is not in the interests of our constituents.

We also need to make sure that people who live in isolated rural communities are further protected when we are looking at regulation. Power companies are not very interested, or less interested, in ensuring the quality of supply to places like Mallacoota or Omeo, or to similar areas, but if we are going to privatise these entities it is essential that the regulation ensures the provision is there to guarantee the quality of supply for those communities at the far end of the grid. At the moment it is not working. A large amount of the criticism coming through my office about the electricity industry is that these issues are not addressed adequately.

Mr WALSH (Swan Hill) — It is always interesting to follow the member for Gippsland East in debate in this place after he has used his speech to justify his support of his Labor mates when he originally put this government into power. He talked about how the member for Benalla had a foggy rear view mirror — —

Mr Ingram — On a point of order, Acting Speaker, it is quite clear that the legislation before the Parliament has nothing to do with the member for Gippsland East or the Labor government or a decision I may or may not have taken nine years ago. My point of order is that the member is not being relevant to the bill, and I ask you to ensure that he is speaking relative to the legislation before the Parliament.

The ACTING SPEAKER (Mrs Fyffe) — Order! I do not uphold the point of order. I have been listening to the debate intently today and many speakers have strayed into other areas.

Mr WALSH — It is amazing how some people can give it out but they can't take it!

The Energy Legislation Amendment (Retail Competition and Other Matters) Bill amends three pieces of legislation: the Electricity Industry Act 2000, the Gas Industry Act 2001 and the Gas Safety Act 1997. One of the things that struck me as I read this piece of legislation was that in some ways, although it does a lot of detailed things, it is actually an illusion about trying to do something the government has been promising for a long time.

I can remember even before I entered this place the talk about smart meters and how we were going to have contestability in the electricity market and how everyone was going to be better off in this brave new world that this government was creating in the electricity industry. We still do not have those smart meters. As numerous people have said in this place, when we do finally get them they probably are not going to be all that smart after all. The analogy that some people have been making is between the smart meter program and the myki transport card situation.

I just hang my head in shame and think of the money and the opportunities that have been wasted through the good times by this government. It would appear we are heading into some more difficult economic times. We have had some good economic times but this

government has just wasted them and blown an inordinate amount of money on a whole range of projects that have not worked.

Mr Nardella — Regional fast rail!

Mr WALSH — Regional fast rail? If my memory serves me correctly, the fast rail project promised by the Premier was to cost $80 million. It ended up costing $800 million. That is a great record! It went from $80 million to $800 million. How could you claim that was a great project?

If you look at the changes to the electricity industry — and we have heard a lot of talk about smart meters, feed-in tariffs and the issue of whether we have net tariffs or gross tariffs into the future — these are the sorts of things that need to be resolved so we can get some true incentives out there for people to get into the whole energy efficiency market. If people are going to invest in some of these technologies, they need to know that there is going to be a payback at the end and they need to know how it is going to actually work.

I would particularly like to talk about the Gas Industry Act. The bill provides for the regulation of distribution and transmission systems and all that sort of stuff. One of the things that is constantly raised in my office in Swan Hill is the cost of bottled gas. It is all very well for all those people who are on the reticulated gas system, but for people in country Victoria who have to rely on bottled gas the inordinate increase in the cost of that gas is something they cannot find an explanation for.

If this government wants to do something about the cost of the supply of gas, it needs to do something about the cost of bottled gas and make sure it is actually equitable for those people who live beyond the tram tracks of Melbourne or beyond the interface councils, where all the natural gas money to increase the networks was actually spent. When talking about the supply of gas in this state, one of the good projects the government announced was the $70 million Regional Infrastructure Development Fund (RIDF) to increase the gas network in country Victoria. What did it do? It put out this great announcement about $70 million being available, then it went and changed the rules. It changed the rules so that the interface councils could tap into that money. The interface councils were never originally allowed to tap into RIDF money. The rules were changed so that the interface towns could get into the $70 million bucket of money, and country areas did not get any of that money. Government members should go back and read the rules and see what was done.

Ms Duncan — Rubbish! Seventy-five towns!

Mr WALSH — Yes, they were, but most of the money went into the interface councils around Melbourne.

The cost of bottled gas is a major issue for people in country Victoria. The government had a great project to actually try to get reticulated gas out to country towns, not only to help households with their gas bills but also to help industry to make sure they had a very efficient energy source for businesses. It is unfortunate that the rules were changed in relation to that $70 million project so that it did not get out to country Victoria where it was meant to be.

The other issue faced by a lot of people in my electorate who have to rely on bottled gas is that their supply of firewood has been withdrawn as a result of constant changes by this government. People in the southern part of my electorate relied on the box-ironbark forests to get firewood. The decision to turn forests into national parks and the fact that they now only have a permit for one trailer load of wood per year has meant that it is quite often not enough wood for someone to survive through a cold winter, if they are people who do not have the physical capability — —

Ms Duncan interjected.

Mr WALSH — It is not simply a matter of getting a bigger trailer. There are rules about how many cubic metres of wood they are allowed to get under their permit. I do not know whether the member for Macedon is asking me to encourage my constituents to break the rules. I hope she is not, and I hope none of us in this house would actually promote civil disobedience. The people in the southern part of my electorate have been denied firewood because of changes made to the regulation of box-ironbark forests and the fact that they cannot go in there and get wood anymore, particularly if they are unable to cut wood themselves under their own permit and have to pay someone to get the wood for them. For a lot of people in the towns in the southern part of my electorate it is difficult to heat their homes through the winter.

The Victorian Environmental Assessment Council investigation into red gum forests along the Murray River will mean that those in the northern part of my electorate are going to start to be denied firewood as well. They have this double whammy in which they do not have reticulated gas, the cost of bottled gas is going up, and their access to firewood is being denied them or made much harder to get. It is very expensive for them to change their appliances to electricity.

A lot of the people I am talking about are pensioners or what I would call low-income families. Simply telling them to shift from bottled gas appliances or wood appliances to electricity overlooks that it is quite expensive to change the heating appliances in your home. Now with the withdrawal by this government of the network tariff rebate electricity prices are going to go up as well. Those people are stuck in a real conundrum as to what they should do to heat their houses. It is a real challenge. Firewood is being denied to them and bottled gas is getting more expensive. If they spend the money to change over to electrical appliances, they find this government has withdrawn the network tariff. They are just caught. It is a real dilemma.

When the Labor government was first elected — when the support of the member for Gippsland East actually put it into power — there was a commitment that Labor would govern for all of Victoria, but, as I have outlined, it has not. We are just talking about one bill dealing with energy at the moment, but country Victorians are being disadvantaged by all these sorts of things. The Minister for Local Government, who is at the table, is champing at the bit to get on with his local government bill, so I will leave it at that.

Mr K. SMITH (Bass) — I want to make a 10-minute contribution to the debate on the Energy Legislation Amendment (Retail Competition and Other Matters) Bill. I must say that I have had the opportunity to sit through most of the debate and hear some of the great contributions from members on this side of the house, but there is nothing much coming from the other side of the house. It is also a great pleasure to have the Minister for Housing and the Minister for Energy and Resources at the table, and Labor's mate from East Gippsland is also in the house. Also during what was largely — —

Mr Batchelor interjected.

Mr K. SMITH — No, I am not worried about the rest of them — —

Honourable members interjecting.

Mr K. SMITH — No. The member for Seymour may very soon become a Greens member, like a Labor member did in New South Wales. The member for Yuroke raised an interesting point — —

Mr Ingram — On the bill?

Mr K. SMITH — This is on the bill, because the honourable member for Yuroke raised it. She talked about the Kennett government selling off the family jewels when we privatised electricity industry, which was probably about 15 or 16 years ago. The Brumby government has been in power for about eight years, which is about eight years too long as far as I am concerned.

The fact is that we had to sell off the electricity industry, we had to sell off some of our public transport and we had to pay off some of the debts that were created by the previous Labor government. People tend to forget that when we came into government under Jeffrey Gibb Kennett — what a great Premier he was — we had a huge debt that totalled nearly $70 billion. If this state had been a private company, it would have been placed into receivership, the place would have been sold off and we would have got nothing for it. But because Victoria is a state of this country, somebody had to come and save it and put the ship back on its course.

The ACTING SPEAKER (Mrs Fyffe) — Order!

Mr K. SMITH — I am speaking on the bill. This matter was raised by the member for Yuroke. I am not rewriting history like the Labor Party does, I am just telling a few home truths so that people — —

Mr Batchelor interjected.

Mr K. SMITH — The Minister for Energy and Resources was one of them. He created some of the debt that the Kennett government — —

Mr Ingram interjected.

Mr K. SMITH — He was part of the group that was in power with Kirner, Cain and that lot who created a huge debt in the state of Victoria. Unfortunately we had to sell off the electricity industry, although I was — —

An honourable member interjected.

Mr K. SMITH — I was not only supportive of that, I was in favour of it on the basis — —

Mr Batchelor interjected.

Mr K. SMITH — Hello! He will waste some of my time.

The ACTING SPEAKER (Mrs Fyffe) — Order! The Minister for Energy and Resources will have an opportunity later.

Mr Ingram — On a point of order, Acting Speaker, to be consistent, I raised a point of order in relation to relevance during the contribution of the previous speaker. There are a number of rulings by a number of

different speakers that indicate that members must keep their contributions relevant. Whilst the contribution is entertaining, I encourage the Chair to call the member back to the elements of the bill.

The ACTING SPEAKER (Mrs Fyffe) — Order! Whilst it is difficult to get excited about energy and the interjections have been more exciting, I ask the member for Bass to try to at least relate some of his contribution to the bill.

Mr K. SMITH — On the point of order, Acting Speaker, I would like to ease myself back towards debating the issue.

Let us be fair dinkum about this issue. The concern is about electricity companies that are ringing people and knocking on doors to sign up customers, who are sometimes vulnerable people who have an expectation that the salesman who knocks on the door is a good and honest person. We know that that is not always the case with representatives of electricity companies who are out there knocking on doors and hanging on phones in Mumbai or wherever else they may be ringing from. In many cases they are signing people up to contracts that are far more expensive than their previous arrangements. I think that is a problem. Some action should be taken on that issue. I hope this legislation is put into force so some action can be taken against those people.

I must say, and I think most members would agree with me, that I am not in favour of the increase in the number of people who ring in regard to electricity provision. When there are concerns and complaints, we should refer them to the Essential Services Commission for it to look at problems that have been created by these companies.

I will also raise the issue of power supply problems. When we had a big storm earlier this year a lot of people were without power for a long time. In Lang Lang, which is in my electorate, a number of companies lost power and were entitled to compensation because their power was off for some time. Businesses could not operate because they could not use their tills or EFTPOS facilities. In some cases stock was lost because fridges were not able to be used. We had a lot of trouble chasing up compensation from companies like TRUenergy, Origin Energy, Red Energy and Victoria Electricity. They were not prepared to pay compensation. On investigation we found that SP AusNet, which is a distribution company, had paid compensation money to the retail electricity companies but the retail companies were not prepared to pass the money on to the affected consumers. It was only because we raised this issue and kept pushing it that we actually got money through for people. SP AusNet did a good job as far as that was concerned.

I would also like to raise an issue that has been raised by a number of other members in regard to gas supply. We know that the government proposed a $70 million project to provide gas throughout rural Victoria. Gas was supplied to some interface council areas, and that is the issue I want to touch on during the couple of minutes I have left.

The promise was that gas was going to go into Lang Lang. I have raised this issue with the Minister for Energy and Resources, and my concern now is that all the pipelines have been laid for Lang Lang. They have all been fully commissioned, and people were promised that gas would be connected to their properties 12 months ago last July. It is a rapidly growing area with a lot of new houses. Many people were sold their homes and sold blocks of land on the basis that gas was available, because the agents for the area had been told that gas would be available from July last year.

We have now reached the stage where a number of people — and I am talking about a large number of people — have built their new homes. They have put gas appliances in their homes, but when they have gone to get it connected, they have been told by Jemena — the company that has taken over from Alinta, which was the distribution company — that the gas is not yet available because they do not have any retailers.

When we investigated this, we were told by Jemena that it was getting retailers and the gas would be on soon. People have had their gas appliances changed. All the jets have had to be changed and converted over to liquefied petroleum gas, and they have had to get LPG bottles in to be able to use it. That changeover has cost them a lot of money. Some of them have not had any heating over this last winter.

The issue I raise, and the reason I was so excited to see the Minister for Energy and Resources in the chamber, is that Jemena is now saying it cannot get retailers, that it is trying to negotiate but cannot get them. I found out it is because Jemena will not guarantee the quality or reliability of the gas because it did not get an undertaking from BassGas or Origin Energy until the minister and his department stepped in — and I thank him for that — to ensure that a contract was drawn up between BassGas and Alinta. At least they have got gas starting to run into the pipes. The difficulty that we have now is that we cannot connect it up because there are no retailers.

I ask the minister to again step in and do something about this stupid situation, which is putting a lot of people under great stress because they cannot get gas into their properties. I ask the minister to do that for the people of Lang Lang.

Mr BATCHELOR (Minister for Energy and Resources) — I thank those members who have contributed to this debate today, in particular the members for Box Hill, Seymour, Mildura, Yuroke, Ferntree Gully, Lara, Benalla, Forest Hill, Evelyn, Gippsland East and Swan Hill, and even the member for Bass.

This Energy Legislation Amendment (Retail Competition and Other Matters) Bill seeks to do a number of things. It seeks to replace the current reserve retail pricing power with a conditional reserve pricing power. The bill retains the obligation to offer and the deemed supply arrangements on an ongoing basis to supply residential and small business customers with gas and electricity. The bill will require the Essential Services Commission to undertake expanded price monitoring and report publicly on standing energy prices as well as a range of market prices.

There are also a number of other changes in the bill. They include a requirement to include a performance-based option for electricity bill benchmarking. There has been some change to some of the gas rules and VENCorp regulations to facilitate the transfer to the Australian Energy Market Operator as part of the national reform program.

There are other changes to the provisions regarding the recovery of costs for the rollout of advanced metering infrastructure in Victoria and also changes to the appeal rights. There are various gas and electricity safety changes, and there are clarifications to the Australian Energy Regulator's powers to access information, which is also an important part of the national reform process. There are some other minor technical matters that this bill also deals with.

During the course of the debate, some contributions were wide ranging and strayed somewhat from the terms of it, so I will seek to address some of the issues raised.

Firstly, the member for Box Hill — and a number of other members — got a bit confused about what was happening with smart meters. However, he did say he supports the rollout of smart meters in Victoria, and he does that because of the important role that smart meters will play in helping consumers in the first instance have some greater control over their energy use. Through that they will be able to control the cost to them, and those who want to use it to control their greenhouse gas emissions will also be able to do that.

But the member for Box Hill appears not to understand the link between functionalities — that is, what the smart meter can actually do — and service levels. That is what happens when the smart meter is turned on. The recently announced changes that he referred to do not reduce the functionality of the meters that are going to be part of the rollout here in Victoria.

The changes streamline the rollout process and ensure that features do not have to be added, removed or altered at a later stage, so our smart meter system here in Victoria can align with the national scheme. This is a smart thing to do because it will reduce costs; it will be better for industry; it will be better for Victorian consumers and Victorian families.

The member for Box Hill referred to in-home displays. It is important to remember that they have never been a mandated part of the Victorian rollout or the national rollout, but the reality is that once households get smart meters, Victorians will be able to use an in-house display to help monitor and manage their energy use, and they will be able to do that from the day the smart meter is installed in their house.

The Victorian government is working to ensure that the rollout of smart meters provides a valuable tool for Victorian consumers while ensuring that the system can be fully integrated into the future of a national scheme, and by doing this it will help reduce red tape for the industry. The process we are going through in Victoria has industry agreement. It must be remembered that the Victorian government is not rolling out the smart meter scheme. It is mandating that it be undertaken by the distribution companies, and the distribution companies will be required to do it. Some of the things these smart meters will be able to do include providing half-hourly price information to be remotely read, remotely disconnected and remotely reconnected.

There are some issues that have yet to be resolved at the national level. They relate to business-to-business rules, and when they are agreed to they will be subsequently rolled out on a nationally consistent basis.

A number of members have discussed the network tariff rebate. This was a scheme introduced by the state Labor government following the privatisation of the electricity system. The design of that privatisation system, as the member for Bass acknowledged and confessed, was done by the Kennett government, and it intrinsically produced some distortions in terms of the

cost differentials. The Labor government introduced the network tariff scheme in 2002 and, during its operation, it provided assistance of more than $300 million to non-metropolitan households and small businesses to help them with their electricity. That is what a Labor government did for people in country Victoria and businesses in country Victoria because of the fundamentally flawed design element which the member for Bass acknowledged he supported when the privatisation system came about.

With competition in the retail electricity market now delivering for consumers, the network tariff rebate is no longer required, and it was concluded on 31 March this year. It has been replaced with another scheme — a three-year, $33 million solar hot-water system rebate for regional Victorians — and this scheme commenced on 1 July this year. It means that in regional and rural areas eligible residential consumers will be able to claim a rebate of up to $2500 from the Brumby government if they install a solar hot-water system.

You have to compare that with the average price of the network tariff rebate for consumers, and that varied depending upon the network area, the tariff category that the customer was committed to, how much electricity they used and the proportion of that that was off-peak — those types of things. The average annual rebate was $29 per customer. The scheme that we have replaced it with will enable those same customers, who were receiving on average $29 a year, to claim a rebate of $2500. That is a pretty good replacement scheme, and it not only helps them with their electricity costs but it also helps to make a contribution to greenhouse gas reductions.

The question was raised as to whether there is effective competition in country Victoria. I refer members to the report of the Australian Energy Market Commission which conducted a review into the effectiveness of competition in electricity and gas retail markets in Victoria. The report was released at the end of 2007, and it indicated that competition, as measured by the preparedness of consumers to change their retailer, was greater in country Victoria than it was in metropolitan Melbourne. But it is a measure of competition that if you are unhappy with your existing retailer, you should take advantage of the competition and change it. We would encourage consumers to do that. More people have done it in country Victoria than in metropolitan Melbourne.

There were also some complaints made by the opposition on behalf of energy retail companies that the retailers would not have enough time to set retail prices. It is interesting that the Liberal Party would come into the house and prosecute that argument on behalf of the companies, but nevertheless the reality is that the Essential Services Commission in its pricing determination has set a requirement that network prices be made public 40 business days before the end of the year. It is clear from that that any properly organised retailer would have sufficient time to take this fact into account in order to set their retail prices.

The member for Bass raised a number of irrelevant matters, but he also raised the issue of the distribution of gas into the South Gippsland area, part of the extension into country Victoria. The natural gas extension program, which was funded by Regional Development Victoria (RDV), is extending that natural gas network to 34 towns in country Victoria. The program is one of the largest infrastructure projects undertaken outside Melbourne in decades.

The infrastructure to reticulate natural gas not only to Lang Lang but also to Korumburra, Leongatha, Wonthaggi and Inverloch is close to completion. What still needs to be undertaken — and the member for Bass has acknowledged this — is the commercial arrangements to support the retail supply. These have been complex because the gas network that extends to these locations has been connected to an unregulated or uncovered pipeline which connects the BassGas plant to the principal transmission networks. All other gas reticulations have been connected to pipelines that are covered by the existing pricing and access arrangements.

Whilst this has led to significant delays, the reality is that this project was developed by RDV in order to get gas into South Gippsland, and it would certainly have never happened without the support of the Brumby government. It never happened under the Kennett government, which was much-loved by the member for Bass. At the moment Jemena, which built the gas network, is in discussions with gas retailers to enable the onselling of gas to end customers. This process is being actively facilitated by the government — again acknowledged by the member for Bass — and that includes the Department of Primary Industries, which was again thanked by the member for Bass.

I cannot be more specific about what is happening at the moment because these discussions are commercially sensitive between the commercial parties, and I hope they come to a successful conclusion shortly. However, the member for Bass has not been respectful of the commercial sensitivities involved in getting the private companies to resolve their arrangements. Some of the comments made by the

member for Bass in this place and in the public domain have hindered those commercial settlements.

Mr Nardella — Shame!

Mr K. Smith — That is rubbish!

Mr BATCHELOR — As the member for Melton says, it is a shame and his comments were reckless. The people living in the Bass electorate need to understand that their member has significantly contributed to the delay by getting access to commercial information from energy companies and exposing it in the public domain in the reckless and shameless way that he has. We are having to overcome the lead in the saddle bag that the member for Bass represents here in this house. I can understand why the Liberal Party wanted to get rid of him as a candidate. It got him out of the upper house, but unfortunately the party did not do the job properly. It did only half the job, and he was left here in the lower house — and we have had to put up with it.

I say to him and to his constituents — —

Mr K. Smith — What do you say?

Mr BATCHELOR — I'll tell you what I say. The member for Bass is reckless and has helped delay these commercial dealings. We just ask him to hold his tongue and, if he gets briefings from companies, to stop taking that information, distorting it in the public domain and causing delays to the gas connections.

Motion agreed to.

Read second time; by leave proceeded to third reading.

Third reading

Motion agreed to.

Read third time.

LOCAL GOVERNMENT AMENDMENT (COUNCILLOR CONDUCT AND OTHER MATTERS) BILL

Second reading

Debate resumed from 11 September; motion of Mr WYNNE (Minister for Local Government).

Government amendments circulated by Mr WYNNE (Minister for Local Government) pursuant to standing orders.

Mrs POWELL (Shepparton) — I am pleased to speak in the debate on the Local Government Amendment (Councillor Conduct and Other Matters) Bill 2008. This is a very important piece of legislation for local government, and I am pleased to see that the Minister for Local Government is at the table.

The purpose of this legislation is to amend the Local Government Act 1989 and the City of Melbourne Act 2001 to support and enforce standards of conduct of local government councillors. Some of the provisions reform the conflict-of-interest requirements, provide for increased transparency of local government operations, alter the provisions relating to councillor and mayoral allowances and also make amendments to the Victorian Civil and Administrative Tribunal Act 1998.

The opposition will not be opposing this legislation, but I have to put on record that we are very disappointed that the government has decided to bring it in so late in the parliamentary sitting year. We have three sitting weeks before council elections. If this bill were to pass this house with amendments, go to the upper house and then come back down to the lower house, the operation of it would be put in jeopardy. In fact a number of these issues, such as councillor remuneration and the code of conduct, have to be dealt with and passed before councils go to election. This year all 79 Victorian councils will hold their elections on the same day, which will be the first time this has happened since amalgamation. On 29 November all councils in Victoria will go to an election.

The government has circulated six proposed amendments. I was made aware that amendments would be proposed, and I appreciate having been forewarned. I think that shows that this is a very complex bill which makes a large number of changes and additions.

A couple of the amendments relate to drafting omissions, which can happen from time to time when you are moving from the bill to the act. One omission would have meant that an order in council would not have been able to be used to increase allowances. Another drafting omission is corrected in relation to councillors who are members of a special committee. Such councillors must submit a primary return, and if they do not do that, they receive a penalty. There is currently a penalty unit clause which prescribes 50 penalty units. It was an omission that I raised at the briefing, and I am pleased to see that it has been included in the amendments.

As I said, this is important legislation, and I know that a number of councillors have been calling for it. I have

been calling for legislation on codes of conduct for a number of years, and I have spoken with the Minister for Local Government about this very issue. As a former councillor myself — and I know the minister is also a former councillor — I understand that while there are codes of conduct in the Local Government Act and that councils themselves have codes of conduct in their local laws, they often lack the teeth necessary to sanction councillors who behave badly or breach the code of conduct. There are often no penalties or recourse for those issues to be dealt with very quickly and out of the public spotlight.

There is a need for clearer codes of conduct not just for councillors but also for staff, and for penalties for breaches of those codes for staff and councillors. I think we have all seen mentioned in the media a number of areas where staff have got involved with contracting issues. While most councillors do the right thing there are a number of councils at the moment which are obviously not doing the right thing, as we have seen mentioned in the media. A number of members of Parliament have raised issues with me about certain councils and what they can do to make sure that all of the councillors at that council are not being tagged with the same bad name if a couple of councillors are doing the wrong thing. I believe the codes of conduct in this legislation will provide clearer outcomes for what should be in the code of conduct.

The bill also introduces principles of councillor conduct for the first time. It is not just saying you must be respectful or you must do this or that; it actually provides principles which councillors have to adhere to. It establishes councillor conduct panels. If a matter cannot be dealt with internally and locally in the first instance, it can go to a councillor conduct panel, which will deal with any breaches and cause some ramifications for those councillors if they have breached the act. The bill makes extensive changes to the conflict of interest requirements, and makes a number of other changes.

When this legislation was foreshadowed — and I guess I have been aware of it since last year when a consultation paper was put out — I consulted fairly widely, not just with councils but with the community as well. I contacted all 79 councils and they broadly supported the legislation. There were a number of concerns that the introduction of the legislation was too late. They talked about the scrutiny of the bill and the fact that there could be some omissions and consequences of that. I would urge the minister to review this bill after 12 months to make sure that the councillor conduct panels are working appropriately and that the interest provisions are being adhered to, and just to make sure that after all this time and a lot of consultation we have got it right. If other amendments are needed, they will then have to come before the Parliament.

As I said, I contacted the councils. I met with the Victorian Local Governance Association (VLGA); I attended its recent annual general meeting and spoke to Beth Davidson. I have also spoken to the Municipal Association of Victoria and its president, Cr Dick Gross. I have seen a press release and had a letter back from the MAV saying that it supported the provisions and in fact welcomed the introduction of this legislation. The MAV is the peak body that represents the 79 councils. It welcomes this legislation and supports it.

The Australian Local Government Women's Association also supported this legislation coming in. I have met with the association a number of times; in fact I am a life member of the ALGWA. One of its concerns was the lack of teeth in the councillor code of conduct. I have spoken to a number of female members and, sadly, we are going to lose some female councillors because of intimidation by some councillors but, as I said, not all councillors. Intimidation is not just by men to women; it can be by women to women or by women to men. It is not just a gender issue, but a number of female councillors are telling me that they are not standing again. That is very sad. I think we need to try to encourage more females to become councillors. As a former councillor myself I know it is important to have a different opinion. Women are not better or worse than men but we are different. We bring different issues and different life experiences to the table. I am pleased this bill will address some of those issues. I hope the issues these female councillors have raised about intimidation and bullying can be addressed and we can stamp them out.

A number of individual councillors and members of the community raised with me a number of concerns about the councillor conduct panels. They want to make sure that there is natural justice with those councillor conduct panels. They want to make sure that the selected members of the panels act impartially and in an unbiased way. They want to make sure that they are able to see a copy of the information given to the panel to ensure the facts in it are correct. They would also like to see what the other councillor, whether they are the complainant or the defendant, has written so they can defend what has been said. If there is any change to make the inquiry broader, they want to make sure they are aware of that.

I also had a number of briefings from the department. I thank the Minister for Local Government and his staff for organising those briefings. I met with John Watson and Jim Gifford a number of times. In fact I spent almost a couple of hours with them last week. I know the shadow parliamentary secretary for local government, the member for Mornington, appreciated them fitting in with his work schedule as well. I have consulted fairly strongly and widely on the bill and I am quite comfortable that the majority of the provisions in the legislation have been asked for by local government.

Part 2 of the bill deals with changes to councillor allowances and resources. There was a local government councillor remuneration review panel earlier this year and its report recommended the increases. It is fair to say that there has been no increase in councillor allowances for the last eight years, since 2000. After eight years there was a need to increase councillor allowances, and a number of increases have been made. The increases are based on state government statutory and executive officer payments between 2000 and 2007, and will come into effect for councillors after the November elections. There is also a 9 per cent superannuation contribution on top of those allowances.

Councillors also receive mobile phones, personal computers and reimbursement of costs, including travel costs. There is some tightening up of those travel provisions because we have seen councillors who have been asking for allowances when they have been doing things that perhaps have not been supported by the council. Councillors have raised with me that there are councillors who have moved away and are claiming travel allowances when they come back for meetings. Councils have tightened up those travel allowances and said that they must be agreed to before the councillor can receive that allowance. There are also some reimbursements of the child and family care allowances. The mayor gets administration support, office support and a vehicle.

The City of Melbourne Act will be amended to allow for the adjustments to the allowances and the other provisions of the Local Government Act that are to be amended. The reason for that is the City of Melbourne has its own act and it needs to be amended as well.

The MAV supported the increase in councillor allowances at the time, but I know that the VLGA was disappointed and felt that the increases did not go far enough. It lobbied me and I know it lobbied the minister and other members because it was disappointed. It said these increases do not go far enough. They do not reflect the fact that councillors put in a lot of time when they become councillors. However, the VLGA was pleased about the superannuation component of the package. In fact it lobbied very strongly for that.

The concern I have is some of the smaller councils in rural areas may have difficulty affording the increases. A number of smaller councils have raised that concern with me. They do not begrudge the councillors the increases, but there is in some way a concern, particularly in these times, about councils being able to pay that large increase. Councillors do not have to take the largest margin; they may take a lesser amount of money because they understand that their councils are having difficulty during these drought times.

The government said it would review WorkCover coverage for councillors in a review of the Accident Compensation Act. I was told that would be finalised in mid-2008. My understanding is that that has not been completed yet. We were told that councillors will also be included in this review. The WorkCover review is something I know councillors will be looking forward to in terms of how you define a workplace with councils and how you define an employee. I look forward to the WorkCover review, which deals with councillors as well.

The minister will now be required to annually review the limits and ranges of each municipality's councillor allowances, having regard to movements in population and council recurrent income. I think that is a measure that has been supported.

Part 3 of the bill deals with the councillor code of conduct. There are penalties now for councillors breaching the code of conduct. I have been calling for that for a while. The MAV and the VLGA have also raised this with the government. It is important that the community has confidence in the leadership of its councillors. Any councillor who breaches a code of conduct or acts disrespectfully or in an intimidating or bullying way or commits any other breach of the code must be penalised. This will send a message to other councillors not to behave badly. As I said earlier, there have been media reports about councillors behaving badly and breaching the Local Government Act. Some of them are just about disrespect but some of them are very important, major issues.

One of those concerns is about the Brimbank council. The member for Keilor raised some very serious concerns about allegations, about threats, about bribery, about intimidation, about misuse of council funds and about improper behaviour. A member for Western

Metropolitan Region in the other house, Mr Finn, also raised those issues. The Brimbank council has been discussed for a number of years. In my role as shadow Minister for Local Government I wrote to the Ombudsman asking him to conduct a formal investigation. I have received a letter back from the Ombudsman saying he will conduct a formal investigation, and in fact he has done that. I also raised the issue of Port Phillip council.

The Ombudsman has told me that he has conducted his own investigation into allegations of serious misconduct and mismanagement, including allegations that a senior project manager is also on the payroll of a construction company that has won hundreds of thousands of dollars in council contracts. Other councils have been brought to the attention of the Minister for Local Government. We really have to stamp out the sort of behaviour which is not out of control but which is out there. A number of people are saying that the councils have to understand that when they are calling for tenders it has to be done with the utmost probity so that all those probity issues are transparent. We have to make sure that the government that is closest to the people is not tainted by a few councils and a few councillors.

Currently the code of conduct must be developed and approved within six months. That is now going to be amended to 12 months. The code must now include councillor conduct principles and may include processes for resolving internal council disputes. The primary principle is for a councillor to act with integrity and impartiality and to exercise responsibility and not improperly confer advantage or disadvantage. I think that is one of the major points. Councils have to make sure that when tender contracts are given out it is not seen as a councillor or a council officer giving jobs to mates. There have been some issues about that in the past, and we have to make sure that is stamped out so that all contractors and all businesses in a municipality can be dealt with fairly.

The councillor conduct principles included in new section 76BA, which is substituted by clause 14, state:

> In addition to acting in accordance with the primary principle of Councillor conduct … a Councillor must —
>
> (a) avoid conflicts between his or her public duties as a Councillor and his or her personal interests and obligations;
>
> (b) act honestly and avoid statements (whether oral or in writing) or actions that will or are likely to mislead or deceive a person;
>
> (c) treat all persons with respect and have due regard to the opinions, beliefs, rights and responsibilities of other Councillors, council officers and other persons;
>
> (d) exercise reasonable care and diligence and submit himself or herself to the lawful scrutiny that is appropriate to his or her office;
>
> (e) endeavour to ensure that public resources are used prudently and solely in the public interest;
>
> (f) act lawfully and in accordance with the trust placed in him or her as an elected representative;
>
> (g) support and promote these principles by leadership and example and act in a way that secures and preserves public confidence in the office of Councillor.

I think if those principles are put in the code of conduct and are adhered to, the confidence of the public in their local government will be sufficiently and significantly enhanced.

Clause 16 talks about the misuse of position. It states:

> … a Councillor or member of a special committee must not misuse his or her position —
>
> (a) to gain or attempt to gain … an advantage for themselves or for any other person …

It goes on to state that a councillor must not cause detriment to a council or another person or make improper use of information acquired as a result of that position. A councillor should not make improper use of information or disclose confidential information or direct or improperly influence, or seek to direct or improperly influence, a member of council staff. A number of those issues were raised by the Ombudsman, George Brouwer, in his report entitled *Conflict of Interest in Local Government,* which was tabled in March. I will quote from parts of the report, but because of time constraints I will not quote all of it. The Ombudsman said:

> My review found that the policies and practices in many councils do not adequately identify conflicts of interest and do not sufficiently monitor and control conflict situations. This lack of clarity and rigour leaves councils and council staff vulnerable to issues of integrity. In my opinion, there are clearly unmet needs in local government both for model conduct guidelines and for training and education.

That issue was raised with me by a number of councils. The code of conduct and some of the interest provisions need to be clearly spelt out with guidelines. Councils are talking about needing guidelines, and I understand from the briefing that some model guidelines are going to be provided to councils to make sure they understand what those conflict-of-interest provisions are. The Ombudsman went on to say:

> In the main, the problems related to conflict of interest resulted from failures of governance; only rarely did they reflect deliberate misconduct or fraud.

That is an important issue. Once councillors know what they are allowed to do, or what they are entitled to do, most adhere to that. I know the chief executive officers were concerned that some councillors were getting involved with administration issues and were dealing with council staff. There needs to be a clear separation between what a councillor can do and what a councillor is not entitled to do.

In a question to the Premier in question time in March this year the Leader of The Nationals called for an independent broadbased anticorruption commission as exists in New South Wales and Queensland. The Premier said then that the Ombudsman had not called for that in his report, and that the government would implement all the recommendations in his report. I was told at the briefing that the recommendations in the Ombudsman's report have been accommodated in the bill, and I am pleased about that. I know the Ombudsman made a number of recommendations, and I understand that all of those recommendations have been accommodated.

The bill establishes a councillor conduct panel process which is not open to the public and before which councillors are not entitled to representation unless the panel considers it is appropriate. There will be two members appointed by the Municipal Association of Victoria in consultation with the Victorian Local Governance Association. One of the members must have local government experience; the other must have legal experience. It is important that we have people with a legal background as well as a local government background. Each council is to appoint a councillor conduct panel registrar so that if there is a complaint by a councillor, an application for a councillor conduct panel will go to the registrar.

An application can go to the registrar from a single councillor or from a group of councillors, and it is to be lodged with the registrar. It needs to specify the grounds on which the complaint is based or the actions of a councillor regarding the alleged misconduct, but first the parties must try to settle the dispute internally and advise the registrar why it was not resolved internally. If a panel finds misconduct, it can refer the matter to the Victorian Civil and Administrative Tribunal if it is serious enough. However, it can also determine if remedial action is required, reprimand a councillor or direct a councillor to make an apology, direct a councillor to take a leave of absence not exceeding two months and require a councillor to attend mediation or training or counselling, which is to be paid for by the council.

Councils must have confidence in the process, and there must be natural justice. As I said earlier, there is a need to be able to be sure panel members are impartial, that the information given is factual and that those complained against are given a chance to defend any complaints made against them. One of the concerns is that there are no time lines for an investigation by the panel, which could have a huge impact on some councillors. In Shepparton Cr Sondrae Johnson was under investigation for about 16 months because of a conflict of interest issue. At the end of 16 months she received a letter from the department saying that no further action was to be taken. It was a very stressful time for Cr Johnson. She still feels that she has not been cleared because there was nothing in the letter to say that she had not breached any guidelines or that there was any action to be taken against her or against anybody else. It was just that there was no further action to be taken.

We have to make sure that these conduct panel investigations are dealt with as quickly as possible and that if any allegations are found to be true, they are dealt with very quickly. I urge the minister to make sure that, even though there are no time lines in this bill, they do not blow out so that councillors are not under investigation for huge periods of time. As I said, the councillor in Shepparton was under investigation for 16 months, which put huge stress on her, and she still feels she has not been cleared.

If the matter is serious enough, it can go to the Victorian Civil and Administrative Tribunal, or the councillor at the panel can ask for it to be heard at VCAT. It then becomes public and the councillor can have representation. The VCAT panel can make a finding of misconduct, serious misconduct or gross misconduct. It can direct the councillor to apologise, it can direct the councillor to take a leave of absence for a period not exceeding two months, it can suspend the councillor from office for a period not exceeding six months and it can order that the councillor is ineligible to hold the office of mayor for a period not exceeding four years — currently the council cannot remove a mayor.

The panel can order that the councillor is ineligible to chair a special committee of council, also for a period not exceeding four years. For gross misconduct a councillor can be disqualified for up to four years; the councillor can be suspended for a period not exceeding six months; and the councillor can be ineligible to hold the office of mayor for a period of up to four years.

VCAT may also hear an application of gross misconduct from the department.

I believe the changes will improve the system because at the moment the government can only disqualify the whole council rather than a single councillor, as we saw in 2004 when all the councillors on the Glen Eira City Council were sacked. Sometimes councillors say, 'We are so sick of this media outcry about our behaviour that we would prefer to all be sacked so that we can start again', because they want to make sure that the misbehaving stops. I have seen cases in the media where some councils have almost fallen on their swords by saying, 'We are happy to be dismissed because we want this fixed'.

A number of people have contacted me about concerns over the performance of certain councillors, and decisions that have been made by councils. As I said, we need a system to address those issues. Some of those people have been members of Parliament who have had the community or other councillors raise the issue with them and have then raised it with me, asking where they can go when councils are behaving badly. They want it dealt with quickly and in the public interest.

The conflict of interest provisions in the bill make some extensive changes to the conflict of interest disclosure requirements, relating to both direct and indirect interest. Indirect interest includes close association, indirect financial interest, conflicting duties, receipt of gifts and campaign donations or someone who has become an interested party — that is, as an appellant, an objector, someone who makes a submission on the matter or a party to legal proceedings in relation to a matter, including at VCAT.

I am told that this does not include the signing of petitions, and I would hope the minister clarifies that in summing up, because there has been some concern that if a person becomes an objector to an issue that is very important to their municipality and then becomes a councillor, and is elected because of that issue, that person is then not able to be in the room when the issue is under consideration or be in the room when there is a vote. I think that is a move away from the situation now, so that needs to be out in the public arena.

If somebody has a problem with a certain issue, if they come out formally on that issue, then it will stop them not from becoming a councillor but from having a discussion on that issue and having a vote. They need to understand that if they become a formal objector, then whenever that issue arises in council they will not be able to consider or vote on it. That provision is included because a lot of people would expect their councillor to be unbiased, they would expect their councillor not to be judge or jury. In a way there are two sides to that issue, and I am putting both sides on the record.

The conflict of interest provisions apply also to council staff. Contractors need to disclose any interests. The provisions also apply to planned meetings of three or more councillors or council staff that consider matters intended or likely to be the subject of a council decision. Those items at that meeting now need to be recorded, the issues that are raised need to be recorded and any conflict of interest needs to be recorded. For example, in the case of reports of a Port Phillip City Council employee who was also on the payroll of a developer who won hundreds of thousands of dollars of tender contracts, as I said earlier, that employee would have to say that they had a conflict of interest because they also had an association with a developer.

I will mention some of the other provisions of the bill. If a councillor's primary place of residence ceases to be in the municipality the councillor is not entitled to be enrolled as a ratepayer, and he or she will cease to be a councillor after 50 days. Councillors are required to submit their ordinary return of interest twice yearly rather than yearly, as is currently the case, which keeps the records up to date; the threshold for gift disclosure has been reduced from $500 to $200, which brings it in line with the threshold for disclosure of campaign donations.

A council may elect the mayor for a period of two years; currently it is one year. There is a requirement for council to maintain a website to publish local laws and publish notices online. This is an important issue, because some areas do not have a local paper and some councils use minimum notification requirements. They may put something they are dealing with in the back of a paper or in a paper that is only published once every two weeks — that is the minimum requirement. Having the council put the information online allows people to actually have a look at some of the issues and make comment.

Ms D'AMBROSIO (Mill Park) — I am pleased to join the debate in support of the Local Government Amendment (Councillor Conduct and Other Matters) Bill. In doing so I wish to offer my congratulations to the Minister for Local Government, who has been instrumental in ensuring that this important milestone in the government's reform agenda for local government has been achieved.

In November 2007 the government released for public discussion and consultation the *Better Local*

Governance paper. The release of this paper was the first stage in the development of this bill, which is one of the platforms of the government's reform agenda for local government to ensure that local government remains a resilient and legitimate level of representative democracy for our community.

This bill deals specifically with individual councillor conduct and behaviour. The consultation process generated over 70 submissions from across the community, with councillors, councils, local government peak bodies, community organisations and individuals well represented in the consultation process and the submissions. During this time it has been broadly agreed that the overwhelming majority of councillors and councils undertake their duties with exemplary behaviour and probity.

I refer to some examples of that broad acceptance and acknowledge the earlier comments of the shadow Minister for Local Government. I particularly refer to the Municipal Association of Victoria and its commentary on the introduction of the bill. On 12 September association president Cr Dick Gross said:

> The reputation of the sector is too easily undermined by infrequent but highly publicised accusation of misbehaviour and inappropriate conduct.
>
> The vast majority of councillors behave in an appropriate manner and the proposed reforms will hopefully increase confidence in the decisions and responsibilities that are entrusted to councils …

That is a reflection of the broad acceptance and the community's welcoming of the bill. Community expectations of their elected councillors have expanded in recent years and have grown in depth, if you like. People are more aware and expectant of the benefits that come from greater transparency and decision making at the local government level and the greater accountability that people deserve from their local councillors. Similarly councils themselves as organisations have become more acutely aware of the importance of greater councillor transparency and probity to the residents. Councils have expressed their concerns during the consultation period that they have no real effective framework by which they can deal with concerns that may arise from time to time with respect to councillor misbehaviour. This can diminish the community's confidence in their particular local government. This government, through the bill, will identify the appropriate standards for councillor conduct and establish a new process that will address these current concerns in an adequate framework to steer through issues that may arise from time to time in any local government area.

On the matter of appropriate standards, three primary principles are identified. A councillor must act with integrity and impartiality and is not to improperly seek to confer advantage or disadvantage on any one person through the conduct of being a councillor. These principles act as a platform on which more specific principles are to apply to councillors and include the avoidance of a conflict of interest; the requirement to act with honesty and avoid statements that are likely to mislead or deceive; the treatment of all persons with respect and having due regard for others' opinions, beliefs and rights, including those of councillors, officers of council and other persons; and the prudent use of public resources in a way that does not bring themselves or the council into disrepute. These principles are some of those that are articulated in the bill. They are commonly expected of elected councillors by the community and will be included in each council's councillor code of conduct. This is a major step forward.

Alleged breaches of these principles will need to be referred to a councillor conduct panel if there is a belief by a council, any individual councillor or group of councillors who believe there is some issue that needs to be brought to account. A panel will be established as the need may arise and will be dissolved upon conclusion of an application. The panels are to be independent and impartial arbiters of local councillor disputes and/or any allegations of inappropriate councillor behaviour. The panel's function will be to assist councils and councillors. An application can only be made by a council, councillor or a group of councillors. The panel must afford the opportunity for natural justice to occur, and that is an important attribute so confidence can be instilled in the functions of a panel.

The panel will comprise two members, a legally qualified and experienced member who will act as the chair, and someone other than that who will have appropriate governance experience in local government. Each panel will be drawn as the need arises and by lists maintained by the Municipal Association of Victoria.

The panel may either conclude that a councillor be disciplined — that is, there may be a requirement to issue an apology or that councillor may need to take leave of absence of up to two months — or that a councillor is to undergo counselling or training or take part in some form of mediation. The panel may also authorise an application to the Victorian Civil and Administrative Tribunal (VCAT) for a hearing into whether there is serious misconduct on the part of a councillor. The panel may also though, importantly,

dismiss any application that it considers to be frivolous or to be without substance. The panel may dismiss an application if it believes that a council has the ability and the internal processes available to it which can probably resolve any matter that is before it. A right of appeal to VCAT is afforded to either a council or a councillor. VCAT can hear an application from a council or a councillor for a finding of serious misconduct following a panel authorisation or an application from the department for a finding of gross misconduct.

In the brief time that I have left I will touch on penalties that may arise within the realm of VCAT. Penalties regarding a finding of serious misconduct may include suspension of up to six months or a councillor becoming ineligible to serve a term as mayor or to chair a special committee for a period of up to four years. Penalties regarding findings involving gross misconduct may incur a penalty of 10 or more penalty units; may conclude that a councillor is not fit to remain a councillor; may disqualify someone for up to four years; find that a councillor is ineligible to be a mayor for up to four years; or suspend a councillor for a period of up to six months.

There are various other specific provisions that flow from this and I will not go into that except to finish off by saying that the Brumby government through the very able leadership of the Minister for Local Government is taking action to strengthen local democracy and strengthen accountability of councillors to the community who elect them. This is part of an important phase in the broad local government reform agenda this government commenced some time ago to ensure councillors are more accountable to the public.

Mr MORRIS (Mornington) — It is a pleasure to join the debate on the Local Government Amendment (Councillor Conduct and Other Matters) Bill 2008. The title is the story. It is partly about councillor conduct, but it is also about many other matters. Part 3 of the bill deals with the conduct, the principles in terms of what it is seeking to achieve by the code, the process for enforcement and appeal, and all the mechanics that go with it.

Part 2 of the bill relates to councillor allowances processes for adjustment, effectively establishing a regime which will permit the allowances to be adjusted on a regular basis rather than having to make a specific decision.

Part 4 of the bill provides for conflict of interest, which is really an attempt to make the process more accessible both to those people who are bound by it, the councillors and the community as a whole. It is certainly not the first time people have tried to tweak the conflict of interest provisions in local government. They have been the subject of debate for many years, and what is attempted in this case is reasonably good. There is a change in that area too in terms of clarifying how it affects people who have been party to planning application submissions before they got elected to council.

Part 5 of the bill has a series of other amendments. To pick out a few, there are reasonably important changes to the entitlement to be a councillor, which hopefully will eliminate what has turned into a loophole allowing councillors to maintain office when morally they are not entitled to it any more. There are additional powers for the municipal electoral tribunals to clarify some of those issues. There is a change to the oath of office. I do not understand what that is about, but I will not get overly excited about it. There are some clarifications for the suspension and leave of absence provisions for councillors. The changes in the way a mayor is elected means there is clarity in terms of no secret ballots, but there is also a change to allow a mayor to be elected at the annual meeting for a two-year term, which reflects the practice of many councils already and simply eliminates the unnecessary interruption to the term.

There are measures for websites and any mechanism is welcome if it can improve the ability of a council to communicate with its constituents and the community in its area. Most councils have websites, but this indicates how they can more practically communicate. There is also the matter of making available to the community a list of documents that are available for inspection. There is an alternate view that the documents themselves should be available on the website. I personally do not support that. There is absolutely no reason to have what is in fact often quite detailed information about someone's personal circumstances available for anyone around the world who wants to look and see. That is unnecessary. It is information that needs to be available, but at least you can take the trouble to go down to the council and have a look. I am quite relaxed about that.

There is considerable tightening of the controls on special committees. I have talked about the voting. There is an extension of the codes of conduct for staff, and given some issues that have occurred in some Victorian councils and certainly some less than savoury occurrences in other jurisdictions, that can only be an improvement as well. There are also a number of provisions which shift the responsibility for a particular task from the minister to the secretary of the department. In terms of the mechanical detail, I do not

have an issue, but there are a number of matters being transferred from the minister to the secretary where the decision should still be made by an elected member who reports to this Parliament. That is not an improvement, but, again, in the scheme of things it is a detail.

There are another 30 or so clauses, which unfortunately time does not permit me to talk about, but the message I am trying to get across is that this is a bill of great complexity. There are many changes, and the fact that the minister has already circulated amendments testifies to the complexity of the task. Obviously in that there is the potential for unintended consequences.

I thank the minister and the gentlemen from Local Government Victoria who have been of great assistance to us in terms of providing exhaustive briefings and have been very happy to go through the detail and work through the issues with us. I thank them for that; it was of great assistance and probably helps to improve the legislation as well.

The central elements of the bill are the councillor conduct provisions. They have been subject to extensive consultations, supported by the Municipal Association of Victoria, the Victorian Local Governance Association and most individual councils and councillors. There is some discussion at the margin about whether the penalties are sufficient, whether the net should be widened to catch more people, and there has been some commentary that we did not need this in the old days so is it in fact a statement on the situation of society today. I was a councillor 20 years ago, and we would have been delighted to have some teeth like this.

There are many tales like that, because when there are problems like this councils have traditionally not been able, or have found it very difficult, to deal with their own. I think it is welcome and it is probably overdue. There is of course the potential for misuse — for it to be used as a political tool. I would like to see a review of the operation of this measure after a couple of years. I do not know whether that is planned or not, but it would probably be of assistance if that could be done.

In terms of councillor remuneration, similarly there has been extensive consultation. The bill establishes a framework so at least everybody knows where they are. I have some reservations about what I gather is the requirement that allowances be paid by a council. I would prefer that a council could make a decision not to pay allowances if it wanted to. I have some reservations that, when there is an increase in the range, the increase must then be followed, but once again they are quibbles at the margin.

As I said earlier, in terms of the conflict of interest provisions, the bill is an attempt to make this more accessible to those to whom it applies and to the community. It certainly extends the limits on councillor participation in the decision-making process when they have a conflict of interest. Why we did not do that years ago I do not know, but it is certainly welcome. People who have a conflict of interest should be out of the room right from the get-go.

The bill also creates a definition for an assembly of councillors — a gathering of three or more, as the member for Shepparton said. That is a welcome improvement.

Personally I would like to see that go a lot further. I would prefer the assembly of councillors to be subject to the same rules that apply to any meeting of the council, where the meetings need to be advertised and where the door needs to be open unless there is a damn good reason to close it, because I see absolutely no benefit in closed-door meetings. It probably goes back to a time of commissioners, when people were more comfortable doing things behind closed doors and then having a public meeting. Unfortunately that has stuck. The process can always be improved by increased transparency. I see absolutely no reason why those meetings should not be open.

In conclusion, the bill makes substantial changes. It adds some major new aspects to the act — and I think there is general support for those — and it makes many other very complex changes. None of the changes are opposed by the coalition, by the associations or by the individual councils as a whole. The legislation in my view should have been in place by 30 June so the people wanting to stand for council at the forthcoming elections were able to get across it. It was not done and that is unfortunate, but it is certainly not reason to reject the bill. We will not be opposing it.

Debate adjourned on motion of Ms BEATTIE (Yuroke).

Debate adjourned until later this day.

POLICE, MAJOR CRIME AND WHISTLEBLOWERS LEGISLATION AMENDMENT BILL

Second reading

Debate resumed from 11 September; motion of Mr CAMERON (Minister for Police and Emergency Services).

Mr McINTOSH (Kew) — The Police, Major Crime and Whistleblowers Legislation Amendment Bill 2008, as far as the opposition parties are concerned, falls into two significant components. The first is that the opposition has unequivocally no opposition to the amendments made to the Whistleblowers Protection Act, the Major Crime (Investigative Powers) Act or the Police Integrity Act in relation to the machinery amendments that the bill implements, and I will go through those in a moment. Unfortunately, though, we have profound concerns — perhaps even fatal concerns — in relation to the mechanism of disciplinary processes that the bill seeks to implement and puts into the hands of the current Chief Commissioner of Police.

I say from the outset that I am very grateful for what was a very long and detailed briefing from the government, which included for the first time in my time as the shadow minister the attendance of the Chief Commissioner of Police to provide us with a detailed background to the bill, some detail of that bill and, more importantly, her reasons for seeking the amendments to the Police Regulation Act. Not only was it a first time for me, but I understand from the chief commissioner herself that it was the first time that she has attended such a briefing. Perhaps that is an indication of the importance that she is placing upon these changes to the disciplinary processes set out in the Police Regulation Act.

I should say that it is not just the changes to the disciplinary processes; there are many other changes. However, certainly the principal changes, the government says, implement those recommendations made by the director, police integrity, in a report last year that dealt with the police disciplinary process, examined the nature of policing in Victoria and looked at other areas where these matters have been dealt with in Australia and overseas. The government says it is implementing this bill based upon that report.

I have also had the opportunity to have a number of discussions with representatives of the Police Association about this. It is a matter of some note that the Police Association has not had significant input into this bill, which has been a matter of some commentary, about which I do not propose to go into any detail, by both the chief commissioner and the Police Association.

There has also been input from a number of legal bodies. Other members of Parliament may have received a letter or an email from Mr Hugh de Kretser, who is the executive officer of the Federation of Community Legal Services. The letter is not only from his organisation but is also signed by various principal representatives of the organisations, including the Law Institute of Victoria, the Victorian Bar Council and Liberty Victoria. That letter is confined to the new laws relating to vicarious liability.

I talked to one of those principal officers — and I will not go into the details — and I had a conversation with a number of lawyers and individual police officers in relation to this bill. One of the things that came to my attention was the apparent lack of awareness outside police circles about this particular bill. When I raised a number of my concerns about the bill with organisations like Liberty Victoria, the Victorian Bar Council, the Law Institute of Victoria and the Federation of Community Legal Centres, the impact the bill could have on the rights and liberties of people in Victoria — or, should I say, police officers who are serving in Victoria — had not even registered with them.

It is a matter of profound concern that, unlike what the government has represented — that there is a similarity between this bill and what the director, police integrity, recommended in relation to disciplinary changes in Victoria — I believe there are profound differences between what was recommended and what is being adopted in Victoria. That is a matter I propose to make some commentary about. I will also comment on how that will impact on individual police officers and, if not, the broader community.

In relation to that matter I will restate where the opposition parties are coming from. As I said, we have no difficulty whatsoever with the amendments to the Whistleblowers Protection Act, the Major Crime (Investigative Powers) Act or the Police Integrity Act; they are important changes and they need to be dealt with as expeditiously as possible. However, we are profoundly concerned about the remainder of the amendments. Many of them which have been sought in relation to the Police Regulation Act may not be of any significant import, but there have been profound concerns raised with me and other members of the opposition parties about the lack of consultation.

There appeared to be, as I said, a deviation from what may have been expected from the report by the director, police integrity, in relation to what is in this bill. A principal proponent of that may have been the Police Association. As both parties acknowledge, the relationship was not moving ad idem in relation to discussions about this bill, particularly in dealing with the disciplinary process.

Having said that, can I just say in relation to the Police Regulation Act, the Major Crime (Investigative Powers) Act and the Police Integrity Act that the matters are time critical. They are urgent. It is deeply regrettable that the government has tacked onto this bill these important and time-critical provisions rather than having a stand-alone bill which could have dealt with those urgent matters and dealt with the police and regulations amendments that are not time critical and that have been around for a considerable amount of time. Perhaps the actual specific issue — the black-letter law — that comes from this bill has been a bit of a surprise to a number of people and a deviation from what the director, police integrity, provided in his report last year.

The opposition parties will be calling on the government to let us — and this is my term — split the bill. Let us deal with the time-critical issues and then deal with the Police Regulation Act following much more extensive public consultation, not only with the Police Association but with other organisations like the Victorian Bar Council, the Law Institute of Victoria and the Federation of Community Legal Centres to explore all of these avenues as to why we have deviated from what the director suggested.

I will deal with the Whistleblowers Protection Act and Major Crime (Investigative Powers) Act. What is essentially occurring to the whistleblowers act is the extension of contempt-making powers of the director, police integrity, for a further three years. As I understand, those contempt powers lapsed in May of this year, so this bill will extend those powers for a further three years. From that point of view it is critical that that amendment be passed as soon as possible. In relation to the major crimes act, similarly the contempt power of the chief examiner which expires on 1 January 2009 is to be extended for a further three years as well. There was a sunset clause in both of those acts; the sunsetting occurs at different times. The bill will extend those powers; therefore the amendments are time critical.

In relation to the Police Integrity Act, it has been a matter of some note and commentary by myself and others that a fundamental drafting error led directly to the acquittal of three police officers who had been charged with various corruption offences; they were acquitted because of the legislation and because of its drafting. This drafting error is unlike a mere technicality, which is what the Premier described it as being. That mere technicality was dealt with by Judge Wood in the County Court, who ruled that there was essentially a prohibition on officers of the OPI (Office of Police Integrity) giving any evidence. This is the first prosecution of this kind that has actually gone to trial.

Earlier this year we heard about matters in relation to the allegations about the armed offenders squad. Those matters were about allegations of theft and corruption arising from the theft of property and other matters concerning the Springvale police station. As I understand from media reports, a sting operation was occurring that was directly operated by the OPI. Of course the OPI officers would have had to get up in court and give evidence about that matter, but they were prohibited from doing so by the drafting error of this government. The opposition has been calling on the government to pick up a piece of legislation that exists in New South Wales in relation to its Police Integrity Commission and merely copy that legislation lock, stock and barrel, because it has been tried and proved. It has been around for some 15 or 20 years. It contains tried and true provisions that protect witnesses who go before the Police Integrity Commission in New South Wales from disclosing unnecessarily confidential matters that could jeopardise not only ongoing operations but the confidence of informants or whistleblowers and so on.

The government was overzealous in drafting this legislation — it protected witnesses so well they could not even give evidence in court! As I said, that was described by the Premier as being a mere technicality. That mere technicality led directly to the acquittal of these police officers, so it is time critical. Four years of hard work by the Office of Police Integrity here in Victoria involving two directors and the spending of many millions of taxpayers dollars — somewhere between $50 million and $100 million — all comes to naught if you cannot carry out these prosecutions. It would be an irresponsible opposition that prevented such a vital piece of legislation from passing this house. It is the opposition's position that we effectively want to split the bill, and we invite the government to do so. The opposition parties are quite prepared to undertake that if that occurs, this particular part of the bill concerning whistleblowers, major crimes and amendments to the Police Integrity Act will go through this Parliament within 24 hours. We could do that tomorrow and get it through both houses. We undertake to facilitate that necessary step, and we will get leave to

do so. However, the other and larger part of the bill should be dealt with following proper discussion.

Accordingly, I wish to move a reasoned amendment in the following terms. I move:

> That all the words after 'That' be omitted with the view of inserting in their place the words 'this bill be withdrawn and redrafted to —
>
> (1) take into account the outcome of extensive public consultation about the proposed amendments to the Police Regulation Act 1958, particularly in relation to implementing appropriate disciplinary procedures for Victoria Police; and
>
> (2) retain the remaining provisions relating to the proposed amendments to the Major Crime (Investigative Powers) Act 2004, the Police Integrity Act 2008 and the Whistleblowers Protection Act 2001 to enable their urgent passage'.

I moved the amendment to split the bill to enable the things that are time critical and urgent to be dealt with. I will briefly go through the provisions in the bill. The bill removes the limitation on the number of deputy commissioners, which is currently four. It removes the limitation on the number of assistant commissioners, which is currently 10. It substantially extends the powers bestowed upon the Chief Commissioner of Police to appoint, promote and transfer members of Victoria Police and provides a specific power to transfer in relation to the no-confidence and misconduct provisions, or indeed the new misconduct and poor performance provisions of the act. There is some profound concern about not only the ability to transfer but also in relation to probation. The bill provides for a probationary period for all constables of the rank of constable of two years and for all other ranks of one year. It provides for flexibility of employment arrangements — something the opposition has traditionally supported — to enable employees to negotiate their own arrangements, but it also provides quite categorically for full-time employment, part-time employment and indeed fixed-term employment. It also provides for a mechanism for calculating the probationary period. The probationary period for a constable is two years. Even if you are serving part time, it is just that two years.

The bill restates categorically that the chief commissioner is not the employer of Victoria Police. The reason for that is historical. It is on the basis that police officers are given an enormous amount of independent discretion and indeed coercive powers, not the least of which is the power to arrest, and that because they are given that independent discretion and are encouraged to use it when working in difficult environments, they are not seen to be employees. Effectively they are treated historically, if you like, as being independent agents, although increasingly we are coming to recognise — certainly this bill takes this a substantial step forward in relation to vicarious liability provisions, which I will come to in a moment, but certainly it makes it perfectly clear — the relationship between a member of Victoria Police and the chief commissioner. Notwithstanding the fact that she is not the employer at law, she has all the powers and entitlements of an employer in relation to directing a member of the Victoria Police. The Chief Commissioner of Police is not the employer but has all of the powers of an employer. We still maintain that legal fiction. Perhaps we may get over that at some stage.

Interestingly enough, the bill provides another significant change from the historical relationship, which is that recruits were always recruits, but now, as a matter of law, recruits will be members of the police force with all of the powers of a constable and all of that independent discretion, including the power to arrest. Of course they will be undergoing their training in the normal course, but certainly they are included as members of Victoria Police. I hope in the annual report the number of recruits are not recorded as full-time members of Victoria Police.

There is a provision in clause 9 — this has caused an enormous amount of concern with the Police Association — under which members of an executive of the association, such as Senior Sergeant Greg Davies, who is the secretary designate, and Inspector Bruce McKenzie, who is the second in charge, remain members of Victoria Police even though they are in the employ of the Police Association. Importantly, the chief commissioner is given the power to suspend an officer who is employed by an outside organisation during the course of that secondment. It has been said to us that the Police Association feels this is directed at it specifically. I think there are reasons for that which have been identified by the director, police integrity, but members of the Police Association feel very aggrieved about that and feel their ability to discharge their functions as representatives of 98 per cent of Victoria Police members will be severely limited if this bill goes through.

The association considers a lot more discussion is required on that issue, which is one of the reasons we have moved a reasoned amendment. The point is that as suspended members of the police force, officers of the association — without any odium that may follow from a disciplinary process; they would just be suspended — would automatically lose their right to go to any police station in the state of Victoria with their members. They

say that that would be a profound impediment on their ability to discharge their obligations as representatives of 98 per cent of Victoria Police members in this state, and they would certainly be seeking some amelioration of the situation.

The quid pro quo is that, as I understand it, there is an expectation that the current chief of staff of the Minister for Police and Emergency Services, Mr Brett Curran, who is a serving member of Victoria Police, will also suffer the consequence of having his membership of Victoria Police suspended while he is carrying out a political office. I would have thought that would have happened at the time, but that is a matter for discussion by others. The bill also removes the limit on the number of protective service officers (PSOs), which is currently 150. Presumably there will be more PSOs undertaking protection work around the state.

The bill amends the vicarious liability provisions of the act. As I said, a concern has been raised by legal bodies about this matter. They are very concerned that the bill does not go far enough. Essentially at the moment an officer has the security of knowing that he will be supported by Victoria Police if he is acting in good faith in the course of his duties. That has been further expanded to cover an officer who is acting in the course of his duties and is not conducting himself in a way that would amount to a serious misconduct. The Chief Commissioner of Police at her briefing said that if the chief commissioner does not deny liability, then it is the chief commissioner — although the bill says the Crown — who would be sued vicariously for the actions of a police officer.

That would mean that in the event a police officer did something — injured somebody through negligence or even deliberately, because police officers have to be rough occasionally — as long as it did not amount to wilful or serious misconduct that officer would be covered. Interestingly enough, in the course of the discussion the chief commissioner said that police would be covered — for example, the armed offenders squad — in cases where they are operating in the course of their duty interviewing suspects in a police interview room, and it gets a bit woolly and punches are thrown. I imagine that would be wilful misconduct. If that happens outside and the police officers are off duty, then clearly they would not be covered.

The legal bodies point out that they are concerned that, while the chief commissioner is saying this is the case, it is not necessarily reflected in the words of the act itself. They are calling upon the government to amend the legislation to clearly cover that circumstance. This is again a reason for more discussion about vicarious liability.

I will now deal with the issues relating to the principal concerns, which are the amendments to the disciplinary process. As members will know, just before the Kennett government left office in 1999 it introduced the no-confidence provisions of the disciplinary process in Victoria Police. This was a matter of profound commentary by the then Labor opposition. Opposition members were screaming from the rafters that this was outrageous; it was shocking; it was going to be the end of the world as we know it.

Despite that, and all the promises under the sun that no doubt were given to the Police Association, when Labor came into government one of the first things it did was to change bits and pieces. The government kept the novel no-confidence provisions. It said it changed the appeal process although the then government's intention was always to have a binding right of appeal in relation to the no-confidence provisions. Notwithstanding that, the only thing the government really did was get rid of the Police Board and create the Police Appeals Board. It got rid of one body and created another to do exactly the same thing but with a full right of reinstatement. That existed under the former Liberal government. It still existed under the Labor government, but this bill is now changing that appeal process.

The appeal process under the regime of this bill will allow for a number of procedures if a police officer is charged with a criminal offence. He can be dealt with in a disciplinary fashion and can ultimately face dismissal. He can also be dealt with for misconduct and can face dismissal. He can be dealt with through the no-confidence provisions and can face dismissal. He can be dealt with for poor performance by way of dismissal. Unfortunately time does not permit my expanding on why I believe the chief commissioner has sought this process, but it is important to point out two things. Under the current regime the right to a full appeal to the Police Appeals Board is now going to be taken away. Yes, a police officer can appeal, and in the event the appeal is successful he can get compensation, but he cannot get reinstated. That is the fundamental difference between what has gone on before and the proposed provisions.

The former Labor government, both at the time of the passage of the no-confidence provisions and when it introduced its own provisions, railed against this notion. On 13 May 1999 the then shadow Minister for Police and Emergency Services, Mr Haermeyer, stated in the house:

> If external accountability and the binding right of appeal are removed, the culture will develop from the top down. The government is proposing to back that up with draconian powers such as the power to summarily dismiss a police officer, but such powers need not necessarily be used. Just the knowledge that they are there and may be used creates compliance through fear.
>
> It causes officers to fall into line with the dominant culture: they will not step out of line or dare put them to the test. As I said, the powers need not be used; officers just need to know the powers are there for the culture to become entrenched. That is dangerous when the dominant culture is corrupt — as it was in Queensland under then Commissioner Lewis — or is subject to political influence.

That name — Terry Lewis — is something I thought about without even reading that. When you talk to people they immediately think that in the hands of a corrupt chief commissioner — and no-one is saying that the current chief commissioner would do anything other than use these powers in an appropriate fashion — this power can be misused, and that is exactly what Mr Haermeyer was alluding to in this house at that time. It is a matter of some commentary that later on when the government introduced its own changes, which it promised to do, Mr Haermeyer stated:

> The key change is that the new appeals board will have a binding determinative power on not only promotion and transfer appeals, but also applications for review of police disciplinary and other staffing decisions.

It is important to note that that is what the government put in. It screamed blue murder when the confidence powers were introduced.

The second major issue — and this is a significant issue — is that while the reinstatement has been removed in relation to the no-confidence provisions and allegations of criminality and while it remains in relation to misconduct and poor performance, this is not what the director, police integrity, recommended. He recommended that the no-confidence provisions be removed completely and that the issue ought to be dealt with as an employment-related thing such as misconduct and poor performance. He indicated that there needs to be a right of appeal and that the right of reinstatement should be circumscribed only in the rare case where the chief commissioner actually provides a certificate to that extent, as occurs in the Australian Capital Territory, and that is the circumstance, but this government has chosen to go down a different route. I ask the government to properly consult and not just do this on a two-week basis. Yes, we are happy with the consultation we got with the chief commissioner, but we are very concerned that there are profound differences between what the director, police integrity, represented in his report and what the government is doing in this legislation. For that reason my reasoned amendment should be supported.

Ms GREEN (Yan Yean) — I rise in support of the Police, Major Crime and Whistleblowers Legislation Amendment Bill, and I state from the outset that I will be supporting every aspect of this bill and I will not be supporting the reasoned amendment proposed by the member for Kew. The objectives of the bill are to amend the Police Regulation Act 1958, the Major Crime (Investigative Powers) Act 2004, the Whistleblowers Protection Act 2001 and the Police Integrity Act 2008.

It is quite amazing for me to follow the member for Kew. We hear the opposition giving a commentary about police in this state and policing, and what we have heard from his contribution over the last half hour has been a confirmation again that the opposition does not support the police commissioner in the important work she needs to do in managing a modern and efficient police service without political interference. We have heard in recent weeks what opposition members would do if they were sitting on the Treasury benches again. Only in the last week we have heard that they would get rid of the police media unit. They would rather run things themselves out of Treasury Place. We hear often that they think they know where the police resources would go. They seem to think they know better than the police commissioner. They would do these things on political grounds.

The government has put some modernising and forward-looking employment practices into the Police Regulation Act in support of the important work of the police commissioner, who is a fantastic police commissioner who does a fantastic job — and let us not forget that we have the lowest crime rate of any state in the country — but this lot on the other side would like to talk it down because they are ambulance chasers. They do not support the police commissioner. We on this side do, and that is why we have put forward this bill. We have put forward this bill to modernise the police service and in fact to support the chief commissioner and all of Victoria Police. But this lot on the other side seem to want to have it both ways. They talk tough, and they say they talk tough on crime, but then when a bill comes in here that gives the police commissioner improved powers and a greater ability to manage the great resource she has in Victoria Police, they do not want to support it.

The purpose of the bill is to improve the legislation and give powers to the Chief Commissioner of Police as if she were the employer of police members, and essentially she is. This is consistent with modern

employee practice. It is consistent with the enterprise bargaining agreement (EBA). It is consistent with the Workplace Relations Act, and importantly it preserves the independent powers necessary for officers to undertake the important work they do in policing.

Of the many interesting comments the member for Kew made, I will focus on the concerns he says he raises on behalf of the Police Association. Part of the flexibility that this bill gives to the police commissioner is the power for suspension of members on secondment to external agencies. It is not just about the Police Association; it could be about members of Parliament. If a member of the police force were elected to this place, why on earth would anyone think they would continue to exercise the powers vested in them as a Victoria Police officer?

In a modern policing organisation we welcome the prospect that Victoria Police officers would gain experience in other employment roles and have the ability to return to policing. But should they still have the power to act as a police officer while they are undertaking that work, or should they have the obligations of a police officer placed on them? They might want to spend some time in the teaching service. Should they still be considered to have police powers or the obligation to act with police powers?

If a principal were elected to office in the Australian Education Union, you would not consider that they would still exercise their powers as a principal. If a police officer went to work in a bank for a number of years and then wanted to return, you would not expect that they would continue to exercise the powers of a police officer. It is not just that they should not have those powers but also that obligation should not be put on them because they would not have the day-to-day, month-to-month access to improved training and changes to legislation they might need in undertaking their duties. There is nothing sinister at all in this process.

The member for Kew said his reasoned amendment withdraws all amendments to the Police Regulation Act, but he also said he does not oppose increased flexibility for the police commissioner consistent with the EBA because the opposition has always said that. You cannot say you support something when you have said the reasoned amendment is designed to get rid of it.

The member for Kew referred to the changes to the civil liability provisions proposed in the bill and the clauses relating to vicarious liability. I was not quite certain what he was trying to say there. As we know, the member for Kew has come out of the legal profession. He talked about some concerns raised by the community legal centres and others. It was not clear to the house what he was trying to say in his contribution on this, but was he seriously trying to say that the government should accept liability in the first instance and pay for damage caused by police officers who engage in serious and wilful misconduct, and then recover those damages from the police officers? Is that what he was seriously trying to say? This provision gives support to police officers. The state takes responsibility when officers have caused damage in undertaking their work, but not if it was a wilful or a criminal act on their behalf that has caused the damage.

Is the member for Kew seriously trying to say that in all cases, even where there has been wilful misconduct, the state should be liable? The government does not believe that would be appropriate. The government believes it would be extremely bad public policy to do that. Retention of personal financial liability is a strong incentive to police members to act properly. It sends a strong message to the small number who might at times consider not acting properly. It also sends a strong message to the community that that sort of behaviour from a minority would not be acceptable.

We are a government that has nailed its colours to the mast. We have very much focused on community safety, on increasing police numbers, on rebuilding police stations, and giving police the best available resources to do their jobs, and we have gotten results. We have the lowest crime rate of any state. We support the fantastic police commissioner who has delivered this outcome. Those on the other side do not support the police commissioner or the important work she does. They might say they support police on the beat, but they do not support police on the beat. If they did, they would be supporting all aspects of this bill and not playing politics. That is what they normally do with anything in this political space. They should be condemned. I commend the bill to the house.

Sitting suspended 6.27 p.m. until 8.02 p.m.

Dr SYKES (Benalla) — I rise to speak on the Police, Major Crime and Whistleblowers Legislation Amendment Bill 2008, which will amend the Police Regulation Act 1958, the Major Crime (Investigative Powers) Act 2004, the Police Integrity Act 2008 and the Whistleblowers Protection Act 2001.

I support the reasoned amendment proposed by the member for Kew, which effectively splits the bill and allows immediate processing and passage of the amendments to the Major Crime (Investigative Powers)

Act, the Police Integrity Act and the Whistleblowers Protection Act to enable amongst other things the correction of a drafting error in the Police Integrity Act and to enable Office of Police Integrity staff to give evidence in court proceedings. This split will then also allow for a deferral on the debate on the Police Regulation Bill to allow extensive public consultation. Why has this reasoned amendment been proposed? It is important to allow the Office of Police Integrity to do its work and to correct a drafting error, given there is grave concern about rushing through the Police Regulation Bill which has major implications for grassroots members in the force.

The government has said tonight through the member for Yan Yean, 'Trust us, we have got it right'. But the bill before us this evening is a classic example of the government not being able to get it right the first time. We need to ask why grassroots police are uncomfortable. They are operating in a time of increasing scrutiny of their private lives and that of their families. We acknowledge it is a difficult balancing act, providing powers for the police command to get rid of the small number of corrupt coppers in the force. But the majority of law-abiding coppers and their families are feeling that this intense scrutiny is invading their privacy and compromising what they believe to be reasonable expectations in a democracy such as Australia.

The other reason why grassroots police may be uncomfortable is as a result of experiences with the G20 rioters where violent radical rioters provoked police and then, as I understand it, ended up being compensated for injuries that were incurred, and the police, who did their best in extremely trying circumstances and who also suffered injuries, were basically hung out to dry. It will be interesting to get advice from the police minister as to whether in future police enforcing the laws of the land under similar circumstances are going to be protected or whether they are going to be hung out to dry.

An interesting comparison that the minister might like to comment on is the recent situation where the police were called out at Yea and were instructed to arrest a diminutive landowner, Deb Bertalli, who was objecting to Melbourne Water staff and other contractors entering her property to construct that folly that is the north–south pipeline. It is my understanding that in that situation the local police operating under the instructions of Melbourne Water arrested Ms Bertalli, but that the police and Ms Bertalli acted in an appropriate manner in those circumstances.

In commenting on that the minister might also like to comment on why the people entering Ms Bertalli's property had been advised to remove all forms of identification from both their person and from the machinery they were operating. You would almost think that there was a clandestine operation going on and that the landowner's property was being invaded by people who did not wish to be recognised. In contrast it is my understanding that police officers must retain their identification badges at all times so that in the event of an accusation of inappropriate behaviour an officer can be identified and a thorough investigation undertaken. Yet here we have a situation where the perpetrators of this invasion of that person's property are being instructed to remove all forms of identification. That is happening in a democracy called Australia.

The bill contains an intention to support the police in the carrying out of their duties. One of the proposals is to provide for short-term and seasonal requirements for policing by providing for part-time and fixed-term appointments. That would seem to make sense, and I would be interested to know whether the minister envisages that that will solve the problem. It is good to see the minister in the house, and I hope he is prepared to respond to the questions that are being raised to show his detailed knowledge of the legislation before the house.

I would like to know whether the proposals in the bill are going to address the long-term employment problems in the police force where, as has been stated many times before, there is a major discrepancy between the number of police on the books versus the number of police on the beat. We know that is because there are many police officers on stress leave, maternity leave and other forms of leave or secondment. The minister does not come clean on those discrepancies. The result is that serving police officers are put under more pressure, they become more stressed, and the situation is exacerbated. If the government is genuine about supporting the police to do their job, which can often be extremely difficult, I hope there will be a genuine commitment to the provision of adequate police numbers, not just a going through of the process.

In taking advantage of the flexibility proposed in this amendment we can see an opportunity, for example, to address the seasonal needs for additional police in the snowfields in my area. Mount Buller has thousands of visitors during the snow season, and police from the surrounding area are expected to cover Mount Buller on rotation. That is fine. A lot of them enjoy the experience, albeit the accommodation and the working conditions up at Mount Buller are far from satisfactory.

But they also need to have special training to do that. I would be interested to know whether in implementing this legislation the minister envisages that the staff are adequately qualified to undertake the job that is required.

I would also like to note in relation to the ability to deliver services in that particular location that the lockup that is available for people who behave in an inappropriate manner on Mount Buller is 1½ hours drive away, under good conditions, at Benalla. In providing a service to the thousands of people and property owners on Mount Buller in the event that a person needs to be locked up, police would then be off the beat for 3 or 4 hours or more. If the government is fair dinkum about providing a service to the community and ensuring that the police providing those services are adequately supported, then issues such as that need to be addressed.

I wish to keep my presentation extremely simple so that the parliamentary secretary for police and emergency services and others have no ability to misconstrue my position on this matter, and that is that I support the reasoned amendment moved by the member for Kew. The reasoned amendment will separate the Police Regulation Act from the other legislation to enable the other legislation to proceed and address inadequacies in previous legislation, including a drafting error in the Police Integrity Bill, but it will retain for further discussion the many complex issues of concern to grassroots police in the Police Regulation Act. As indicated, the bill itself highlights the need for further consideration and further consultation, because the government has demonstrated with this legislation that yet again it cannot be trusted to get it right the first time.

Debate adjourned on motion of Mr Lupton (Prahran).

Debate adjourned until later this day.

PERSONAL EXPLANATION

Mr HOLDING (Minister for Finance, WorkCover and the Transport Accident Commission) — I would like to make a clarification concerning the Compensation and Superannuation Amendment Bill 2008. The second-reading speech as recorded in *Hansard* erroneously states that:

> The bill preserves the right of Martino Developments Pty Ltd and any other applicant who has issued proceedings to recover damages for loss of services before today to have their matters heard by the court.

I am advised it was intended that the second-reading speech would read as follows:

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

Mr Wells — On a point of order, Speaker, can the minister clarify that the wording in the actual bill is correct?

Mr HOLDING (Minister for Finance, WorkCover and the Transport Accident Commission) *(By leave)* — The bill is correct. The second-reading speech required this clarification.

RESEARCH INVOLVING HUMAN EMBRYOS BILL

Consideration in detail

Clauses 1 and 2 agreed to.

Clause 3

Mr CLARK (Box Hill) — I move:

1. Clause 3, page 3, lines 28 to 32 and page 4, lines 1 to 8, omit all words and expressions on these lines and insert —

   "***human embryo*** means a discrete entity that has arisen from the creation of a single cell containing 2 pro-nuclei following the fertilisation of a human oocyte by a human sperm;".

This amendment seeks to change the definition of 'human embryo' in the Research Involving Human Embryos Bill, in effect to reinstate the position as it stood prior to the amendments that were made to Victorian law on this subject by the Parliament in the early part of last year. The reason for moving this amendment is that the definition as it now stands in the bill is one that does not recognise the existence of a human embryo until a later stage in the process of fertilisation of a human egg in the process of becoming a distinct entity. The risk with the definition as it stands in the bill, which was the same risk as was in the amendments that were made last year, is that it leaves a gap in which the entity concerned is not recognised within the definition of 'human embryo', even though on most accounts a separate entity would have been created, and therefore becomes completely unregulated because it falls outside the scope of the bill. The definition as proposed in the bill at the moment refers to a human embryo and states:

… means a discrete entity that has arisen from either —

(a) the first mitotic division when fertilisation of a human oocyte by a human sperm is complete; or

(b) any other process that initiates organised development of a biological entity with a human nuclear genome that has the potential to develop up to, or beyond, the stage at which the first primitive streak appears —

and has not yet reached eight weeks development since the first mitotic division.

My amendment will replace that with the definition that a human embryo means a discrete entity that has arisen from the creation of a single cell containing two pro-nuclei following the fertilisation of a human oocyte by a human sperm. In other words, the definition I am proposing will recognise the existence of a human embryo from the time that two pro-nuclei exist in a single cell, which is an earlier stage of the process than the first mitotic division. Therefore my amendment covers that gap.

I should say also by way of explanation that paragraph (b) of the definition in the bill will be redundant if the amendments that I am going to move subsequently are agreed to. I would say it is redundant in any event. It is focused primarily on the creation of a human clone by somatic cell nuclear transfer. In any event the situation is covered by the amendment that I have moved. In short, it covers a gap that occurred in the legislation last year for the reasons that I went into at that time. I think it was based on a misunderstanding of the Lockhart report and some further work that was done arising from that. My amendment rectifies that error.

Mr INGRAM (Gippsland East) — As indicated in the second-reading debate, I am supporting the Research Involving Human Embryos Bill. A number of amendments are proposed by the member for Box Hill and others and because I support the legislation I cannot support the amendments, particularly this amendment.

There is always a risk in raising things like this in debate. The legislation clearly states it applies up to the stage of the primitive streak, which as I understand it is when the backbone starts to form on the egg, on the embryo. The changes that are proposed by the member for Box Hill relate to the time of the splitting of the embryos, so that is when the cell starts to split. I will use an example that I always struggle with.

In a previous life I bred fish. I am probably one of a few people who have watched cells split from one cell into two cells, three cells, four cells and down to the stage of the primitive streak. It is quite an amazing process to see life develop under a microscope. I believe what is contained in the legislation is right, because that is the stage where life really starts — where you actually start to see not only the backbone form but also the heartbeat of the organism. Even though the life that I am looking at is a more primitive organism and it develops over a much shorter time than the complex human form, I think what is contained in the legislation is the right mix. I cannot support the proposals put forward by the member for Box Hill.

Ms CAMPBELL (Pascoe Vale) — I support the amendment by the member for Box Hill. Today words such as ‘embryo’, ‘zygote’ and ‘foetus’ are used to name what is developing human life. These words are used often in order to distance us, as other members of the human community, from the human life that has begun. Generally speaking that human life begins in a woman’s body, but in this case it begins in a Petri dish.

My view is that the Research Involving Human Embryos Bill further creates an impersonal distinction. It severs any thought or idea or concept of what is growing. It is human life. These words ‘embryo’, ‘zygote’ and ‘foetus’ are from the biological realm, where their function is to describe stages of development of the one organism. It is not an embryo which magically becomes a zygote, which in turn becomes a foetus like some sort of metamorphosis.

Scientific research in embryology has in ever finer detail clearly demonstrated that the life of a member of our species begins at conception, or if you prefer the term ‘fertilisation’. No matter what words we use — and the member for Box Hill has improved with this amendment the clarity of what we are debating — it is about human life. We need to be absolutely clear that no matter which word we use, be it ‘embryo’, ‘zygote’ or ‘foetus’, when it begins it is human life.

I support the amendment because every person now living began life as outlined by the member for Box Hill’s description. When we are debating this legislation on research involving human embryos we need to be absolutely clear that it is human life on which we are reflecting, from the moment of the existence of a human life. We need to be conscious that this bill refers to humanity, and how we vote on the bill goes to the very heart of the amendment moved by the member for Box Hill.

Mr CRISP (Mildura) — I rise to support the amendment moved by the member for Box Hill and similarly will probably very much cover the sentiments of the member for Pascoe Vale. We need to be absolutely clear on what we are doing here for this to

work. We are dealing with human life and we are dealing within some very tight definitions of human life. Therefore clarity is required. I believe the member for Box Hill has got it exactly right, and I will be strongly supporting that amendment. At this stage my support has reached that position.

Mr ANDREWS (Minister for Health) — This amendment obviously provides me with an opportunity to make a couple of comments about the entitlement or right, the absolute right, of every member to move amendments to this bill, and to make sure that the record properly reflects the position that they have on this clause and on the bill, and indeed the next bill we will deal with, in some detail. That, I think, is what the member for Box Hill is doing.

In broad terms this reflects the consistent position he has taken not just on these matters when we last dealt with them a year ago but indeed the broader set of issues when they were dealt with in 2003. Any commentary on my part about the redundancy or otherwise of the member for Box Hill's amendment is in no way a commentary on him or his motives. I want to be clear about that as we set off on what I hope will be a reasonably short consideration-in-detail stage.

The definition that is in the bill before the house is that used and proposed by the National Health and Medical Research Council, and it is important to acknowledge that. The definition was developed by a working party of experts commissioned by NHMRC. We are talking about eminent people who have a very well-developed understanding of these matters, their consequences and their practical effect, far superior to that which I bring to this debate. It is important to acknowledge that there is a framework and there is a context in which this definition was developed.

The intention of the Lockhart committee — and again the work of that group, its findings and its detailed report which some of us have had cause to look at — was clear that the definition developed by NHMRC should be the one that was used in terms of a nationally consistent framework. So this bill is about delivering against the intention and the expectations of the ultimate designers, if you like, or those that were central to the design of this system. There is an issue about being consistent there and indeed that definition was the subject of the commonwealth bill.

In closing, I do not think this amendment is appropriate. If it were accepted, there would be a fundamental and active inconsistency between the arrangements in Victoria and other participating jurisdictions under the intergovernmental agreement, or indeed under the nationally agreed framework as set down by first ministers some time ago. That in turn could lead to uncertainty, and that in turn could lead to confusion for those involved in important research. The issue of consistency is central to this and the amendment would in my judgement be unnecessary and could potentially have many unintended consequences.

The nature of research in this and in so many other areas requires proper and effective consistency across state boundaries. Anything less will only add to uncertainty and jeopardise some of this important work. It is not a reflection on those who seek to make the change; it is simply that in my judgement and that of the government this is an unnecessary amendment. Others may have a different view and they are entitled to put that view. I will make that point abundantly clear as often as I get an opportunity. I simply say the common definition relevant to all participating jurisdictions is central to these arrangements. On that basis I cannot support this amendment, the government cannot support this amendment and I urge all members not to support this amendment.

Mr CLARK (Box Hill) — I do not intend to prolong the discussion of this amendment unduly, and I do not intend to insist on a division, although obviously that is a matter for individual members to decide for themselves. I will respond briefly to some of the remarks of the Minister for Health. He is correct that if this amendment is agreed to it will result in an inconsistency between us and the commonwealth. The reason I am advocating the change is for the very simple reason that the commonwealth has got it wrong. Are we going to all be in error together, or are we going to get it right here in Victoria, and hopefully persuade the commonwealth to recognise that it has made a mistake?

It is not just a question of opinion, values or judgement. The Lockhart report got it wrong, because in its report which led to the definition that currently exists a working paper by the Biological Definition of Embryo Working Party that was established by the National Health and Medical Research Council is cited as saying that this was the definition NHMRC wanted. In fact NHMRC subsequently gave evidence to the Senate Standing Committee on Community Affairs that that was not NHMRC's definition. NHMRC subsequently released ethical guidelines that proposed to interpret the statutory definition of human embryo with qualifications that in fact qualified the definition that is set out in our bill and in the commonwealth's legislation. NHMRC said that where two gametes combine to form a single cell by fertilisation the entity is to be treated as an embryo for the purpose of

determining the persons responsible and for applying these guidelines.

In short, the Lockhart committee that generated the amendment that was adopted at a commonwealth level based its recommendation on a misunderstanding of NHMRC's position and NHMRC now proposes to put, as it were, a gloss on the statutory definition to try to get the situation back to where it wanted it to be, which is a very convoluted way of achieving a position.

Just to explain a little bit more about the time sequencing involved, in rough terms from the time that a sperm touches an egg it will take about 12 hours to get to the point where two pro-nuclei are formed — one from the sperm and one from within the egg. That is the point at which my definition will apply. There is a further 8 hours approximately to what is described as syngamy, which used to be the definitional point, and then about a further 3 hours to the first mitotic division which is the first point at which the existence of the embryo would be recognised in the definition of the bill as it stands.

There is a significant difference in elapsed time between the definition that I am proposing and the definition in the bill. What I am saying is that, if my proposed definition is not agreed to, in that period of elapsed time there will be no regulation whatsoever of the being, the entity, the biological material — whatever you care to call it — that is in the process of continuing to come together to form a human being. As the member for Pascoe Vale put so appropriately, we are talking about human beings from the point at which you get the sperm and the egg coming together and forming the two pro-nuclei, because you then have a separate and distinct entity. In terms of science, logic, ethics and the position that the National Health and Medical Research Council believes should be reflected in legislation of this sort, my amendment should be supported.

Ms CAMPBELL (Pascoe Vale) — I want to develop further the point I was making, that we should not be hiding behind words. What we are talking about is the truth that it is human life that this bill is referring to. We are talking about human life upon which research is going to be conducted. I have outlined in my first contribution that whatever term we use, be it an embryo, zygote or foetus, it is all relating to human life.

I was making the very point at the outset about understanding human life as a distinct entity, but there is another component to this debate that we need to consider. When we are debating the Research Involving Human Embryos Bill we are not just talking about human life, we are talking about our connectedness with each other and with human life. We know that for all of us community begins with interdependent relationships. Each of us who is a parent knows the human life of our offspring began in the very form as outlined by the member for Box Hill. We know that, generally speaking, human life is dependent upon its mother for continuation, but it is certainly dependent upon, as we would say in this debate tonight, its gamete providers — indeed its parents — for its continuation.

As members of a human community, in relationship with each other, we look after each other. Interdependence is a part of being human; it is not an option. When we are talking about this bill, the Research Involving Human Embryos Bill, we are talking about our interdependence with another human life. If we vote for this bill, we are saying that human life is okay to be researched upon — it is okay to take that life for the purpose of research. Each of us, no matter what stage of our human development, needs protection and a chance to grow and flourish to human fulfilment. This is justice.

So much of the legislation presented to this house, be it by the Minister for Health or the Attorney-General, is about justice — justice for human life. We spend countless hours debating justice for human life. At this point we cannot rule out the very earliest stages of human life as being unworthy of that justice. I go back to what I so proudly acclaim outside of this house and in this house — that is, the tradition of the Labor Party is about protecting the defenceless and the most innocent of human life. If we deny justice and the right of protection of the law to human life, then in my view we are missing some of the most critical aspects of legislation.

When we look at this legislation we have to look at whether we are misusing our freedom. I acclaim the fact that Victoria is one of the biotechnology capitals of the world. It is one of the five most outstanding places scientists can reside and work — and do magnificent work — but we as a community should not be saying our research is based on human life and the destruction of human life, and taking away the justice that is afforded to every other stage of human life once it has been being born after nine months gestation. We as a Parliament have to protect the weakest forms of human life. This legislation should be no exception.

Amendment defeated.

The DEPUTY SPEAKER — Order! Before calling the member for Box Hill to move amendment 2 in his name I advise that all his remaining amendments are

consequential on the amendment and that he should address the principles of those amendments when speaking to amendment 2.

Mr CLARK (Box Hill) — I move:

2. Clause 3, page 5, lines 5 and 6, omit "or a human egg, or the creation or use of any other embryo".

The other amendment that I am proposing to move to the Research Involving Human Embryos Bill and the amendments that I am proposing to move to the Prohibition of Human Cloning for Reproduction Bill all go to the one end — namely, asking this house and this Parliament to reconsider and to reverse the decisions that we made in 2007 to allow the deliberate creation of human embryos through cloning for the purposes of experimentation.

In a sense the amendments to this bill relating to research are consequential on the key amendment in the Prohibition of Human Cloning for Reproduction Bill, which is to insert a prohibition on the creation of human clone embryos for the purposes of research. The amendments I am moving to this bill are to take out the various provisions that regulate that research, on the basis that if my proposed amendment to the other bill is accepted, the provisions of this bill will become redundant. The fact that the bills are being debated in the order that they are being debated, with the consequences I have just indicated from my amendments, is another manifestation of the complexities raised by the member for South-West Coast yesterday about the order in which we are debating this legislation.

To recap and put all of this in context for honourable members, embryonic stem cells are obtained from embryos at the very early stages of their development. They have the capacity of being able to divide or reproduce themselves indefinitely in the laboratory, and they can be induced to change or differentiate themselves into the cells of any organ, at least in theory in the laboratory and in relation to animal experimentation. The characteristic of being able to be differentiated is referred to as being pluripotent. The hope is that they can provide a means of replacing damaged organs or understanding disease processes. However, when one carries out research using human embryonic stem cells, one finds that it requires the destruction of the embryo. That, of course, is what has made the practice unacceptable to many people in the community.

In 2002 federal legislation was introduced to allow research on human embryos that had already been created for the purposes of IVF (in-vitro fertilisation) treatment or, as we now call it, assisted reproductive treatment or ART. The argument was that these embryos had already been created for the purpose of fertilisation; they had been frozen and they were redundant, and if they were not used for research, they would be allowed to 'succumb', as the euphemism goes — in other words, they would be defrosted and would die — so they might as well be used for research anyway. That was controversial enough. As the Minister for Health indicated, I opposed that legislation at the time.

We are now dealing with the next step, which came into the Parliament last year, legalising what the scientific term refers to as somatic cell nuclear transfer, which is taking the nucleus of an adult cell, which could be skin or any other part of the body, and inserting that into a donor egg that a woman has provided after destroying part of it, thereby artificially creating an entity. This is creating something that is biologically identical to an embryo created from the sperm and from an egg; the only difference by the time it comes together is that it has been created by a cloning process. That raises serious moral and ethical concerns. The argument was that science required that. As I will argue later in this debate, since 2007 the science has been shown not to require it; that is why I am moving these amendments.

Ms CAMPBELL (Pascoe Vale) — I support the amendment moved by the member for Box Hill. It is important that we highlight an issue that was brought up in the debate when we last debated this matter. It was put to this Parliament that it was essential for us to go down the path of experimentation on human embryos and that we undertake cloning for the purpose of research. Why did we do that? We did that because great advances were going to be provided to the citizens of this great globe because of scientific research on embryonic stem cells. In fact that has proven to be problematic. Since we last debated this legislation adult stem cells have provided great advances in science, and embryonic stem cells — the great promise that was put to this house— have not eventuated.

I refer to an edition of a journal called *Cell* of 30 November which outlines the induction of pluripotent stem cells from adult fibroblasts by defined factors with great acclaim. It says:

> Successful reprogramming of differentiated human somatic cells into a pluripotent state would allow creation of patient and disease specific stem cells. We previously reported generation of induced pluripotent stem (iPS) cells, capable of germ-line transmission, from mouse somatic cells by transduction of four defined transcription factors. Here we demonstrate the generation of iPS cells from adult human

> dermal fibroblasts with the same four factors: Oct3/4, Sox2, Klf4, and c-Myc. Human iPS cells were similar to human embryonic stem (ES) cells in morphology, proliferation, surface antigens, gene expression, epigenetic status of pluripotent cell-specific genes and telomerase activity. Furthermore, these cells could differentiate into cell types of the three germ layers in vitro and in teratomas. These findings demonstrate that iPS cells can be generated from adult human fibroblasts.

For members who are just wildly enthusiastic about reading this article, it is available in the library and it outlines fantastic results.

You can also go to *Science Magazine*. I downloaded this article in November 2007. It is headed 'Induced pluripotent stem cell lines derived from human somatic cells'. The primary source of this particular document was attributed to Junying Yu.

In the *New York Times* of 21 November 2007 there is another fantastic article entitled 'Scientists bypass need for embryo to get stem cells'. It outlined the great results of two teams of scientists that had 'turned human skin cells into what appear to be embryonic stem cells without having to make or destroy an embryo — a feat that could quell the ethical debate troubling the field'.

We were also told last time that we had to pass this legislation because the stem cell centre was based at Monash and great advances would occur. Guess what? I had a parliamentary intern, and her report is in the library. It talked about there being no ethics committee at the stem cell centre. We were told that when our great scientist Alan Trounson goes overseas we are left with the stem cell centre in disarray.

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

Mr CRISP (Mildura) — I am going to be supporting the amendments proposed by the member for Box Hill. What we are really talking about here are a couple of areas that I want to make a contribution to. The bill provides that a person commits an offence if that person intentionally creates or develops a human embryo by a process of the fertilisation of a human egg by a human sperm outside the body of a woman and the human embryo contains genetic material provided by two or more persons. Cytoplasmic transfer involves the injection of some of the cytoplasm — the part of the cell outside the nucleus — from a healthy donor egg into a recipient patient's egg with the aim of overcoming certain problems that the patient has with regard to pregnancy. The DNA from the third party — the donor of the healthy egg — would be DNA which is thought not to have had an impact on the physical characteristics of the child. The maximum penalty for this offence is 15 years.

This technique raises ethical concerns over a child who is born who may have the DNA from three separate people. Therefore you have identity issues, and that is why the prohibition has been so strong in these clauses. However, when we look at clause 9, that appears rather clumsy to me as it all hangs on the word 'and' at the end of subclause (1)(a), and I think the amendment to this clause proposed by the member for Box Hill will make this much tidier and ensure that there are no loopholes going forward in this area where problems can occur.

The second area I want to comment on is the chimeric embryo. A chimeric embryo is a human cell embryo into which a cell or any other component part of a cell of an animal has been introduced; an embryo created by the fertilisation of a human egg by animal sperm or by the fertilisation of an animal egg by human sperm; a human egg into which the nucleus of an animal cell has been introduced; or an animal egg into which the nucleus of a human cell has been introduced. A licence may be granted for an embryo formed by the fertilisation of an animal egg by a human sperm if the creation or use of the hybrid embryo is for the purposes of testing sperm quality. In this case the hybrid embryo may only be developed to, but not including, the first mitotic division. It could be argued that there may be doubt surrounding whether the definition of a hybrid embryo captures sperm quality tests where the animal egg is combined with human sperm but does not develop past the first mitotic stage. To put this beyond doubt, it is suggested that regulations be made prescribing animal eggs in the process of fertilisation by a human sperm but not past the first cell division as hybrid embryos. An offence in this area attracts a penalty of 10 years.

I have some issues in this regard, and they relate to human-animal hybrids and the moral status they may acquire. That is why the legislation needs to be so clear. I think the amendment proposed by the member for Box Hill to clause 3 is endeavouring to make it much tidier and clearer, because we do not want to go there. For those reasons, I am supporting the member for Box Hill's amendment.

Mr ANDREWS (Minister for Health) — I am indebted to the member for Box Hill. He has made it very clear for all honourable members that it is his intention with these amendments that we reconsider and indeed reverse the decision we made a year ago, and he is perfectly entitled to do that, but for that reason

obviously I and the government cannot support the change he advocates.

As we know, the commonwealth Parliament — and indeed this Parliament only a year or so ago, back in April 2007 — passed a law to permit somatic cell nuclear transfer, or SCNT as we know it. In this regard we are, in similar vein to the last amendment, the subject of an intergovernmental agreement. We have commitments; they ought to be maintained and they ought to be upheld. Those commitments principally relate to the maintenance of a nationally consistent legislative framework for this and other related areas, and it is my judgement that that consistency and the maintenance of that nationally consistent framework, given that it is just over a year old, is important as we go forward. It is important for certainty for those who are involved in this important research. It is important in a number of ways, but principally in terms of the certainty and consistency that come only from having nationally consistent regulatory arrangements, at least for all those participating states and territories and the commonwealth.

I wanted to pick up on one of the points the member for Pascoe Vale made. I think I may have made this point — although it was more than a year ago — in my second-reading contribution when we first adopted these arrangements, but I will make it again now. Whilst in my judgement and that of others, but not in the judgement of everybody, there is great hope, there are substantial opportunities — and I suppose you could be optimistic and say there is the promise of substantial scientific breakthrough around this and other related research — we should not oversell that promise. We should give the experts the opportunity to do that work and to potentially take some really important steps forward that could well benefit many people, but it was important back then and it is important now not to oversell the benefits that might come from this research. That is a position I have consistently put. The member for Pascoe Vale and others can read *Hansard* to see that I have consistently put the position that it is important not to oversell the benefits. But having said that, to unpick a framework after only one year because it has not delivered what I do not believe it ought to try to deliver, and that is a cure-all for everything in a year, is not consistent with the government's approach, it is not consistent with the intergovernmental agreement, it is not consistent with the obligations that we have entered into — —

Mr Ingram interjected.

Mr ANDREWS — Hundreds of years of scientific practice, as the member for Gippsland East rightly points out.

I understand why the amendment has been moved, but for those reasons neither I nor the government — nor, I hope, other honourable members — can support this amendment.

Mr CLARK (Box Hill) — When this house debated the legislation last year a number of members had grave reservations about it, even members who ended up voting for it. This related not only to the ethical issues regarding life matters but also to the enormous burden the use of embryonic stem cells created through cloning places on women. This process requires very large numbers of eggs due to its limited strike rate, if I can put it that way, and the process of extracting eggs puts great immediate burdens on women and raises doubts about the future health consequences for them. There are many good reasons not to go down the route of using cloned embryonic stem cells for research if it can possibly be avoided.

The Minister for Health puts the best possible spin he can on what has happened to the science since the time we debated the legislation. However, there is strong evidence and reports that the use of embryonic stem cells as a favoured avenue of scientific inquiry has gone pear-shaped over the time since our legislation was passed.

There have been enormous breakthroughs in the use of adult stem cells, as the member for Pascoe Vale outlined. Not only do they seem to be offering at least as good pluripotency as do embryonic stem cells, it may even be better. Just in the past few weeks we have had reports of one of the residual issues about adult stem cells; the removal of viruses that are used as part of process of generating those cells has been resolved. One expert on the subject to whom I spoke said that was always recognised as a tidying-up exercise that needed to be achieved. That tidying-up exercise has now been achieved.

Not only are we finding in terms of ethics and theory that the use of cloned embryonic stem cells is unnecessary, but we are also finding that the creation of adult stem cells is a far easier process. I mentioned the burdens on women earlier, and the laboratory process of creating the adult stem cells is far easier and far less costly than the process of creating embryonic stem cells. It seems that out there in the real world the use of embryonic stem cells is being rapidly eclipsed because the use of adult stem cells is a quicker, cheaper, more effective and more promising technique. It is perhaps

fair to say that it is yet another example of how badly wrong governments can get it when they try to pick winners.

Elements of the government have tried to put a lot of weight on and commitment to the use of embryonic stem cells. That commitment has not been justified by the results. Many leading researchers around the world, who have been working in the field of embryonic stem cells to date and certainly do not have any ethical objections to them, are in fact switching over to the use of adult stem cells simply because they are far more promising and far easier to work with than embryonic stem cells. In essence, the point I am making is that there has been a quantum shift in the science since we had this debate last year. It is not an evolutionary process. There has been a very rapid change.

The minister refers to the need for national consistency. He rightly said there was national consistency amongst participating jurisdictions. That is a very neat tautology. The fact of the matter is that the Parliament of Western Australia rejected legislation to allow the creation of cloned humans for experimentation, so Western Australia it is not a participant in the national arrangements; neither need Victoria be. This Parliament should not be dragooned into following something that it does not agree with, on a matter as fundamental as this, simply because the government has signed up to an agreement that can easily be set aside.

Ms CAMPBELL (Pascoe Vale) — The points I want to make in this debate relate to the fact that we do not need to go down the path of creating human embryos for experimentation and destruction. We do not need to do egg harvesting on women. Why do we not need to do that? We do not need to do it because the best results are coming from adult stem cells. The best results, not only in Australia, are coming from adult stem cells but they are coming with international fury, you might say.

I also want to make the point that Australia spends a large amount of money at the Australian Stem Cell Centre in Monash, and we want value for money, Deputy Speaker. While I say 'Deputy Speaker', I am looking at the Minister for Health. We want value for money. It is too hard to get dollars into health to then waste them. It is important that if we are putting money into stem cell research, we get value for money. The minister knows this, because he is the one who is pulled up in this Parliament at question time if people are on trolleys or emergency departments are overloaded When families are upset they write to him. I put it, through you, Deputy Speaker, to members of this house, to members of the expenditure review committee and to the Minister for Health, that money is too precious to be wasted. I ask, as a result of tonight's debate, that a few questions on the following points be answered in writing by the Minister for Health as he is the minister responsible for this debate.

Has the stem cell centre at Monash now put in place an ethics committee? How often has it met? I would be interested in, and I request information on, the committee that runs the stem cell centre. I know its members resigned en masse. What is the reason for such mass resignation? Many of us have been involved in umpteen small community organisations that do not get over hundreds of millions of dollars of taxpayers funds devoted to them. If our local neighbourhood house or our local football or netball club committee resign en masse, it is normally a sign that something is gravely wrong. This Parliament deserves to know what is going on at the stem cell centre at Monash, but to date there has been silence. I think it is important that we get those answers because we are putting so much money from taxpayers funds into it and we are being asked to vote on legislation that will allow the creation of human life for the purpose of destruction via experimentation.

I want to quote from Emeritus Professor Jack Martin, who provided me with a fabulous paper called *Embryonic Stem Cells, Human Cloning and Induced Pluripotent Stem Cells — The State of the Science*. In it he outlined recent advances — 'extraordinary' advances, as he calls them — in 2008 which have firmly established 'the conversion of normal adult cells to a form that behaves exactly as embryonic stem cells'. He outlined the following points:

> The original requirement of four added genes to produce iPS cells has been reduced to two, and the cancer-causing gene, myc, is no longer required.
>
> At least 20 disease-specific stem cell lines have been established by iPS method —

at Harvard University. He further outlined that:

> iPS cells have been created without the need for a cancer-causing virus.
>
> In live mice, the mature cells in pancreas have been reprogrammed — —

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

Mr ANDREWS (Minister for Health) — The honourable member for Pascoe Vale has asked a number of questions. I do not have that information with me at the moment, and she would understand that the Minister for Innovation in the other place is

principally responsible for medical research. To the extent that the Victorian government has a role in the operation of the stem cell centre and other facilities like it, that is principally a matter in his province. What I will do, though, is seek clarification on those matters, and I will undertake to furnish the member for Pascoe Vale with the relevant information.

House divided on omission (members in favour vote no):

Ayes, 45

Allan, Ms	Languiller, Mr
Andrews, Mr	Lim, Mr
Baillieu, Mr	Lupton, Mr
Batchelor, Mr	Maddigan, Mrs
Beattie, Ms	Marshall, Ms
Cameron, Mr	Morand, Ms
Carli, Mr	Morris, Mr
Crutchfield, Mr	Munt, Ms
D'Ambrosio, Ms	Nardella, Mr
Donnellan, Mr	Neville, Ms
Duncan, Ms (*Teller*)	Noonan, Mr
Eren, Mr	Overington, Ms
Foley, Mr	Pallas, Mr
Graley, Ms	Perera, Mr
Green, Ms	Pike, Ms
Hardman, Mr	Richardson, Ms
Holding, Mr	Robinson, Mr
Howard, Mr	Scott, Mr
Hudson, Mr	Stensholt, Mr
Hulls, Mr	Trezise, Mr
Ingram, Mr	Wooldridge, Ms
Kosky, Ms	Wynne, Mr
Langdon, Mr (*Teller*)	

Noes, 29

Blackwood, Mr	Northe, Mr
Burgess, Mr	O'Brien, Mr
Campbell, Ms	Powell, Mrs
Clark, Mr	Ryan, Mr
Crisp, Mr	Smith, Mr K.
Delahunty, Mr	Smith, Mr R.
Dixon, Mr	Sykes, Dr
Fyffe, Mrs	Thompson, Mr
Hodgett, Mr	Tilley, Mr
Jasper, Mr	Victoria, Mrs
Kairouz, Ms	Wakeling, Mr
Kotsiras, Mr (*Teller*)	Walsh, Mr
Lobato, Ms (*Teller*)	Weller, Mr
Merlino, Mr	Wells, Mr
Mulder, Mr	

Amendment defeated.

Clause agreed to; clauses 4 to 6 agreed to.

Clause 7

Mr STENSHOLT (Burwood) — I seek leave of the house to move amendment 5 in my name before consideration of clause 7.

Leave refused.

The DEPUTY SPEAKER — Order! Before calling the member for Burwood to move his amendment 1, I advise that all his remaining amendments are consequential on the amendment and that he should address the principle of those amendments when speaking to amendment 1.

Mr STENSHOLT (Burwood) — I move:

1. Clause 7, page 11, line 12, omit "; or" and insert "; and".

I wish to express my disappointment with the member for Gippsland East and his unwillingness to have a full debate on this important issue. I mentioned when we discussed this bill before that we were trying to, as expressed by the Premier, have this debate in a sense of respect for each other. I would have hoped that all members would have had respect in terms of this debate. I express my disappointment with the member for Gippsland East to the house in that regard. He is welcome to rescind if he wishes.

In this amendment I am referring to the fact this bill raises issues of the creation of hybrid embryos. In case people do not understand what the term 'hybrid embryos' means, it means the creation of an embryo using a human sperm or human egg and an animal sperm or an animal egg. The most typical example is using a human sperm and an animal egg. I am happy to express my opposition to the creation of hybrid embryos.

I am allowed to make reference to other clauses because there are consequential amendments here. The main clause in this respect is clause 14(1)(f), which talks about the creation of hybrid embryos by the fertilisation of an animal egg by human sperm. When we first considered this legislation this provision was slipped into a bill on SCNT (somatic cell nuclear transfer), but it has nothing to do with research involving human embryos. It is to do with the creation of animal-human hybrids, hence the concern I raised at that time. I can understand the idea here in terms of testing sperm quality, but it involves the creation of a hybrid embryo. This is the thin edge of the wedge, not in terms of trying to do something positive in research using SCNT and human embryos but through the creation of hybrid embryos — in other words, human-animal hybrid embryos. This is my concern.

My main amendment is to remove paragraph (f) from clause 14(1), but that is consequential on my first amendment. That amendment would involve a number of consequential amendments, including the development of transitional measures because licences

have already been given in regard to the creation of hybrid embryos. Licences have been provided to ART (assisted reproductive treatment) centres. The amendment I will be seeking to move if this amendment is approved is to delete the provision whereby a licence can be given to create hybrid embryos.

This amendment is the first amendment in terms of dealing with a consequential amendment in regard to the hybrid embryos. I express my opposition to the creation of hybrid embryos. As I mentioned, I think this is the thin edge of the wedge in terms of research. I have supported other elements of the previous bill which was meant to deal with SCNT. This provision was never intended to be in the original drafting of the legislation; it was slipped in at the last moment without any consultation and without much fanfare. It allows the development of animal-human hybrid embryos, and that is why I am putting forward this particular amendment.

Mr CLARK (Box Hill) — I support the amendment moved by the member for Burwood. He is absolutely correct that this provision to allow the creation of hybrid embryos, part human and part animal, was included in the legislation in 2007 and was given very little attention indeed. It is reproduced, for example, in clause 14(1)(f) of the bill currently before us, which talks about a person applying for a licence authorising the:

> … creation of hybrid embryos by the fertilisation of an animal egg by a human sperm, and use of such embryos up to, but not including, the first mitotic division, if —
>
> (i) the creation or use is for the purposes of testing sperm quality; and
>
> (ii) the creation or use will occur in an accredited ART centre.

The justification is that it is for the use of testing sperm quality. We canvassed this issue to some extent in 2007, and I make the point that even at that time the use of hybrid embryos for this purpose had become virtually redundant and that this provision was unnecessary as well as being repugnant. I would have thought it would be intuitively repugnant to just about everybody that you could deliberately mix human and animal gametes in order to fertilise and create an entity — a being — that was part human and part animal. This issue was not given proper attention at the time of the 2007 amendments, and this is an opportunity to reconsider the decision we took then.

Obviously it does not affect any other aspect of the bill given that the previous amendments I have put forward have been defeated, but this would be a worthwhile improvement to the bill. It would indicate that this Parliament does not approve the creation of these hybrid entities and would reflect the fact that any scientific need for them has passed and the practice is redundant in any event.

Ms CAMPBELL (Pascoe Vale) — I never thought I would be standing in this Parliament once, let alone twice, speaking against a piece of legislation that says, 'We are going to mix human and animal gametes'. I did it once, and I do it with more vehemence tonight than I did the first time. I do it more strongly tonight because there is absolutely no reason why we should have this particular clause in the legislation. We all want scientific research to advance the health and wellbeing of humans, but I think all of us as children laughed when we read books or we watched movies in which we saw what we considered to be mad scientists engaged in voyeuristic research that mixed human and animal gametes. If we got it wrong the first time then tonight we can get it right. We should be voting against this clause. It is bad legislation. In fact it is moronic to have this clause in the legislation.

When we leave this place we have to reflect on what bills, which clauses and which amendments we considered appropriate and supported. I absolutely beg people to reflect on the fact that since we moved it the first time there has been no demonstrable necessity to have it, even if you support the most unlimited version of scientific research. This is an affront to human dignity. The creation of hybrid animal-human embryos has been banned by almost everyone in the biotechnology field, and yet we in this Parliament are proposing to allow it.

We can be really proud of what we have done in the last few weeks! We are probably the only Parliament in the free world that has denied its health professionals a conscientious objection. We would be outraged if we had a piece of legislation that said that those who conscientiously objected to, shall we say, political torture in Guantanamo Bay should be ignored. But recently we have been internationally groundbreaking in our legislation on the denial of conscientious rights of people in the medical field.

Tonight we have the chance to right what is a really bad piece of legislation. I would say it is an absolute affront to human dignity, and in fact comes close to an evil. I think the complete moral condemnation of this Parliament should be extended to this clause. I acclaim the member for Burwood. I think he is absolutely right. It is interesting that this insight comes from a member for Burwood. For many of us a previous member for

Burwood did not acknowledge the importance of the dignity of each human person. Tonight the member for Burwood is asking us yet again to examine how we are going to vote on this particular piece of legislation. In the past we have always acknowledged the need for conservation and respect of a species. In every other piece of legislation we say how important the human species is — —

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

Mr ANDREWS (Minister for Health) — In relation to the amendment moved by the member for Burwood I simply make the point again, as I have made the point in respect of a number of amendments that have been presented to us this evening, that we are subject to a first ministers agreement — a Council of Australian Governments agreement. The wording in the bill before us is the subject of that nationally consistent framework. The Probation of Human Cloning for Reproduction Bill, together with the Research Involving Human Embryos Bill that we will come to, provides for the use and creation of hybrid embryos in — and I stress this — very limited circumstances.

It is important to acknowledge that none of those embryos, apart from those developed to achieve a pregnancy, can be developed for more than 14 days. That 14 days is the ultimate safety net. This is the consistent safety net that applies across the bill and across the regulatory framework as agreed to as part of a national process and agreed to by first ministers. In the case of hybrid embryos, such embryos can only be created under licence by a registered ART (assisted reproductive treatment) provider for the sole purpose of diagnostic tests — as a diagnostic tool. Specifically a licence can only be granted for the use or creation of a hybrid embryo involving an animal egg and human sperm up to but not including the first mitotic division — a point that was made by the member for Box Hill earlier on — by an accredited ART provider, as I said, for the sole purpose of using that hybrid embryo in a diagnostic test technique. There are many different examples, but the one that is often cited is to test for male factor infertility.

I am not a researcher. I am not someone involved in the care of those who may suffer from male factor infertility, but I am advised that some abnormalities for male factor infertility are visible at a microscopic level. Others require further diagnostic testing and that specifically relates to whether the gamete can successfully penetrate the egg. Again, I do not propose to pretend to be a clinical expert on these matters, but the advice I have is certainly at odds with the notion that this is not a contemporary technology or that this is not a contemporary set of issues or challenges that those involved in the care of others are faced with. I have no advice that this is a redundant issue, as put forward by other members.

The point I am stressing is that this is a tightly regulated practice. I cannot agree with the notion or suggestion that this is an unregulated area, that this is somehow abhorrent because it is not properly regulated. People can argue that it is an abhorrent practice, but it is not for want of a regulatory framework. There is a clear regulatory framework here and it is unchanged. You might even argue — and the member for Burwood would be entitled to, given his very consistent position on these issues, going right back to when this matter was last before the Parliament — that there is no change, that there is in fact an improvement in terms of what is before us now compared to what was before us then. You could well argue that. The member for Burwood would like us to go further.

Ms Campbell interjected.

Mr ANDREWS — Others have made a contribution in this debate; I am speaking on it now. The member for Burwood would like us to go further. That fundamentally does not meet the test I have applied to these matters, which is consistency, as part of a national framework. For those reasons and the fact that there is a tight and robust regulatory framework around these issues, I do not believe the member for Burwood's amendment is worthy of support.

Mr STENSHOLT (Burwood) — I pick up the two issues the minister has raised: a consistent national framework and tight regulation. In fact I think he is wrong, and wrong on both accounts. First of all, he talks about a consistent national framework of 14 days. That is in respect of human embryos. Here we are talking about hybrid embryos — in other words, human-animal embryos. They are not under the national framework of 14 days for human embryos. There is no national framework that I am aware of relating to hybrid embryos.

The second point he makes is that there is a tight regulatory framework. Yes, we do see in clause 14(1)(f) one particular aspect of that, that the fertilisation of an animal egg by a human sperm — in other words, the creation of a hybrid embryo — is permitted up to but not including the first mitotic division. Yes, that is a licence; it is a specific licence that is in this bill. However, in the next bill we are going to look at we are going to have a very loose framework of anything up to 14 days. So here we are, after the first mitotic division,

and after the second, after 14 days! I have forgotten my biology, but I am sure there are many, many cell divisions after the first 48 hours, indeed after the first few hours. Where is your framework? Where is the licensing framework for that, Minister?

The DEPUTY SPEAKER — Order! Through the Chair.

Mr STENSHOLT — Sorry, I am addressing my remarks through the Chair. Where is the framework for that? There is no tight framework. It is open slather for the creation of animal-human hybrids, up to 14 days. Once you start the first thing, the next bit comes. We have already got it in these bills. You can do it up to the first mitotic division but not including it; however, you can do it up to 14 days. All you need is a licence. All you need is the minister to say so — not this Parliament, not the people, not consultation with the people; it is just the minister, or perhaps even the regulator who is not part of this Parliament.

This is the thin edge of the wedge in the creation of hybrid embryos and in terms of research possibly gone bad. We do not know. I have great respect for our researchers; I know many of them personally. But I am concerned that this is the thin edge of the wedge in relation to the creation of animal-human hybrids. That is why I have moved this amendment. That is why I am prepared to speak strongly and say that this Parliament should be against using this bill, which is about research involving human embryos and is not about research involving hybrid embryos. We should reject the concept and the practice of hybrid embryos. We should reject the idea of a loose framework, which is what is being proposed by the minister and proposed by these bills, and make sure that we reject this particular clause.

Ms LOBATO (Gembrook) — I rise to speak briefly in support of this amendment. I do so because I have grave concerns about what we are allowing through this technology. I seek some answers. I think everybody in this house and all the members of our community should be asking for answers on what we seek from this technology. Why are we as legislators allowing scientists to research the combination of human and animal gametes? Are we wanting to create a new species? Is that what we are doing? Are we going to have half human-half animals walking around our society? If that is not what we are actually seeking to do, why are we allowing the research?

It is abhorrent, as the minister said. He also said people may consider this to be abhorrent, but scientists want the right to conduct this research. That does not make sense. We are the legislators. We say what is right and what is wrong and what we expect of our community members. Just because they want to conduct this research and just because we say there is a framework, does that mean it is right? There could be a framework. There was in relation to the somatic cell nuclear transfer. It was only five years ago that we stood here and said we would never allow somatic cell nuclear transfer, and yet four years later we came back and voted for that. We talk about how we find the technology of hybrid embryos abhorrent, and yet we allow it. Why? My question is — —

Mr Andrews interjected.

Ms LOBATO — We allow some. I put it to you that everybody would find — —

The DEPUTY SPEAKER — Order! I remind members that even though we are at the consideration-in-detail stage, they must speak through the Chair.

Ms LOBATO — I would put it to the minister that every member of our community would find that abhorrent. My question to the minister is: why are we facilitating the experimentation on hybrid embryos, and what do we seek as an outcome from that? I would appreciate an answer to that. I repeat that I support this amendment.

Dr SYKES (Benalla) — I rise to support the amendment proposed by the member for Burwood — somewhat powerfully, I should say. Firstly, he has touched on the issue of hybrid embryos, which I have a fundamental philosophical problem with. Secondly, he has made comment about the lack of controls and the lack of consistency which conflict with what the minister has claimed, and I would imagine the minister will respond to that. But on the basis of what the member for Burwood has said, I have grave concerns.

On top of that I have grave concerns about the information revealed earlier in the evening by the member for Pascoe Vale in relation to what is going on or not going on at the Australian Stem Cell Centre. I would have reluctance in supporting ongoing activities there until there has been a thorough public evaluation of what the heck is going on. In my previous life I have been a manager of national research relating particularly to animal welfare, and I have high regard for scientists. I have high regard for people like Alan Trounson, who has until recent times been at that centre. However, I am also aware that they become very enthusiastic about their area of research and tend

to have the blinkers on from a moral and ethical perspective.

Given the doubts raised by the member for Pascoe Vale and the doubts raised by the member for Burwood, I cannot support the bill as it stands at the moment, and I will be supporting the amendment proposed by the member for Burwood.

Ms CAMPBELL (Pascoe Vale) — The questions asked by the member for Gembrook made me think of a few more I would like answered by the minister in the weeks ahead. I would like to know where this research that involves hybrids is taking place in Victoria. I would like to know how many hybrids have been created. I would like to know how many males have had their sperm mobility tested as a result of the passing of this legislation.

I would like a really expansive scientific explanation of why scientists claim that in Victoria it is necessary to test the mobility of male sperm on animal eggs. The reason I ask that question is that whilst it may be claimed that this might be some indication of sperm mobility and, obviously, usefulness in terms of procreation, to my knowledge I have not yet come across a guy who has been desperate to have his sperm used on the egg of a non-human. So, gee whiz, I would really like a pretty expansive explanation of why male sperm is being tested on animal eggs. This highlights to me what is a significant issue for this Parliament — that is, we could well be duped here into a free-market model of not only scientific research but of fairly desperate couples and a great yearning by men to become fathers. As I said, I have never met a man yet who has wanted to father anything other than a human child.

When we have a situation where a free-market model becomes our dominant ethical framework I think there are some real concerns. We need to be clear in asking our questions in this house so that although in some regards the history in the Assembly has not been one of great robust debate and intellectual rigour compared with our upper house colleagues, our questions might give them — —

Mr Andrews interjected.

Ms CAMPBELL — Some of the questions we ask might provide significant assistance to our upper house colleagues. I go back to the very point I made in my first contribution to debate on the amendment moved by the member for Burwood — that is, we got it wrong last time. We got it wrong because as a Parliament we swallowed the line that because there were some heads of agreement between the various premiers, the Prime Minister and the territory chief ministers, we should go down a particular path. Western Australia proved that it is unnecessary for us all to fall into line. If this Parliament were presented with legislation that said — I will not mention a state because I will make up a ludicrous example — the domed state has decided it is important that we all ignore family violence legislation and it has got others to fall in behind it, or the domed state has decided we should say rape is okay, would we go down the path of supporting it?

Mr CRISP (Mildura) — I rise to support the amendment moved by the member for Burwood on very similar grounds as my support for the member for Box Hill's amendments; however, I will take the debate into a slightly different area. I do not expect the minister to respond to this now, but I would appreciate something later.

The difference between the human sperm and the animal egg runs into the transgenic animal debate as well, and it is not intended in this legislation that any of these sections prohibit the creation of transgenic animals. Transgenic animals are created through the insertion of one or more foreign genes, and this could include a human gene, into an animal embryo. It is important to note that transgenic animals are regulated under the Gene Technology Act 2001. Before anyone can genetically modify an animal, a licence must be sought from the gene technology regulator. The gene technology regulator would then conduct a risk assessment and may seek advice on the ethical issues posed by this practice from the Gene Technology Ethics Committee. Any such work would have to meet the requirements of an animal welfare committee.

I am concerned that we are looking at those same questions with the hybrid embryos bill, and they are issues that are raised mostly with the gene technology regulator, who may seek ethical advice. This means there may be a choice not to include moral and ethical standards in its review.

We are considering a complex relationship. I am not sure that we have sorted through this bill and determined how the gene technology regulator and these ethical standards interrelate with this bill. It is a complex issue, and I have concerns about it. By supporting these amendments we can make that issue slightly less complex, although not entirely satisfactory.

Mr INGRAM (Gippsland East) — I rise to speak briefly on the amendments proposed. I got a mention earlier in the discussion and it is important to make a contribution. I make the point that not only the

legislation we are discussing but the amendments, as part of the national scheme, should be consistent across the different states and the commonwealth.

A number of interesting comments have been made about this legislation. There are strict regulations about the research allowed to be conducted. It is easy to make irrational and sensational comments in this place without backing them up with the facts. There is a lot of emotion around these issues, and that is sometimes difficult for members to comprehend.

We could stand up here and say it is outrageous that we allow the insertion of non-human organs into humans. That is allowed; we allow organs from other animals as transplants into humans. There are a lot of people in our community and members in this place that would find that abhorrent and would not accept it, and yet science has the ability to develop processes which assist survival by curing serious diseases and challenges in our lives. Sometimes the research goes forward faster than some members in this place and the community would like, but ultimately that research is necessary.

We have had this same debate a number of times in this Parliament about whether we should allow research to be done on embryos created by a sperm and an egg from a woman, and then allow that to be killed. Is that much different to having the research done to an embryo created by an animal egg and a sperm? Severe restrictions must be put on that research by this Parliament — and that is what Parliament is for. Some members disagree with that, but the legislation we are debating is trying to put a national framework around such research. I cannot support amendments that take such research outside that national framework, because that then would be changing the complex nature of the legislation before the house and the agreements made by the federal and state ministers.

Mr ANDREWS (Minister for Health) — The members for Gembrook, Pascoe Vale and Mildura raised questions. In reverse order, the member for Mildura raised issues about a topic that I am not briefed on. I think he considered they were perhaps parallel, at best, and were complex issues. I am happy to get advice about those matters, but I do not have that advice with me now.

The member for Gembrook sought an example of where this practice might be used. I probably dealt with that in my principal contribution. I would simply say to her and to other members that, as an example, say, in the case of hybrid embryos, they can only be created under licence by a registered ART (assisted reproductive treatment) provider for the sole purpose of use in a diagnostic test. That is pretty clear. We can have a debate about whether that diagnostic test is one that is relevant, used, or contemporary. Again, I have no advice to support the notion that that is not a contemporary practice or a contemporary technology. Therefore, on that basis I cannot accept the notion that it is not needed. I have no advice to support that point of view.

I made the point and I simply make it again — it is a point that the member for Gippsland East made as well — there is a framework here. There are processes, there are rules and there is a regulatory framework around this issue. It is not open slather. People are entitled to have views on these matters, but I just cannot accept the notion that this is somehow wrong because it is not appropriately regulated. That is not my judgement or the judgement of the government coming out of that nationally consistent process.

In terms of when these technologies might be used or why, the member for Pascoe Vale sought some instances and some facts and information. I do not have those to hand, but I am happy to seek some advice on those matters. The advice I have is that an animal egg rather than a human egg is appropriate for use in this diagnostic technique, because by using a human egg, a human embryo could be formed. That itself is a prohibited practice under clause 8(1) of the Prohibition of Human Cloning for Reproduction Bill. I will not go through the section, but there is a good and logical sequence of events and reasons why you would use this formulation for a diagnostic test, because that is what it is — it is a diagnostic test. It is not for the creation of a human embryo; it is for the testing of sperm and its quality.

The member for Pascoe Vale sought information from me as to why a male would want the quality of his sperm tested. Obviously for the purposes of creating a life, for the purposes of ART, they would, on advice, use this as a diagnostic tool towards the ultimate service, treatment and care that they seek. In terms of male factor infertility perhaps there would be other tests as well. This is the advice I have. I can certainly reconcile the logical sequence of events here. For me it is self-evident why this diagnostic test would be used. But on the other issues that the member for Pascoe Vale sought some clarification on, I am happy to get that information for her.

I would simply again make the point that these are nationally consistent arrangements. These are, in principle, those matters that we agreed to a year ago. There is some slight change, and that is about improving and putting beyond doubt some matters, but

again in a nationally consistent way. On that basis the bill, rather than the amendments, is worthy of support.

Mr CLARK (Box Hill) — I pick up on some of the comments that the minister has just made. The minister says this is a test, that it is not the creation of an embryo. It is the creation of an embryo, albeit for the purpose of carrying out a test. It is the fact that an embryo has been created that gives rise to the concerns that members around this house have. The minister said, if I paraphrase him correctly, that he did not have material before him as part of his briefing about whether the procedure of using a hybrid for the purpose of sperm testing was redundant or not.

Mr Andrews — I have no advice to support that view.

Mr CLARK — The minister says he has no advice to support that view. I think this is critical to the debate. I concede that the minister addresses and engages on issues before the house, and that is very much appreciated. I would put to him that this issue is fundamental. If not now then at least while the legislation is between the houses he should get that briefing from his department and should seek other advice from people who are familiar with the area. If the evidence is that this is redundant, then we should take it out. You cannot block your ears and your eyes and your mouth and say, 'Because no-one has told me there is a problem, then it is not redundant'. You cannot assume it is redundant. It is worth finding out.

The minister said earlier that in some respects this legislation was an improvement on what was there before. I am concerned if this bill is varying what was in the 2007 legislation. I am particularly concerned about what the member for Burwood was saying about the cloning bill extending this out to 14 days, whereas under present law it is just up to the first mitotic division.

Finally, let me come back to this repeated argument that the minister is using, that we have to be part of a consistent national framework. Federalism does have this dilemma that if you expect jurisdictions to enter into cooperative arrangements, they have to be negotiated between governments. To some extent that cuts across the autonomy of each Parliament. However, you have to strike a balance on this. In particular, a government cannot commit to something which its Parliament is not prepared to support or has concerns about, and then come back to the Parliament and say it is a done deal, you have no say in the matter. If it is a contentious issue at the parliamentary level and there are doubts as to whether the government can command a majority of Parliament on the issue, it needs to be engaging Parliament at an earlier stage rather than hamstringing Parliament and therefore hamstringing the community by saying, 'We have done a deal with other jurisdictions. Tough luck, you have to back us'. The government is not even consistent — —

Business interrupted pursuant to standing orders.

Sitting continued on motion of Mr BATCHELOR (Minister for Community Development).

Mr Thompson — On a point of order, Deputy Speaker, a number of years ago it was noted in this chamber that:

> If a Parliament is made up of automatons, of people with no connections to anybody else and with no form of humanity …

The DEPUTY SPEAKER — Order! Could the member for Sandringham get to the point of order?

Mr Thompson — Further:

> … of people who do not relate to their neighbourhoods and whose whole lives revolve around what goes on in this chamber …

The DEPUTY SPEAKER — Order! I asked the member for Sandringham to get to the point of order. He has not got to it, so I will hear him no more.

Mr Thompson — On a point of order, Deputy Speaker, they are the words of the manager of government business at the present time, who said that he would introduce family-friendly sitting hours. Again, on another night — —

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

Mr Thompson — He is struggling to remain awake at the table.

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

Mr Thompson — It is a relevant point to make to the chamber.

The DEPUTY SPEAKER — Order! If the member for Sandringham wishes to make a point of reference about the hours of the Parliament, I would suggest he take it up with his manager of opposition business and discuss it with the Leader of the House. It is not a point of order. Can we get back to debate on the bill?

Mr Thompson — The members are not — —

The DEPUTY SPEAKER — Order! The member for Box Hill to continue.

Mr CLARK (Box Hill) — The government is not even consistent — —

Mr Thompson interjected.

The DEPUTY SPEAKER — Order! The member for Sandringham will cease interjecting in that manner and allow his colleague the member for Box Hill to be heard in silence.

Mr CLARK — The government is not even consistent in its appeals to national frameworks. We have had the instance just recently of an abortion bill that fails to comply with Australia's international treaty obligations in respect of freedom of conscience. If consistency across the nation were a consideration, surely consistency with Australia's international treaty operations would have ranked pretty highly in the government's priorities, certainly far higher than simply an agreement between jurisdictions within Australia.

Elements of the Assisted Reproductive Treatment Bill affect Australia's international human rights position in relation to the separation of children from their mother. On both of those occasions the government was in effect saying, 'We are going to go our own way regardless of what the national government says and regardless of Australia's international position', yet on this bill there is nothing of such gravity constraining or influencing this government. There is simply a deal it has done with other jurisdictions.

The minister is telling this house we cannot reject abhorrent practices such as the creation of animal-human hybrids because the government has gone off and entered into an agreement. The bare fact that Western Australia has declined to be part of this so-called national scheme demonstrates we can do so also. As I said earlier, the minister has not even been persuaded that this practice is not redundant and nor has he been able to bring persuasive evidence to this house to demonstrate that. For all those reasons, we should be supporting the member for Burwood's amendment 1.

Dr SYKES (Benalla) — I wish to pick up on the point that the member for Box Hill made in the first part of his presentation. I respect the Minister for Health for his honesty and openness, but caution him on the level of faith that he has in the advice provided to him by his bureaucrats.

I do that in this context: tomorrow I will be sitting down at the invitation of the Minister for Agriculture to sign off on a code of practice for the responsible breeding of animals with hereditable defects. I am involved in that because when the relevant legislation, the Animals Legislation Amendment (Animal Care) Bill, was debated on this subject, the advice which was provided to the minister and which appeared in the legislation had a fundamental fault — it confused the notion of a definition of 'hereditable defect' with 'hereditable disease'. Without going into too much detail, an animal may have a hereditable defect but may not have a disease. Advice was provided to the minister. That advice was in the legislation. We are now in the process of fixing it.

I respect the minister for his honesty and his openness. I would just like to provide that cautionary advice.

House divided on omission (members in favour vote no):

Ayes, 42

Allan, Ms	Langdon, Mr *(Teller)*
Andrews, Mr	Languiller, Mr
Batchelor, Mr	Lim, Mr
Beattie, Ms	Lupton, Mr
Cameron, Mr	Maddigan, Mrs
Carli, Mr	Marshall, Ms
Crutchfield, Mr	Morand, Ms
D'Ambrosio, Ms	Munt, Ms
Donnellan, Mr	Nardella, Mr
Duncan, Ms	Neville, Ms
Foley, Mr	Noonan, Mr
Graley, Ms	Overington, Ms
Green, Ms	Pallas, Mr
Hardman, Mr	Perera, Mr
Helper, Mr	Pike, Ms
Holding, Mr	Richardson, Ms
Howard, Mr	Robinson, Mr
Hudson, Mr	Scott, Mr (*Teller*)
Hulls, Mr	Thomson, Ms
Ingram, Mr	Trezise, Mr
Kosky, Ms	Wynne, Mr

Noes, 30

Blackwood, Mr	Northe, Mr (*Teller*)
Burgess, Mr	O'Brien, Mr
Campbell, Ms	Powell, Mrs
Clark, Mr	Ryan, Mr
Crisp, Mr	Smith, Mr K.
Delahunty, Mr	Smith, Mr R. (*Teller*)
Dixon, Mr	Stensholt, Mr
Fyffe, Mrs	Sykes, Dr
Hodgett, Mr	Thompson, Mr
Jasper, Mr	Tilley, Mr
Kairouz, Ms	Victoria, Mrs
Kotsiras, Mr	Wakeling, Mr
Lobato, Ms	Walsh, Mr
Merlino, Mr	Weller, Mr
Mulder, Mr	Wells, Mr

Amendment defeated.

Clause agreed to; clauses 8 to 46 agreed to.

Bill agreed to without amendment.

Third reading

Motion agreed to.

Read third time.

PROHIBITION OF HUMAN CLONING FOR REPRODUCTION BILL

Consideration in detail

Clauses 1 and 2 agreed to.

Clause 3

Mr CLARK (Box Hill) — I move:

1. Clause 3, lines 19 to 32, omit all words and expressions on these lines and insert —

   "***human embryo*** means a discrete entity that has arisen from the creation of a single cell containing 2 pro-nuclei following the fertilisation of a human oocyte by a human sperm;".

This is an amendment to alter the definition of 'human embryo' in the Prohibition of Human Cloning for Reproduction Bill on a similar basis and for similar reasons to the amendment I moved to the Research Involving Human Embryos Bill. The arguments that I put during our debate on that bill apply equally here and I ask the house to support the amendment.

Ms CAMPBELL (Pascoe Vale) — Given the example set by the member for Box Hill, I have outlined my reasons for supporting his amendment in the previous bill and, for the record, should anybody wish to identify what they were in shorthand it is whether we call human life an embryo, a zygote, a foetus — the fact is that it is human life to which we are referring.

Mr ANDREWS (Minister for Health) — Again in the spirit of debate on this amendment, the member for Box Hill has made his position clear, as has the member for Pascoe Vale, and I think in my earlier contribution I have made my position and that of the government clear. On that basis I would urge honourable members to not support the amendment before the house.

Amendment defeated; clause agreed to.

The DEPUTY SPEAKER — Order! Before calling the member for Box Hill to move his amendment 2, I advise that if this amendment is not agreed to, he cannot move his remaining amendments because they are consequential. He should accordingly address the principles of all those amendments when speaking to amendment 2.

Mr CLARK (Box Hill) — I move:

2. Clause 3, page 3, lines 18 to 20, omit all words and expressions on these lines.

As indicated to the house in relation to the Research Involving Human Embryos Bill, amendment 2 and subsequent amendments that I moved in relation to that bill and this amendment 2 and the subsequent amendments I have given notice of in relation to this bill all seek to achieve the objective of reversing the decision that the house made last year to allow the creation of human clone embryos for the purpose of research. As I indicated in relation to the previous bill, in fact the amendments that I have given notice of in relation to this bill are logically the principal amendments because amongst those amendments are amendments that make it an offence to create a human embryo clone.

Again, the reasons in favour of the reconsideration of what we did in 2007 have been canvassed at length in relation to the previous bill. Principally the advance of scientific knowledge and the advances in the potential for the use of adult stem cells make the continued authorisation of the use of embryo stem cells unnecessary, particularly given the fact that they involve the creation and destruction of human life and that they impose considerable burdens on the women who are being asked to donate eggs for use in those research processes and the processes of creating these clone embryos. Given that fact, I believe we should reconsider and reverse the decision that we made last year.

Mr CRISP (Mildura) — I rise to continue to support the amendments. Much has been said before; however, I have not really talked about what we are trying to achieve with reproductive cloning. Although we are prohibiting it for human purposes, we continue to do a lot of other reproductive cloning for research in a number of areas.

I know that for humans it is banned internationally. But the success rate in cloning animals, as I understand it, is less than 1 per cent, and it is a rate that is unsuitable for humans. The risk of abnormalities is high, and there are a number of risks and subsequent relationships in society that are central issues in this cloning debate. If cloning has been shown to be unsafe and ineffective in animal studies, then there is no reason to go ahead and clone a human being under any circumstances. The connection between cloning and stem cell research is

that both involve reproduction and complex ethical and moral issues.

There are some who fear that stem cell research sits on the brink of a slippery slope that may lead to human cloning practices. My concern is this interrelationship between the stem cell and human cloning areas. I think the amendments that have been put forward are trying to tighten that up so we do not go down that slippery slope between stem cell reproduction and cloning. With this legislation we are prohibiting human cloning, but the boundaries are not strong enough. I very much echo the words of my colleague the member for Benalla in his warning to the Minister for Health that there are complex boundary issues involved and we have to be ever vigilant. That is why we are spending so much time this evening trying to strengthen this bill to make sure that we do not breach those boundary issues.

Amendment defeated; clause agreed to; clauses 4 to 13 agreed to.

Clause 14

The DEPUTY SPEAKER — Order! Before calling the member for Burwood to move amendment 1 in his name, I advise that if he loses this amendment he will be unable to move his remaining amendments as they are consequential. Accordingly, I advise him to address the principles of all his amendments when speaking to amendment 1.

Mr STENSHOLT (Burwood) — I move:

1. Clause heading to clause 14, omit "developing" and insert "creating".

This amendment relates to all the amendments. I did have an alternative which I was prepared to move in substitution for these amendments previously circulated, but I understand I would not be given leave to do that.

My concern, having dealt with the last bill which has now been passed, is that while that legislation allows for the licence in terms of the development of a hybrid embryo up to but not including the first mitotic division, I would have preferred to have been able to move an amendment that the intentional development of a hybrid embryo to the occurrence of the first mitotic division and beyond that division would have been preferable to what is included here, particularly in terms of 14 days.

While I understand the argument put forward in terms of experimentation in relation to human sperm, I have fundamental problems with hybrid embryos. I see there is a certain looseness in this regard. There may well be other ones which come up — other ideas of researchers which would take it beyond the first mitotic division and up to the 14 days. That is basically my concern: while we have approved something, here we are allowing, particularly here in clause 1, the intentional development of a hybrid embryo for a period of not more than 14 days, excluding any period in which development has been suspended because it may have been frozen.

That is certainly well outside the current licence arrangement. The current licence arrangement, as I have previously said, only talks about developing the hybrid embryo up until but not including the first mitotic division. This allows a lot of scope for possible research and for the possible development of hybrid embryos — and remember that we are talking about humans and animals here, which are well and truly beyond the current licence arrangements. There may well be calls for the development of hybrid embryos — animal-human combines — for whatever reason and in the interests of science beyond the first mitotic division and beyond other divisions as I have described in the past.

What I would have preferred, having lost amendments in the previous bill, is to try to be more in line with what the minister himself was saying and to tightly prescribe and tightly regulate areas of concern — whereas what is proposed here in section 14 provides a lot of scope for possible research beyond what is clearly licensed either here in section 14 or as described in the note under section 21.

Again, I am concerned about this and ask the minister to perhaps come up with a new arrangement in terms of a much tighter prescription, a much tighter regulation. I think there is a yawning hole in this particular legislation from the occurrence of the first mitotic division up to the 14 days in terms of possible allowance of the development of hybrid embryos.

Mr THOMPSON (Sandringham) — Could the minister outline to the house the way that the period of 14 days or portion thereof might be suspended under clause 14? Just to repeat for the benefit of the minister, the clause states:

> A person commits an offence if the person intentionally develops a hybrid embryo for a period of more than 14 days, excluding any period when development is suspended.

I was just wanting to ascertain what the protocols are in relation to the suspension of that period, what the measurement process is, how it is recorded and what the method of enforcement might be.

Mr ANDREWS (Minister for Health) — I may need to seek further advice in relation to the question from the member for Sandringham. I heard some of it but I do not have an answer to that part. There may well have been other matters that he raised.

If I understand the contention of the member for Burwood, it is that there could be creep in these arrangements. There could be hybrid embryos developed for purposes other than a specific diagnostic test. My contention to him and the advice that I have is simply that at law the only purpose for which a licence can be granted for the creation of a hybrid embryo is for that specific diagnostic test that I spoke about on the last bill, and I renew those comments now in the interests of time. In order to grant a licence for any other purpose, the act or the arrangements as adopted would need to be changed. There is only one head of power at the moment and that is for the granting of a licence under strict terms and conditions for one purpose. I am struggling with the notion that there could be licences granted for any other purpose. That to me clearly could not occur without changes to the underlying act.

Again, my contention throughout this debate has been that it is a tightly controlled framework. I do not agree with the conclusion that it is not a tightly controlled framework. It is, and it is derived from the provisions of the bill, not from any amendments. On that basis I renew the commentary I have run about the need to be nationally consistent. The amendment is not worthy of support.

In relation to the member for Sandringham's question, I may need to come back to him with further advice on those matters if he is amenable to that. I am happy to try to furnish him with further information perhaps while the bill is between the houses, depending on the length of this debate. I am not sure how much longer it is going to go.

Mr CRISP (Mildura) — I am going to return to an earlier topic, which is the boundaries between the hybrid embryo and transgenic animal work. We have heard the minister reassure us that licences are only granted for research involving hybrid embryos for diagnostic testing. We accept his assurances on the creep arrangements and that there are only licences issued for one purpose with some reservations.

The area I would like to explore now is xenotransplant. We are looking at a hybrid embryo being made up of sperm and egg. Xenotransplant, however, involves human DNA being inserted into an animal embryo in order to reduce the rate of rejection of organs for transplant. This is well developed, but I am still concerned about the strictness we have to apply in the human embryo debate versus what is happening in the xenotransplant area as well.

This is something we need to be clear on because again there are two different paths for this. We have got the bill we are now debating versus the Gene Technology Act, which I believe works in the xenotransplant area. We again need to be clear on this, but there is some doubt in my mind that we fully understand the divisions and the separations or even the overlap that occurs where we can insert human genes into animal embryos to achieve certain outcomes versus human genes going into an animal embryo for a different purpose under the cloning act. I know this is a complex topic, but we need to be aware of the xenotransplant issue, and it is overlapping this debate in my view.

Mr STENSHOLT (Burwood) — I understand what the minister has said in regard to clauses 14 and 15 in the research bill insofar as that bill only refers to one particular instance in which a licence can be granted. My concern remains that there is a certain looseness here. If that was really the intent in terms of a tight definition, why does this bill provide for it to be an offence for a person to intentionally develop a hybrid embryo for a period, or intentionally develop a hybrid embryo to the occurrence of the first mitotic division — in other words, allow that mitotic division to occur, or else they go beyond that? It seems to me there is no sensible reasoning. Given the fact that the minister is saying there is already a tight regulatory arrangement which is set out in clauses 14 and 15 of the research bill, why has that not been followed through in clauses 14 and 21 of this bill?

Rather what we have here is an allowance of a period of no more than 14 days. There remains, quite frankly, a gap between the occurrence of the first mitotic division or up to the first mitotic division, which is what licences are available for, and this period of 14 days. I understand it has that covered off in terms of this particular application, but there may well be other applications which can come up. Passing what it has got here in the Prohibition of Human Cloning for Reproduction Bill regarding the hybrid embryo would allow some other occurrence to take place without changing this. It is not clear to me whether any further licence would need to be solely developed through a legislative means or whether it could be done by regulation, and I would like some clarification on that.

Mr ANDREWS (Minister for Health) — I just want to square off with the member for Sandringham who raised a couple of matters before. I had a brief

conversation with him between contributions from other members. There remain some unresolved issues and they are of a technical nature, almost of a clinical nature. To be clear, I will correspond with him on this matter while the legislation is between the houses. I do not think we will have time to resolve that matter tonight, but it is a genuine issue and I am happy to try to provide him with the information he seeks.

In relation to the member for Burwood, the ultimate question he has just asked me is: could you amend the framework to permit and provide for a licence other than one that allows for the creation of a hybrid embryo for diagnostic purposes by a subordinate instrument? The advice I have is no. Therefore, as in the original construction that I put to the member for Burwood, the notion of creep beyond that which is expressly provided for is not a relevant consideration because this only relates to what is expressly provided for, and that is licensed activity — and the only licence that can be granted, under strict terms and conditions, is for the diagnostic test. I understand the underlying concern of the member for Burwood. What I am saying to him is that he need not be concerned about these matters because they are appropriately addressed in the framework that is before us. I also make the point that there is an aggregated framework — the two bills do not operate in complete isolation to each other. There are safeguards at each and every level. I hope that gives the member for Burwood some comfort. Again, there may simply be a difference of outlook on these matters, and I perhaps have greater confidence in the bill than he does. That is perfectly appropriate. I urge honourable members that it is not necessary to support the amendment moved by the member for Burwood.

Finally, the member for Mildura raised some matters. I think he readily concedes they are complex and are perhaps related to the bill rather than central to it. I am happy to review those issues and perhaps have a discussion with him away from this place. I am happy to respond to him in due course.

Ms CAMPBELL (Pascoe Vale) — I have particular questions I would like the Minister for Health to note and provide answers to prior to the Legislative Council debating this bill. They are not dissimilar to some of the questions I asked about the previous bill, but I want to outline them here. Could you provide me with who or what organisation or organisations have been granted a licence or licences? You have assured us that there is only one diagnostic test that applies to those licences. I would like that confirmed in writing. You have mentioned — —

The DEPUTY SPEAKER — Order! Through the Chair.

Ms CAMPBELL — The minister has said there are very strict terms and conditions and regulations that apply. I would like an understanding to be outlined in writing for me of what are the strict terms and conditions for each licence and whether there are any additional regulations. I would like to know whether there are other regulations that apply. I share the concerns of the member for Burwood. This house keeps being assured that things are fine, that regulations are in place.

Going to why we should be assured that regulations are in place and there is an appropriate framework, I ask for an explanation of how they are monitored. Are there site inspections? Is there written documentation? Why do I ask this of the minister? It is because there is a significant amount of professional and business interest invested in this state in what we hope is ethical research. We have been assured in the past, for example, that the Australian Stem Cell Centre is operating really well. However, after we voted on the legislation that would make us one of the five biotech capitals of the world, that would allow us to retain our scientists and attract many expatriates back home, we lost the person who was acclaimed and trotted out so often by the government, Alan Trounson. We have lost Stephen Livesey. We have lost the board of the stem cell centre. I want to know from the minister how whatever adequate regulations he believes exist and whatever framework he believes exists are monitored by the Department of Human Services or any other department.

Mr ANDREWS (Minister for Health) — In a similar response to the one I gave in relation to the last series of questions the honourable member for Pascoe Vale posed to me, I am happy to seek advice and to furnish that to the member. Some of these matters are the subject of regulation or monitoring. Some of these matters are the proper province of the state government and its agencies and some are the subject of a national process and licensing and approvals conducted at a national level. In that context I will seek advice and information on the questions the honourable member has asked, and I will provide her with whatever information I can around those issues.

Amendment defeated; clause agreed to; clauses 15 to 27 agreed to.

Bill agreed to without amendment.

Third reading

Motion agreed to.

Read third time.

ASSISTED REPRODUCTIVE TREATMENT BILL

Consideration in detail

Clauses 1 to 12 agreed to.

Clause 13

Ms CAMPBELL (Pascoe Vale) — I move:

1. Clause 13, lines 4 to 7, omit all words and expressions on these lines and insert —

"must have received counselling from a counsellor who provides services on behalf of a registered ART provider.

(2) For the purposes of subsection (1), the counselling must include —

(a) counselling in relation to the prescribed matters; and

(b) if donor gametes are to be used in the conception of the child the counselling must include counselling about —

(i) how to tell a child born as a result of the surrogacy arrangement that donor gametes were used; and

(ii) the long term implications of the use of donor gametes, particularly for a person conceived using donor gametes.".

Amendment 1 goes to the issue of counselling. It goes to ensuring that not only do people involved in assisted reproductive technology (ART) know and understand the actual procedures involved, but they become aware of the importance of how to tell a child that it is born as a result of donor gametes or surrogacy arrangements, and also the long-term implications of the use of donor gametes, particularly for a person conceived using donor gametes.

I refer to the fantastic briefing session provided by the Minister for Sport, Recreation and Youth Affairs and his team in Parliament House's room K. We heard some fantastic presentations from Myfanwy Walker and Narelle Grech that I want to outline briefly in the short time I have available. Why is it important that people who are going to use assisted reproductive technology using donor gametes understand the importance to their children of being donor conceived? I do not have time tonight to outline every piece of advice I have received, but when the assisted reproductive technology industry counsels parents to be I think it is important that it refer, for example, to Myfanwy Walker's submission to the Victorian Law Reform Commission on assisted reproductive technology; to Romana Rossi's submissions; to Narelle Grech's submission; to Tom's speech to the British adoption and fostering conference in the United Kingdom; to the British Medical Journal, where reference is made to Joanna Ross, a member of TangledWebs; and that we ensure that people who are aiming to become parents using ART are counselled about the fact that so often children of donor conception think that donor conception makes them second rate.

Myfanwy Walker spoke about the importance of paternal revelation. When she learnt that she was conceived via donor sperm she said it:

> … demolished my sense of self, half of me was rendered instantly void. I was false, a fake, my identity was a legal fabrication. Its apparent lawfulness did nothing to alleviate my deep feeling of loss and illegitimacy. That I was unable to seek out my own genetic family members, rebuild my foundations and relearn my own family history was crippling. It left me in limbo.

She outlined to us how important it is to feel precious to your parents, and for her, she was not part of the life of Michael her father. She found Michael in her 20s, and she said:

> Let's forget for a moment, if we can, the catchcries of donor conception, the 'gift of life' and 'love makes a family'. Why would those adoptees have been so concerned at what was happening to people like Narelle and myself.

She outlined the need to learn the lessons of donor conception by looking at the lived experience of the adoption community and children of adoption. She asked us to outline the importance of retrospective access to identifying information and truthful birth certification. She outlined why retrospective access was important, and she said to us:

> So please when you vote on this bill, think not of reproductive choice and liberties, think of the choice and liberties that the people to be created by this legislation don't have.

Mr CLARK (Box Hill) — I rise to support these amendments which touch on a very important issue: they touch on the question of the rights and the standing in the world of a person who is conceived and born as a result of an assisted reproductive treatment process. The amendment moved by the member for Pascoe Vale expands the existing provision in the bill that simply says that before a woman consents to undergo a

treatment procedure, the woman and her partner, if any, must have received counselling.

The amendment goes on to specify that that counselling must include counselling in relation to the prescribed matters and, particularly importantly, if donor gametes are to be used in the conception of the child, the counselling must include counselling about how to tell a child born as a result of the surrogacy arrangement that donor gametes were used and the long-term implications of the use of donor gametes, particularly for a person conceived using donor gametes.

This is not a direct solution to the problems, because the problems arise directly after the child has been born and then wants to know about its genetic origins. I am sure we are going to be canvassing that issue later on during the course of the consideration-in-detail stage, just as it was a pivotal issue during the course of the second-reading debate. However, as I read them, these amendments are saying that at the very least you have to get the intending parents to turn their minds to the question of how they are going to deal with this issue as their child goes through life.

As I understand it, at the moment a very high proportion of people, certainly of heterosexual couples who have a child through assisted reproductive treatment, do not, according to fertility clinics, tell their children about their genetic origin. Children sometimes find out because their social parents tell them, but often they find out through chance, or indeed sometimes perhaps through an approach from the donor who may want to make contact with them.

As we discussed in the course of the second-reading debate, at present there is nothing on a birth certificate that flags to a child that their social parents are not their biological parents, so it is only through one of these processes that a child can find out. My understanding is that this amendment is saying that at least the intended parents need to turn their minds to that issue before they go ahead, and further, on top of that, they need to consider what the long-term implications are generally of the use of donor gametes or the potential implications.

We are talking about a very long-term process, and I very much fear that to date we have focused on how in the short term to overcome the immediate issue of the persons concerned wanting to have a child with realising that the decisions that are made last for the lifetime of the person who is so received. I think this is a worthwhile amendment. If the bill is going to be passed, there are many other worthwhile amendments that also ought to be made, but this amendment is a step in the right direction.

Mr CRISP (Mildura) — I rise to support the amendments of the member for Pascoe Vale, and I also support the words of the member for Box Hill, whose sentiments I very much share on this matter. At the outset let me say that I think we have focused this bill on the needs of adults and not so much on the ongoing needs of the child who is going to be produced as a result of those adult needs. I want to reinforce what was said by the member for Box Hill — that is, this becomes a lifetime of issues.

As I look back over the issues that I see running parallel with this, they are very much those that we have faced with people who have been adopted as they have sought to find out all they can about their lives or about their biological parents. That has been a long period of pain that has dominated our generation as people come to grips with that. We must and should learn from that and understand that going forward those issues are going to have to be addressed. I would think that any reasonable adults who are going into this process will and should think about that.

What we are doing with these amendments is principally reinforcing that to make sure that people are reminded that this will be an ongoing obligation; this will be an issue that will need to be addressed. For that reason, again, there is a lifetime of issues. The sooner you think about it, the better prepared you are for it and the better it will be handled. Then we will avoid some of those difficult outcomes we have seen with adoption in our generation. With that contribution, I am supporting the amendments, because I think we need to be proactive to ensure that history does not repeat itself.

Ms CAMPBELL (Pascoe Vale) — I would like the minister when he rises in the house tonight to comment on the contributions of those members who are supporting this amendment — or perhaps in writing before the bill gets to the upper house — to outline some answers to the following questions.

Through you, Deputy Speaker, I would like to know from the minister what information is provided at each of the assisted reproductive treatment sites in this state on the effects on children born as a result of donor gametes.

I would like to know what information is provided at each of the sites for people who wish to go down the path of surrogacy in relation to the lived experience of surrogacy, through the evidence of groups such as Tangled Web, and the adoption communities of various

conferences that have had a range of speakers on surrogacy.

I would like to know if they address the kinds of questions that Myfanwy Walker asked us to answer in room K yesterday. These are the questions she asked, and I think we need to know whether these questions are put to prospective ART (assisted reproductive technology) users, particularly those who are thinking of surrogacy. I quote:

> … I can only suggest that we think of these issues in terms of anticipated consent. Can we assume that the people to be born by these practices, given the choice, would want to be created in such a way?
>
> Would you want to be born to a person already dead and whom you will never know?
>
> Would you want to be gestated by a woman who gives you up at birth, particularly when that mother may in fact be your biological mother …

That applies in partial surrogacy. She said:

> I know I wouldn't. If given the choice, I would have chosen to have inherited my dad's kind brown eyes, his cheeky manner; I would have given anything to have inherited his height!
>
> I would have chosen to be the daughter my mum and dad could never have together.
>
> So please, when you vote on this bill, think not of reproductive choice and liberties, think of the choice and liberties that the people to be created by this legislation don't have.

Through you, Deputy Speaker, I ask the minister whether this is the kind of information that is provided to those who want to use donor gametes.

Another contribution yesterday was from Narelle Grech. She said:

> I completed my social work degree last year and have since worked as a foster care worker with children and young people who are in home-based care placements. I have been challenged in the obvious contradictions between child protection practices and ART legislation.
>
> It is seen in the best interests of the children in care, in the majority of cases, for them to be reunified with their family of origin. It is one of the guiding principles which we as workers strive towards — the child returning to their parents, even at times when it is a long and difficult path. The child protection service and courts in this state recognise, in foster care, that children should be with their family of origin, and I see in these children that they want to return to their parents, sometimes regardless of the neglect they have suffered.
>
> In stark contrast children who are conceived by donor gametes are told that their families of origin are not important, that their donor is just the contributor of DNA.

She went on to say:

> Their donor may choose that they don't want to meet or know their donor-conceived children, and the child may simply be left with a piece of paper reflecting their donor-received origins.
>
> How is this in the best interests of the child? How is this in the best interests of the child who grows up to be an adult like me? Supposedly the legislation is written with the best interests of the child as paramount. I beg to differ.

We have to have a situation where we have counselling in relation to the children born as a result of donor gametes. I need to have this confirmed by the minister.

Mr HULLS (Attorney-General) — I will just address the issue of counselling generally, and it is addressed in section 13 of the legislation. This amendment proposes to take it further. I will be opposing this amendment. There is no need to include a requirement for this counselling in the legislation, because these matters are already dealt with. They are already the subject of the National Health and Medical Research Council's ethical guidelines that apply to all Victorian assisted reproductive treatment (ART) providers. The guidelines, which I will read from in a second, specify that participants in a gamete or embryo donation program must have counselling about the right of donor-conceived persons to have information about their genetic parents. Counsellors use their professional judgement to determine the individual counselling needs of each person under this broad requirement. There is no need for legislation to contain provisions in relation to this matter; they can be properly addressed through guidelines and regulations.

I understand that a number of the amendments of the honourable member for Pascoe Vale go to this counselling issue, so it is important to touch on this particular issue. She asked exactly what information is presented at each place where service is provided. That information is currently prescribed in the regulations, and they will be replicated. There will be further additions to those regulations obviously in relation to the surrogacy issue, but I am more than happy to provide her with a copy of the regulations that currently exist. It is important to have a look at the ethical guidelines for the clinical practice of ART because, as I said, counselling is dealt with in those guidelines. At page 43 the guidelines state that:

> ART involves complex decision making and participants may find it an emotional and stressful experience.

That is the issue that has been raised by contributors.

> Clinics must provide readily accessible services from accredited counsellors to support participants in making

decisions about their treatment, before, during and after the procedures.

… Clinics should therefore provide counselling services, with professionals who have appropriate training, skills, experience and accreditation necessary for their counselling role. The counselling services should:

provide an opportunity to discuss and explore issues;

explore the personal and social implications for the persons born and for the participants;

provide personal and emotional support for participants, including help in dealing with unfavourable results;

provide advice about additional services and support networks;

reflect an integrated, multidisciplinary approach, including medical, nursing, scientific and counselling staff; and

provide participants with information, when requested, about professional counsellors who are independent of the clinic.

The guidelines go on to say:

… For participants in a gamete or embryo donation program, counselling should include a detailed discussion of the complex issues relating to gamete or embryo donation, including the following specific aspects —

and this really goes to the nub of the contributors to date:

the long-term psychosocial implications for each individual and each family involved;

the psychosexual implications;

the motives of the gamete or embryo provider for becoming involved in a donated gamete program;

the need to ensure that gamete or embryo donors make their own independent decision to participate and that this decision is reached free from coercion in any form; and

the right of persons born to have identifying information about their genetic parents and information about the possibility that they will make contact in the future.

I urge those members who have concerns about counselling to have a look at the *Ethical Guidelines on the Use of Assisted Reproductive Technology in Clinical Practice and Research*, dated June 2007. I repeat that these amendments will be opposed. I understand there are further amendments in relation to counselling to be moved later by the member for Pascoe Vale. I suspect the same arguments will be mounted, and I will be mounting the same arguments in relation to those matters, so I am trying to pre-empt those discussions. On the basis of the matters I have put, I will certainly oppose these amendments.

Mr CLARK (Box Hill) — Firstly, I thank the Attorney-General for his explanation. Secondly, on his explanation, it seems to me that the guidelines from which he quoted do not tackle the issue raised by the member for Pascoe Vale, because the most relevant of the counselling requirements he read out, as far as I could pick up, was that the people considering undergoing the treatment be informed about the rights of the children to obtain identifying information.

That is certainly a related matter; it covers one part of what the people considering the procedure need to be informed about, but it does not go to the heart of what the member for Pascoe Vale is saying. It is very much a rights-oriented disclaimer, whereas the member for Pascoe Vale is saying that the people concerned need to go to the practicalities of how they are going to explain to their child about the fact that they are born as a result of the surrogacy arrangement. That is a different matter. It is one thing to say, 'You potential parents need to know that the child you bring up will have the following rights to obtain information'. It is another thing to say, 'You need to realise this is going to be a very major issue in the life of the child you bring up, and you need to turn your mind now to how you are going to relate to that child, what you are going to tell them and how you are going to handle the reactions that they may well have to the information that you give to them'.

On my reading — I may have overlooked one aspect, but from what I heard of the Attorney-General's reading — none of these matters are covered in the guidelines. I would say furthermore that even if they were covered in the guidelines, this is a matter of sufficient importance that the policy principle about requiring the adults concerned to turn their minds to it before they bring about the existence of the child needs to be specified in the legislation, because it is a fundamental principle.

It is not adequate to say the legislation will just have a general requirement that counselling be given and we leave it to an extraneous document, a set of guidelines. There may well be details that could be filled out by guidelines, but the fundamental principle is so important that it should be contained in the legislation.

Mr HULLS (Attorney-General) — In relation to the issues that have been raised, I repeat that the counselling provisions that exist in this legislation

together with the relevant guidelines and the like are extremely thorough. They are in legislation regulations, they are in guidelines and the fact is no-one can get treatment in this state now unless thorough counselling has been undertaken; and that will be absolutely the same under this legislation. We believe that is absolutely appropriate.

Amendment defeated; clause agreed to.

Substituted amendments circulated by Mr HUDSON (Bentleigh) pursuant to standing orders.

Clauses 14 to 24 agreed to.

Clause 25

Mr CLARK (Box Hill) — I want to raise some aspects of this clause and seek a response from the Attorney-General. They relate back to the issues that we have just been discussing in respect of the response the minister gave to clause 13.

Clause 25 provides that before a woman undergoes a donor treatment procedure, the registered ART provider must give the woman and her partner written advice about various matters, including the rights of any person born as a result of that procedure, the donor and other persons to information; the nature of the information about the woman and her partner that is recorded at a central registry; the rights of the woman and her partner to obtain information; and the existence and function of the voluntary register. These are not the same as but are related to the issues we were canvassing in relation to clause 13.

The particular aspect I want to raise and seek a response from the Attorney-General about is how it is intended that this written advice will be put together and provided to the persons concerned. The obligation to provide the written advice is put on the registered assisted reproductive technology provider. Does that mean that each assisted reproductive technology provider is going to have the responsibility to prepare the written advice it will then give to the persons concerned? Alternatively is it intended that the department will prepare some standard form of written advice that it will make available to all assisted reproductive technology providers to provide to the persons concerned?

Obviously if the individual assisted reproductive technology providers have to write their own advice, that will not only impose on them what could be a substantial burden but from a public policy point of view it will also run the risk that the adequacy of that advice — its completeness, its accuracy — will vary between the different assisted reproductive technology providers. You may say that the law is going to be enforced, and it is going to be up to the assisted reproductive technology providers to comply with it, but there is a wide range of possibilities in terms of how that written advice can be formulated while still being consistent with the legislation. We could have substantial variation if it is left to the assisted reproductive technology providers to write that information.

If the intention is that the department will at least offer to registered assisted reproductive technology providers some standard form of information, it would be useful to know that that is the case and what processes the minister intends to go through to ensure that the written advice prepared by his department or by the Department of Human Services will be full and complete and give the information that this Parliament would want those people to receive.

Ms CAMPBELL (Pascoe Vale) — When the Attorney-General answers the question from the member for Burwood, he could perhaps also provide some comfort to me in relation to how often; and the measure used to assess compliance with the National Health and Medical Research Council guidelines. I am familiar with the NHMRC guidelines read by the minister earlier. I have a copy of them in my office. In my view some sections of the guidelines are much stronger than others but in large part it is an excellent document. Interestingly enough, it is a document prepared as a result of community consultation. In fact a draft was distributed nationally and submissions sought from the public on those guidelines.

In contrast, this bill, which substantially changes a significant component of our reproductive technology industry in Victoria, was not put out for public consultation as a piece of legislation. We had the Victorian Law Reform Commission examine the issues raised in the bill, but, as I said, this bill was never put out for public consultation, in contrast to other significant pieces of social legislation which in the past have been put out for public consultation.

Now that the Attorney-General has returned to the table I go back to the point that I initially raised, which was that the NHMRC guidelines were compiled as a result of a draft being circulated, the public invited to comment, and as a result they are well formed. How does the minister give comfort to this Parliament that the provisions within those guidelines are monitored?

Specifically in relation to my first amendment, what comfort can the minister give to this Parliament on how the wisdom, which is now increasingly available, of the spoken and written word of children of donor conception, is incorporated into the information provided to those wishing to join the assisted reproductive treatment program? In his earlier comments the minister referred to psychosocial factors; he said it is genetic information, which is useful, that is stored. I remind the house and the Attorney-General that that genetic information is useful if you know you are donor conceived. There are many children in this state who are donor conceived but because their social parents have not informed them of the donor conception, they do not have the opportunity to use that important genetic information, because quite simply they do not know it is there. They presume their social parents are their genetic parents.

For the minister's attention to the questions raised by the member for Box Hill and me, I leave it up to the minister to either answer tonight or before the bill is debated in the other place.

Mr THOMPSON (Sandringham) — In relation to the requirement for donor treatment procedures in division 5 in the information and advice provisions, turning to the matter before the chamber, the bill notes:

> Before a woman undergoes a donor treatment procedure, the registered ART provider carrying out the treatment procedure must give the woman and her partner, if any, written advice …

And then it goes on to specify the nature of the advice in subparagraphs (a), (b), (c) and (d). My concern in relation to that particular clause relates to the words 'if any'. Could the minister elaborate on the range of circumstances which he might envisage might be utilised in that particular circumstance. It is generally axiomatic or generally understood that the best interests of the child would require more than one parent if that is desirable.

We have a situation here where in legislation that is going to ripple forward in Victoria down the track, there will be a number of children who will not have a second parent, and that is of concern. Members have received submissions from people in TangledWebs, who have expressed concern about their family's circumstances before this realm with the law was regulated. They discovered that their social parents were not their biological parents.

People have an identity in this world for a range of reasons: for example, their family heritage or their medical heritage from their biological parents. What we have before the house today is a bill that uses the words 'must give the woman and her partner, if any'. There is no presumption that there are two parents.

I seek before the house the assurance of the Attorney-General that he can provide some comfort and confidence to future generations of Victorians who in 15, 20 or 30 years time will come to the realisation that they only had one parent. That is a tough thing to face in life when making your way through the world these days in single-parent families in terms of the main poverty indicators in this state, in meeting rental housing, in meeting the attendant care requirements in Victoria.

We are establishing a legislative regime in Victoria that in perpetuity may result in children only having one parent — one parent to take them to school, one parent to look after them when they are unwell, one working parent who looks after the child at home. It is not legislation that I think is in the best interests of Victorian children. It is not in the best interests of the future development of our society where there is a certain investment of time involved in taking children to their range of community activities — to kindergarten, to primary school, to secondary school, to their different sporting events — so it is a matter of concern that the words 'if any' appear in this bill before the house.

I have commented on the antisocial hours of the house this evening. The Labor Party said it would introduce family-friendly hours. I was quoting, before I was abused by the manager of government business, this particular clause dealing with family-friendly hours. He said people are not automatons. They live in families, they live in neighbourhoods, they live in communities. I have news for the manager of government business in this chamber who is also the member for Thomastown — —

The ACTING SPEAKER (Mr Ingram) — Order! The member for Sandringham, on the clause.

Mr THOMPSON — In the future there will be children who will not live in the neighbourhoods, families and communities that he referred to 10 years ago because under the bill we will be creating a class of Victorian citizens who will have one parent but no guarantee of a second parent to help in the nurturing, the financing and the development of children in this state. It is a very serious point that the bill before this house is underpinning a second class of Victorian citizens. There are those with two parents and those with one.

There are many tragic circumstances where people lose a parent through illness, through accident or through other tragedy, but under the bill the Attorney-General is establishing and entrenching in law an arrangement where a person will only have one parent by law.

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

Mr HULLS (Attorney-General) — I do not know how I ought to respond to the member for Sandringham. It will be in a cool and collected way, because he and members of this house would know that children have for centuries been brought up in single-parent families. This legislation fixes an anomaly that exists in the law in relation to access to assisted reproductive treatment and that is why the words in clause 25 say 'if any' — that is, 'the nature of the information about the woman and her partner, if any' — because it may well be that the woman does not have a partner.

It is simple as that. It may well be that the woman does not have a partner; so be it. The fact is that what is really important about bringing up a child is ensuring the child is loved, is nurtured and is cared for. That can happen in single-parent families, it can happen in same-sex families, and it can happen in heterosexual families — heterosexual de facto families and heterosexual married families. I think that quite clearly answers the honourable member for Sandringham.

In relation to issues about guidelines and the like, compliance with the National Health and Medical Research Council guidelines is a requirement of the Reproductive Technology Accreditation Committee. The RTAC has powers to monitor, to visit and to inspect. The contribution by the honourable member for Box Hill seems to be suggesting that he knows of some clinics that are perhaps not complying with the guidelines. Clinics have to comply with the guidelines in order to practise. As I said, it is a requirement of being accredited.

Proposed section 25 requires a registered ART provider to provide certain written information to a woman and her partner, if any, before the woman undergoes a treatment procedure. The information and advice required to be given is about the rights of any person born as a result of the procedure and other persons to information under divisions 2 and 3 of part 6, including identifying information about the donor; the nature of the information about the woman and her partner, if she has a partner, recorded in the central register; and the rights of the woman and her partner, if she has a partner, to obtain information under division 3 of part 6 of the act.

This written information is actually prepared by the clinics. It covers prescribed matters, which have been dealt with. My understanding of the actual procedure is that a copy of the document is given at the relevant time and is also placed on the patient's file. That is done at the time of giving informed consent. That is why we believe the procedures set out under clause 25 is appropriate.

Mr THOMPSON (Sandringham) — I appreciate the measured response by the Attorney-General. I was wondering whether he could also correlate clause 5 of the bill, the guiding principles, just for posterity, with clause 25 and the notion that the best interests of the child will be served by bringing into the world children who are destined to have only one parent.

Mr HULLS (Attorney-General) — I know I do not have to respond to everything. I just repeat that clause 5 sets out the guiding principles which must be given effect in administering the act and that the welfare and interests of the persons born, or to be born, as a result of treatment procedures are paramount. That is the umbrella under which this act sits — the interests of the child are paramount. I repeat that the caring, the loving and the nurturing of children is absolutely crucial.

To be suggesting that there ought be, or that this legislation creates, two classes of children is in my view just not correct. What the legislation actually does is put a legal framework around kids who are being born at the moment in Victoria through assisted reproductive treatment and the like and through surrogacy arrangements. We do not believe the legal framework is appropriate enough to ensure that all kids are being treated equally. This legislation will ensure that they are. It will ensure that they have the same rights as every other kid in Victoria. That is why this legislation is so important, and that is why I am supporting every aspect of this legislation.

Mr CLARK (Box Hill) — I cannot let those propositions by the Attorney-General go unanswered. The point being raised by the member for Sandringham is that this bill creates the situation where, as a matter of policy, children are being brought into this world to be reared by only one parent. The Attorney-General said previously and correctly that there have been many circumstances over the course of history where children are brought up by only one parent.

However, those instances are predominantly, if not totally, when one parent has been removed from the

scene due to death or breakdown in a relationship or another tragic and unexpected event. Children are brought into the world with two parents and they get the best possible upbringing in life when they have two parents — ideally their biological mother and father.

We are deliberately creating in this legislation a circumstance where a child can be brought into this world to be brought up without a mother or without a father, and as far as I am concerned and I am sure as far as the member for Sandringham and many others are concerned, that is what is so completely objectionable about this bill.

Mr HULLS (Attorney-General) — Can I say very briefly, because I know my colleague wants to add comments, that children are being born as a result of these arrangements now. But there is not an appropriate legal framework in place to ensure that these kids have the same rights and protections as other kids in this state, and I would not think that anyone in this house wants to be part of a society where we are creating two classes of kids with different rights.

This legislation brings a legal framework into place to ensure that children being born of these arrangements have appropriate legal protections and rights, and that is why it is such an important reform.

Ms KOSKY (Minister for Public Transport) — I do not think there will be agreement around this, because there is a fundamental difference about a set of values. There is a set of values being expressed by the member for Sandringham and the member for Box Hill, that two parents are fundamentally better than one, and I agree with the Attorney-General, that it is actually having a loving parent or a loving guardian.

Love and care are the most important aspects of a child's upbringing so whether it is one parent, whether it is two parents, whether the two parents actually live with one another or live separately, whether in fact there is an extended family of a second father, a stepfather — there are a whole range of different arrangements. What this legislation does, as the Attorney-General has mentioned, is provide that legal framework, that legal certainty for the child which is in the best interests of the child, and the issue of love is more important.

It is a fundamental difference in values that are held by members in the house. I do not think we will get agreement about it, but certainly the legislation ensures that children born to single parents under these arrangements actually have that legal and proper framework.

Ms CAMPBELL (Pascoe Vale) — I do not want to use my words in this debate at this point; I want to use the words of Romana Rossi, who spoke in room K here at Parliament House yesterday. She is the mother of Desmond and she said:

> On 13 May 2000, the day before his seventh birthday, Desmond met his biological father. Kevin Morrison and his extended family are now part of our lives …
>
> We do not know what the future will hold, but my husband and I agree that we have a duty of care for Desmond that goes beyond nurturing and parental love.

She bolded this next part:

> Most people want to believe because our children are wanted and loved that this is enough. But duty of care is much broader than that.

Here she ended the bolding. She continued:

> My husband and I wanted to ensure that his true identity is openly accepted and embraced and that we do not make decisions that preclude any choice he may wish to make in the future. …

And then she used the bolding again:

> We came to realise that fundamentally the donor conception process is flawed because it deprives people of their biological family. It is very difficult to form a parental-child relationship with someone you meet in adulthood.

So tonight we have heard, I hope, not only the voice of donor-conceived children but the voice of a woman who has a beautiful son she loves dearly but who says the arguments put forward by some members of this house tonight are inadequate. She highlights that most people want to believe that saying 'children being wanted and loved' is enough. The fact is that children need to know their biological links. Yesterday the mother outlined a beautiful story of how Desmond's biological family is very much a part of their life and of the extended family of up to 150 people. They try to have that extended family as part of their life.

But the issue tonight is not only about people being loved; it is that, but it is more. It is about our genetic inheritance and our biological connectedness. Donor conception deliberately sets out to ensure that children who are born do not necessarily know that they are donor conceived, let alone have the opportunity to know, understand and be loved by their extended biological family. When I listened to the member for Sandringham and the member for Box Hill, I did not hear in any shape or form any suggestion that those two members were having a go at single-parent families or diminishing the love, care, attention and adoration single-parent families have for their children.

Where there are two parents still alive to love and nurture their children, they would die for their children. The issue is not about how much we love our children or how readily we would give our lives for our children. The point being raised by the member for Sandringham, the member for Box Hill and me is that we are who we are based on genetic inheritance and family connections. Donor conception automatically severs that from the moment of creation.

House divided on clause:

Ayes, 48

Allan, Ms	Kosky, Ms
Andrews, Mr	Langdon, Mr (*Teller*)
Batchelor, Mr	Languiller, Mr
Beattie, Ms	Lim, Mr
Brooks, Mr	Lobato, Ms
Brumby, Mr	Lupton, Mr
Cameron, Mr	Maddigan, Mrs
Carli, Mr	Marshall, Ms
Crutchfield, Mr	Morand, Ms
D'Ambrosio, Ms	Munt, Ms
Donnellan, Mr	Nardella, Mr
Duncan, Ms	Neville, Ms
Eren, Mr	Noonan, Mr
Foley, Mr (*Teller)*	Overington, Ms
Green, Ms	Pallas, Mr
Hardman, Mr	Perera, Mr
Harkness, Dr	Pike, Ms
Helper, Mr	Richardson, Ms
Herbert, Mr	Robinson, Mr
Holding, Mr	Scott, Mr
Howard, Mr	Stensholt, Mr
Hudson, Mr	Thomson, Ms
Hulls, Mr	Trezise, Mr
Ingram, Mr	Wynne, Mr

Noes, 27

Blackwood, Mr	Northe, Mr
Burgess, Mr	O'Brien, Mr
Campbell, Ms	Powell, Mrs
Clark, Mr	Ryan, Mr
Crisp, Mr	Seitz, Mr
Delahunty, Mr (*Teller)*	Smith, Mr R.
Dixon, Mr	Sykes, Dr
Fyffe, Mrs	Thompson, Mr
Hodgett, Mr	Tilley, Mr
Jasper, Mr	Wakeling, Mr (*Teller*)
Kairouz, Ms	Walsh, Mr
Kotsiras, Mr	Weller, Mr
Merlino, Mr	Wells, Mr
Mulder, Mr	

Clause agreed to.

Clauses 26 to 28 agreed to.

Clause 29

Ms CAMPBELL (Pascoe Vale) — I move:

2. Clause heading to clause 29, omit "10" and insert "5".

Clause 29 permits the birth of up to 10 children from one sperm donation. All of us know the importance of family and extended family. All of us know the importance of connectedness within family and within the wider community.

Currently in this state there is provision for multiple births from one sperm donation and the effect of this is that children can meet with their siblings, unaware that they are related. Let us think, for example, of the end of secondary school where large numbers of children tend to go to similar sites for their schoolies week. There is a concentration of people about the same age, the same socioeconomic background with the same interests.

It was put to me that those who are able to access the assisted reproductive technology advances using donated sperm could inadvertently have a relationship with someone, not knowing they are related. The advantage of abiding by the recommendation of the Victorian Law Reform Commission is eminently practical.

When I asked why we had ignored the recommended '5' and have in this legislation '10', I was advised that there is not enough by way of sperm donation to have any less than '10', and it was put to me that the industry would dry up.

I do not think that is a good enough explanation to give to adults who may end up in a relationship with their half-sibling. Of course we can also have donor embryos provided through the assisted reproductive technology industry, and a similar argument can be put. If more than five eggs have been fertilised — and there may well be more than five embryos available for donation — why should we deprive a woman of the opportunity to have that embryo donated? The answer, I think, is quite simple. It is not as good for the children, and we are basing our legislation and our amendments on the best interests of the child.

When I again have an opportunity to contribute in this debate, I will be mentioning one of the submissions put in room K yesterday. I have advised the mother concerned I would be presenting her family's argument to this house on why familial relationships that are quite complex — with the genetic parents not being the social parents — are further complicated if you have more than 10 siblings and all their associated families. So I ask members to consider seriously this amendment — that we look at the recommendations of the Victorian Law Reform Commission and that we accept its recommendation.

Mr THOMPSON (Sandringham) — I hold the view that every child is precious. Every child has a right to a future with hope. The literature in this field over the last 100 years has many examples where the process of artificial insemination has been abused. There is an example from 100 years ago in the United States of America where a treating doctor used his own sperm to inseminate 100 women. There are multiple other examples throughout the literature of the Western world — the research literature in this field — that illustrate this problem, which is categorical and quite clear.

Under this particular amendment, which would cap and reduce the number of children that might be the product of the one sperm donor, it is a matter of statistical probability. I think it is incumbent upon this Parliament to limit the statistical probability of children being born out of what would ultimately have resulted in biological terms in an incestuous relationship. Members of this chamber would all know the examples of parents who look after disabled children. That disability can be in a number of forms, but the burden of 24-hour attending care is not a light matter. The burden of wondering what the care of a child might be when mum and dad are 80 and the dependent child is 50 is not a light matter. There are currently over 1300 people on the housing waiting list for care in Victoria at the moment according to a recent article in the — —

The DEPUTY SPEAKER — Order! I ask the member for Sandringham not to stray too much from the clause we are debating at the moment. It is very late, and I would ask the member to bear in mind that he should keep his remarks to the amendment we are debating, which is to reduce the number of families from 10 to 5. I will allow a little leeway, but I ask him to keep to the amendment.

Mr THOMPSON — Yes, and I was just making the point that there are 1358 people on the register for supported accommodation, and that is the product of a possible biologically incestuous relationship. Walking around the Victorian community at the moment are numbers of people who were born when these matters were not capped.

In the late 1970s the process of in-vitro fertilisation was a pioneering technique at Prince Henry's Hospital It now gives hope to many women and couples who are not otherwise able to have children. The process was originally unregulated, and it took some six or more years before the law caught up with the science. A number of people from Monash University were sperm donors, and the quantum of the sperm donation was not capped by law. Medical practitioners involved in service provision would have used what was available.

As the member for Pascoe Vale indicated earlier, it is statistically possible that children 20 years on may find themselves in social circumstances where unbeknown to them they will be entering into a relationship with someone they are related to. Geneticists would be able to work out the difficulties that can arise with this. It is my view that this clause should further cap or limit the number of siblings or children. If people know from whom their genetic inheritance is derived, they know by name and by family association what their circumstances are. This house is legislating for problems later on. For those people who — —

Honourable members interjecting.

Mr THOMPSON — I just ask members to reflect upon the constituents that they have met who have confronted disability, and I know some of the more powerful speeches made in this chamber relate to the area of disability. Unless we as a legislature work harder to limit the scope, to limit the prospect of people producing children who are disabled as a result of biological incestuous relationships, we will be destroying the hopes of many people down the track. Therefore I oppose this clause, because I argue that the number is too high and will cause statistical time bombs. If the Attorney General wants to accept responsibility in 20 years time for that one case — —

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

Mr CRISP (Mildura) — I rise to support the amendment based on my understanding that the original briefing on the legislation proposed a five per family limit. However, in drafting legislation we have chosen to make that 10. I presume mathematical modelling was done on this, and the member for Sandringham alluded to some of that. However, it appears we have made a compromise to satisfy the needs of industry, and therefore it is a risk management trade-off. I have some concerns about that process, and that is why I will be supporting the amendment. Let us not take a risk, let us go with the original advice and get it right.

Mr HULLS (Attorney-General) — I would just like to make a brief contribution in relation to the proposed amendment. My understanding is that this matter was not addressed in the Victorian Law Reform Commission's recommendations. Assisted reproductive treatment (ART) clinics have operated for a number of years under a licence condition limiting them from

knowingly using the donated gametes of one person to produce offspring in more than 10 families. That has been the arrangement that has existed for a number of years. The concept of a family limit is consistent with the National Health and Medical Research Council ethical guidelines which state:

> Persons conceived using donor gametes, and the donors of gametes, need to be protected from the consequences of having many genetic siblings and offspring, respectively.

The ART bill that we are debating elevates the existing licence condition to legislation. As a result the ART bill imposes a limit of a maximum of 10 women having children from the same donor. The bill also permits the donor to further limit the number of women who may use their donated gametes or embryos. The limit included in the bill is based on what I believe are very sound policy grounds. ART clinics supported this limit during the development of the bill. They said that any lower number would seriously affect the donor program in Victoria. We believe this actually puts even more stringent controls in place by elevating what exists in the current guidelines to legislation, and that is why we will certainly not be supporting this amendment.

Mr THOMPSON (Sandringham) — The number of children who will be produced by this process will create a statistical probability. It might be referred to as the duelling banjos clause because ultimately at some point in time there will be a couple in Victoria who, unbeknown to them unless they undergo some sort of genetic testing before marriage, will find themselves in a sexual relationship with someone to whom they are directly related.

There is English literature which I referred to in my contribution to the second-reading debate, where people in later life come across people they are related to, by chance circumstance. In the present case, I submit that this legislature, in order to avoid heartbreak, tragedy or concern down the track, should adopt a stronger cautionary principle in the development of this particular law so parents who welcome a young child into the world have every prospect of it being a healthy child where the genetic inheritance is known, and if there is a wider gene pool in the community there is a more limited prospect of there being an adverse outcome.

I will go through again member by member in this chamber. Some members have had relatives who have suffered from medical difficulties or defects. The most powerful speech made in this chamber in my time here was made by a member of Parliament who was delineating the unfortunate medical condition of his children, which in one case led to a suicide. In other debates in this chamber members have poignantly and powerfully argued and articulated circumstances where disability has been a factor in life outcomes, family stress and family breakdown. I urge the Parliament to adopt a cautious approach in this field to minimise the risks.

The quantum in the bill at the moment is administratively easy — it is difficult to get people who fall within the right specification for donor process and donor procedure. Nevertheless, in spite of those difficulties I think it is important that there be more stringent requirements. Therefore the amendment moved by the member for Pascoe Vale is a wise one as we balance the rights and aspirations of parents and the risks involved. It may be that in the future there will be other processes in place, but I urge the house to exercise some caution in relation to treatment procedures using gametes where the bill permits the creation of 10 children. That is the cap set in the bill before the house at the moment. The amendment moved by the member for Pascoe Vale is a sensible one in all of the circumstances.

This area of the law has been largely unexplored. The work done by Dr Kovacs at Prince Henry's Hospital in the late 1970s was unregulated. It would be interesting to know what the data and statistics were at that time. It was originally regarded as a feature of the work at Prince Henry's Hospital for records to be destroyed. In medical terms that was seen as being a virtue or a feature. However, that decision making was done with a lack of understanding of the importance of people having an awareness of their biological inheritance, of who they are and where they come from. The literature from around the world explores the uncertainties in the minds of people who are donor conceived but do not have the opportunity to understand their genetic inheritance, who do not know who their mother was or who their father was as a result of this general process.

I think it is a fundamental human right for people to have an understanding of their genetic inheritance and, as they move through the world, to know what risks they need to balance in the relationships they have and the children they produce as a consequence of those relationships. Therefore I think the measured words of the member for Pascoe Vale in this debate represent a significant statistical improvement on the probabilities into the future.

Ms CAMPBELL (Pascoe Vale) — In this contribution, which is my second 5-minute contribution, I will speak not so much about siblings who inadvertently have sexual relationships or even friendships with each other but about how each of us

likes to know our extended family and how that is a component of who we are. I again go to the testimonies given in room K of Parliament House yesterday. I will quote Narelle Grech, who talked about how she has no legal right to access information, not only about her biological father but also about her siblings. She is very keen to learn something of what she believes to be eight siblings who are the result of sperm donations made to Prince Henry's Hospital by her biological father. I quote:

> I've been told that I cannot know anything about them either, for we are not legally recognised as being related. We were all born between 1982 and 1985.
>
> My only hope in finding anything of these people, who I deem my family, is to cross my fingers that they, firstly, know of their situation; T5 —

that is her biological father —

> that he knows he has these children and my siblings; that they know they are donor conceived. Then I need to hope that they sign on to the voluntary registers at the ITA. I hope I do not have to go my entire life without being able to piece together my history, my story, my identity.

This is a young woman who wants to know her extended family. We should have learnt from the adoption experience and from the refugee experience that brings such richness to this country that when people are separated from their extended family there is a sense of loss that nothing can overcome.

Through this ART legislation we are able to limit the hurt and sense of disconnectedness that people suffer when they do not know their half-siblings. I cite the testimony of Romana Rossi, who talked about the fact that her son is still being denied information and access to his half-siblings, who they believe to number five. The donor journey is very difficult for a young man; it presents so many challenges in a lifetime. She outlined how he wants the same experiences of others in his age group — he wants to know his extended family.

I quote from the testimony of Myfanwy Walker, who said in her testimony:

> In November 2001 my father, this other man who saw a photo in the paper of me and discovered that he had not three daughters but four.
>
> Several hours later I discovered his name, Michael.
>
> I know him, he is now a member of my family, as he always has been. I have been able to heal and fill the void in my sense of identity. I now have sisters, six of them. My elder sister and I are in many ways very similar, so much so that Michael can't tell us apart on the phone. I often think of the three sisters born to three separate families of whom I know nothing. I wonder what they look like, perhaps I have passed them in the street. Occasionally a friend will tell me that they met someone who looked like me. I always say, 'Can you tell them to ask their parents how they were conceived?'. My friends laugh and think I am joking, but I am not.

This is an example of one young woman who is still — in her mid-20s — looking for her half-sisters. When I first met her — she knew where my electorate is — she said, 'I think one of them lives in your area. If you ever see someone who looks like me' — and she explained which culture she thought her half-sister had been born into — 'please let them know I am looking for them'.

Mr CLARK (Box Hill) — I want to raise just one aspect briefly relating to the decision as to the number of families involved in the limit here, and possibly the Attorney-General can shed some light on it. The coalition parties' understanding from the briefing we received was that at least in the initial stages of the development of this bill it was proposed that the limitation be set at five families but that the government was convinced otherwise. I think it would be helpful to the debate if the Attorney-General could indicate to the house what the considerations were that led the government to accept that the limit should be 10 families rather than 5 and what factors led the government to conclude that having a limit of 10 rather than 5 would not in fact give rise to the concerns that led to the five-family limit being proposed in the first place.

Mr HULLS (Attorney-General) — I answered that in my original contribution.

House divided on omission (those in favour vote no):

Ayes, 48

Allan, Ms	Langdon, Mr (*Teller*)
Andrews, Mr	Languiller, Mr
Batchelor, Mr	Lim, Mr
Beattie, Ms	Lupton, Mr
Brooks, Mr	Maddigan, Mrs
Brumby, Mr	Marshall, Ms
Cameron, Mr	Morand, Ms
Carli, Mr	Munt, Ms
Crutchfield, Mr	Napthine, Dr
D'Ambrosio, Ms	Nardella, Mr
Donnellan, Mr	Neville, Ms
Duncan, Ms	Noonan, Mr
Eren, Mr	Overington, Ms
Foley, Mr	Pallas, Mr
Green, Ms	Perera, Mr
Harkness, Dr (*Teller*)	Pike, Ms
Helper, Mr	Richardson, Ms
Herbert, Mr	Robinson, Mr
Holding, Mr	Scott, Mr
Howard, Mr	Stensholt, Mr
Hudson, Mr	Thomson, Ms
Hulls, Mr	Trezise, Mr
Ingram, Mr	Wooldridge, Ms
Kosky, Ms	Wynne, Mr

Noes, 29

Blackwood, Mr	O'Brien, Mr
Burgess, Mr	Powell, Mrs
Campbell, Ms	Ryan, Mr
Clark, Mr	Seitz, Mr
Crisp, Mr	Smith, Mr K.
Delahunty, Mr	Smith, Mr R.
Dixon, Mr	Sykes, Dr
Fyffe, Mrs	Thompson, Mr (*Teller*)
Hodgett, Mr	Tilley, Mr
Jasper, Mr	Victoria, Mrs
Kairouz, Ms	Wakeling, Mr
Kotsiras, Mr (*Teller*)	Walsh, Mr
Merlino, Mr	Weller, Mr
Mulder, Mr	Wells, Mr
Northe, Mr	

Amendment defeated.

The DEPUTY SPEAKER — Order! As the house has not agreed to the amendment the member for Pascoe Vale will not be able to move her amendments 3 and 4, as they are consequential.

Clause agreed to; clauses 30 to 38 agreed to.

Clause 39

Mr HUDSON (Bentleigh) — I am moving amendments in relation to clause 39, which allow — —

The DEPUTY SPEAKER — Order! No, the member is not moving amendments. I will explain in a moment. The member for Sandringham, on a point of order.

Mr Thompson — On a point of order, Speaker, this is an important bill. I alluded earlier to the fact that the Minister for Community Development had spoken about the importance of family friendly hours for this chamber. We are now debating into the early hours of the morning a matter which will affect future generations of Victorians.

The DEPUTY SPEAKER — Order! I have reminded the member for Sandringham on a number of occasions not to raise matters that are not points of order. I remind him again.

The member for Bentleigh is not moving amendments; he is speaking on clause 39.

Mr HUDSON — In my speech on the second reading I indicated — —

Mr Thompson — On a point of order, Speaker, I indicated that I did not support clauses 30, 31, 32 and 33 at the last call, and I asked for a division on those clauses.

The DEPUTY SPEAKER — Order! I did not hear you ask for a division and neither did other members of the chamber.

Mr Thompson — My colleagues here would have heard the call.

The DEPUTY SPEAKER — Order! I have called the next clause. I did not hear your call for a division, and I have called the next clause.

Mr Thompson — This is a conscience vote, Chair.

The DEPUTY SPEAKER — Order! I have already explained to the member for Sandringham that I did not hear a division called for. I have called the next clause, and the member for Bentleigh has the call. That's it.

Mr HUDSON — In the second-reading speech I spoke about my concerns in relation to the provisions relating to surrogacy, and I did that because I think it is incredibly important that in considering this legislation we consider the threshold question of whether or not surrogacy and the use of ART should be allowed in this bill. I just want to make the point that the Victorian Law Reform Commission's report indicated, on page 160, that it was not actually asked to report on the threshold question of whether surrogacy should be permitted, facilitated or prohibited; that was not a question that it was asked to address.

I think it is important that we learn from the experience of adoption in relation to the harmful consequences for both children and their natural mothers — and I talked previously fairly personally about the impact of relinquishment in my own family. It is harmful for relinquishing mothers, because under adoption, giving away your child was made to seem a normal thing to do. It was actually seen as an altruistic thing to do. If you were a teenage girl who had become pregnant, it was seen that one of the things that you could do, the right thing to do, would be to give up that child for adoption, and that was something which the mothers themselves saw as the right thing to do as well.

The trouble was that whilst they were helping someone else to have a child there was also a reality for them, and that was the incredible process that they as women went through in forming a bond with their child, nurturing their child, bearing their child and giving birth to their child, only to then be in a position where through social norms and pressures they were forced to give that child away. What we are encouraging through surrogacy arrangements is that the surrogate has to agree before she goes through that process that she will give up that child before she has experienced all the

bonds that will be formed through nurturing that child and giving birth to it.

The difficulty is that even with counselling a surrogate mother cannot know how she is going to feel about relinquishment until she is faced with the reality of having to do it. Yet what she has done is made a commitment to relinquish to a couple who expect that to occur — a couple who have waited for nine months with great hope and expectation for that baby to arrive, a commissioning couple that may even be close relatives, which will create enormous potential for conflict within those families. If the surrogate mother decides that she does not want to give up her baby, she is in an incredibly invidious position, because if she does not relinquish the baby, she will be reneging on the agreement that she has entered into for the good of another couple. But if she decides to relinquish against her better judgement, she will live with the grief of that for the rest of her life. She will know, and the child will know, that it was created for the purposes of being given to someone else.

There are other problems as well. The commissioning couple may decide they do not want the child because it is born with a disability, or the parties may have differing views about how the pregnancy and childbirth should be managed. These are all examples that are cited in the commission's report. The commission noted at page 173 of its report:

> … although only 4 to 5 per cent of surrogates refuse to relinquish the child in countries where juristic surrogacy is permitted, the pain that causes can be profound. Any conflict over child custody has the potential to be very damaging for all parties involved. Women who act as surrogates may experience distress during pregnancy or after birth at the prospect of relinquishing the baby. The commissioning person or couple may feel deprived of 'their' child, the surrogate and her family (if any) may find themselves responsible for a child not originally intended to be theirs, and the child, whose infancy may be the subject of protracted legal proceedings and conflict, may suffer as a result. These possibilities cannot be ignored.

This is hardly a ringing endorsement for surrogacy from the commission.

Mr HULLS (Attorney-General) — Clause 39 is a fairly simple clause, and what is being proposed by the member for Bentleigh is that this clause be deleted from the bill. This clause provides that:

> A registered ART provider may carry out a treatment procedure on a woman under a surrogacy arrangement only if the surrogacy arrangement has been approved by the patient review panel.

I certainly understand the passion with which the honourable member for Bentleigh holds this view. He has held this view for quite some time and expressed it to me personally some time ago. I certainly appreciate the passion with which he holds the views he has expressed both during the second-reading debate and on this amendment. However, I disagree with him, and the reason I disagree with him in relation to clause 39 is because to delete clause 39 would actually take us a step backwards from where we are now. Altruistic surrogacy arrangements have never been prohibited in legislation in Victoria. The current Infertility Treatment Act does prohibit commercial surrogacy but does not prohibit altruistic surrogacy. By removing clause 39 that is what we would be doing — we would be actually prohibiting altruistic surrogacy in Victoria. I certainly will not be agreeing with the deletion of clause 39.

Can I say that the act does require that the surrogate mothers must be clinically infertile to access treatment, and surrogacy arrangements cannot be enforced. The requirements mean that very few surrogacies are being arranged in Victorian clinics. This bill provides for the careful regulation of surrogacy, and many protections are in place. These include that commercial surrogacy continues to be prohibited; all surrogacy arrangements must be approved by the expert patient review panel; surrogate mothers must be at least 25 years of age; and stringent counselling and screening requirements will apply to all parties.

The effect of what is being suggested by the member for Bentleigh is that Victorians would not be able to arrange surrogacies with the assistance of the Victorian clinic system. We believe that is not in the best interests of children born through these arrangements or their parents, because the protections offered under the current clinic arrangements are appropriate. Also, to delete this clause would be contrary to moves to facilitate surrogacy in other jurisdictions, including Western Australia and South Australia.

We need to accept the fact, whether we agree with it or not — and the member does not agree with it — that Victorians are having children through surrogacy arrangements now. We should really ensure that they can access the protections and facilities of the Victorian clinic systems. This bill provides a robust system with stringent requirements for this to occur.

I repeat that whilst I fully understand the passion with which the member for Bentleigh expresses his views, it would be a retrograde step to remove clause 39 from this legislation.

Ms CAMPBELL (Pascoe Vale) — I predicted that the Attorney-General would probably say the member

for Bentleigh had passionately held views. It seems when we have a debate on bioethical issues we unfortunately do not go to the substance of what is said in the contribution by the person who is moving an amendment. We simply say, 'They have a passionately held view'. It seems to me the member for Bentleigh had a very rational and well-argued case. He stated that a woman who is carrying a child understands what it is to be a mother. He argued that we have a copious amount of research that clearly identifies a woman as a psychosocial being. He was able to articulate that we have not only the life experience but the research experience to be able to clearly identify mistakes in past actions of governments that seemed appropriate at the time but that were actions that were fundamentally wrong. He outlined why they were wrong. They were wrong because they did not acknowledge the mother's connectedness with her child. Those past actions were wrong because they failed to recognise not only a physical connection but an emotional connection.

I have said in this house a number of times before that when a pregnancy ends the motherhood remains.

The DEPUTY SPEAKER — Order! We are dealing with clause 39.

Ms CAMPBELL — We are dealing with clause 39 in relation to surrogacy. In his contribution the member for Bentleigh said that surrogacy is not good from the woman's perspective. I am happy to argue it as well from the child's perspective. My original reason for becoming politically active in this place was tied to the Kennett government's introduction of surrogacy. I agree with the member for Bentleigh that to say a woman who is carrying a child as a surrogate arrangement is merely an incubator denies the reality of the human person. A woman is not just a womb when she is carrying a surrogate child; she is physiologically and psychologically connected with that child. She feels the child move. If we are saying that it is not good in terms of a surrogate arrangement for that woman to be emotionally connected to her unborn child, then we are not being fair either to the woman or to the child yet born.

When we are clearly examining the advantages or disadvantages of surrogacy we have to look at the facts, and the facts outlined in adoption practices are facts that are well documented and need to inform us in this debate.

Mr HUDSON (Bentleigh) — I want to respond to one of the points the Attorney-General made about the current law. The current law was deliberately framed so that only women who were unlikely to become pregnant or to pass on a disease or genetic abnormality could meet the eligibility criteria for treatment. Some people, including the Attorney-General, said in the debate around the commission's report that this is an example of the law being an ass; that this is an example of the law making a complete contradiction of itself; that the surrogate mother had to be incapable of bearing her child. But if you go back and have a look at the debates and the push for surrogacy to be included in the legislation, you will see the decision was made to allow this only in situations where the woman could not bear her own child. It was to protect that woman from the consequences of having to relinquish her own child through a surrogacy arrangement. It was not that it was explicitly being allowed. We should note that any surrogacy agreement under the current law and indeed under this bill is null and void. It is certainly not a ringing endorsement of surrogacy in that sense.

I also point out that even with this bill we are saying that altruistic surrogacy is okay but that you still cannot advertise for a surrogacy arrangement. If we think it is okay; if we think it is something that we want to facilitate through this bill, why is it that we are saying you cannot advertise for altruistic surrogacy? I am not talking about commercial surrogacy; I am talking about altruistic surrogacy. This bill reflects the ambivalence of people in relation to this issue. This is of particular concern when we talk about a woman using her own oocytes or eggs. When we get to the provision dealing with the circumstance where the woman clearly has a genetic connection to the child, I will move an amendment to remove it from the bill and prohibit that practice.

Mr THOMPSON (Sandringham) — The member for Thomastown is in the chamber at the moment. I just make the further point that the rights of members are being oppressed at the moment by the Leader of the House in introducing this legislation into the early hours of the morning. It is a burden upon Hansard; it is a burden upon the parliamentary staff — —

The DEPUTY SPEAKER — Order! Is the member for Sandringham speaking on clause 39?

Mr THOMPSON — As a prelude, because clause 39 is an important clause, and it should not just be confined — —

The DEPUTY SPEAKER — Order! I agree it is an important clause, and I ask the member for Sandringham to speak on it.

Mr THOMPSON — I propose to, but I think it is important that the wider community understands the

implications of the legislation before the house. In relation to the surrogacy arrangement, there are a number of issues in some notes that were presented to me by a person with a keen interest in this field. It was noted that surrogacy is a method deliberately sought to fulfil the needs of childless couples, hence the rights of the child may be seen as secondary.

The surrogate mother is not just an incubator which demeans a human response to childbirth and mothering. Identity is a key issue for the child. The role of surrogacy could result in having three mothers: the donor, the surrogate and the social mother. It has been argued by some that this circumstance may create biological bewilderment in the child's search for a sense of belonging to someone. Legislation must consider the normal attachment and bonding between mother and pre-born and closely examine the effects that may result from this circumstance.

There is another dimension to surrogacy. In this particular clause there are arrangements to be approved by the patient review panel. At the bill briefing it was presented that an anticipated surrogacy arrangement might be between a husband, a wife and a third party; and there is a poignant case that members of this house would be familiar with relating to a parliamentary colleague serving in Canberra.

At the bill briefing it was also presented that the surrogacy arrangement might not just be a commissioning by two women but, as I understand it, may also relate to the commissioning of a surrogate mother by two men. I would like the Attorney-General to clarify to the house whether he envisages that this is what this law will allow in the nature of surrogacy — that two men can have an approved arrangement where there is a donated ovum and the sperm of one or other of the men will be used, via the surrogate mother, to produce a child, who will become the child of the two men.

I pose the question whether he is of the view that he regards that as fulfilling the requirements under clause 5 as being in the best interests of the child. Members who are not currently in the parliamentary bar might like to note that clause 5(a) states:

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

The welfare and interests of persons born or to be born as a result of treatment procedures are paramount and without the sociological research based upon longitudinal studies and good representative cross-sections of analysis of where this law is enforced in other jurisdictions — what the practice is, what the outcomes are — I would like the response of the Attorney-General to that and whether he is of the view, as Attorney-General, that this clause will fulfil the best interests of the child.

There is the related issue that has been raised on a number of occasions, that if the surrogate arrangement breaks down owing to a separation on the part of the commissioning parents — or, in the alternative, if there is a physical disability on the part of the surrogate child — what would be the circumstances then? Will the surrogate mother, in the agreement to be approved by the authority, be in a circumstance where she is in reality left holding the baby and are these circumstances — appreciating that some are canvassed later on — covered by the tenor of the bill or will this state be left with a range of surrogate mothers where the children might have disabilities?

Who will fund the care of the child in that circumstance? Who will care for the child, who will provide for the educational needs, the medical needs, the lifelong needs, and whether that will be in the best interests of the child, for a child to be raised by a surrogate mother who just had the sole intent of bringing the child into the world but is left holding the baby?

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

Ms DUNCAN (Macedon) — I was not going to speak on these amendments, but I feel moved to comment on a couple of the contributions that have been made in regard to surrogacy. Surrogacy has been around for hundreds of years. This bill will do nothing about the practice of surrogacy. The descriptions that have been given — and the member for Pascoe Vale referred earlier to surrogacies that in the view of the speakers had gone terribly wrong — were surrogacies that occurred in an unregulated environment. This bill seeks to give regulation to that environment to avoid the exact scenarios that have been described by the previous speakers.

Scenarios have occurred when children are denied information, and we have heard for the last 40 minutes of scenarios that are all based on the premise that children will not be given information that identifies their biological parents. This bill seeks to avoid the scenarios that have been described.

Other scenarios that have been described have been where children have not even known that they were a product of any donor. Whether a child is fostered or adopted, to find out that information in some of the

scenarios that have been described to the house in the last few days would be horrifying to anybody. In my view, the contributions we have heard in the last 40 minutes have all been contributions on why we should be supporting this bill.

Ms Campbell — On a point of order, Speaker, I point out that the previous speaker's reference to my outlining surrogacy arrangements that had gone terribly wrong is not accurate.

The DEPUTY SPEAKER — Order! That is not a point of order, and the member for Pascoe Vale is aware of that.

Mr CLARK (Box Hill) — I indicate briefly that I support this amendment proposing to delete clause 39.

The DEPUTY SPEAKER — Order! We have not actually moved an amendment, we are just debating clause 39.

Mr CLARK — I stand corrected, Deputy Speaker. I support the member for Bentleigh in his argument as to why we should omit clause 39 from the bill. Clause 39 is pivotal to the scheme of this act which, as I referred to earlier, will lead to Parliament sanctioning the deliberate and conscious bringing into the world of children who will be raised without a mother or a father. For all of the reasons I indicated previously, I strongly believe that we should not be doing anything to embark on that course.

In relation to the Attorney-General's argument that deleting this clause would make the situation worse rather than better from the point of view of those who hold that view, on my reading of the member for Bentleigh's amendments, his proposed amendment 34 will insert a new clause that will make clear that an assisted reproductive treatment provider is not to carry out a treatment procedure for a surrogacy arrangement, so I think the point made by the Attorney-General is not valid.

In relation to the argument put by the member for Macedon that this bill gives rights to persons brought into the world through assisted reproductive treatment to obtain access to information about their genetic origins, the bill contains procedures and provisions for them to obtain that information so long as they know in the first place that they have been created through the use of assisted reproductive treatment. As far as the children are concerned, all they know and all they can find out is from what their social parents tell them. The birth certificate they would obtain from the registry will tell them they are the natural child of their social parents, and nothing triggers in them the fact that they might not be and therefore directs them or flags to them that they can go and get access to the information to which the member for Macedon refers. That is the fatal flaw in that line of reasoning and a very serious flaw in the bill in failing to ensure that children created by artificial means in the first place come to know that fact so they can then seek access to information about their biological origins.

Mr THOMPSON (Sandringham) — I asked the Attorney-General to delineate his view regarding the nature of surrogacy arrangements that might be approved by a particular patient review panel, and to outline to the house his understanding of what that particular clause provides for surrogacy arrangements where there are two female partners, but also in the case of two male partners that they could commission a surrogate child.

Some other information has been forwarded to me, and I would like to put it in the context that I do not come from a Catholic background. I would like it noted for the record that the Roman Catholic view is that the family in natural society exists prior to the state or any other community and possesses inherent rights which are inalienable. They see the family as a biological, psychosocial entity founded on the love between a man and a woman in marriage, which gives rise to a community of love and solidarity between parents and children which is uniquely suited to teach and transmit cultural, ethical, social, spiritual and religious values, essential for the development and wellbeing of its own members and of society. That information was from the Catholic Women's League of Victoria and Wagga Wagga. It was received on 26 September from its president, Madge Fahey.

People around the state have taken an interest in these matters. If we are reordering the ethical understanding and underpinning of our societal arrangements and parenting arrangements, I would be interested in the perspective of the Attorney-General. It would appear that a new form of order is being created — a substitute parentage order. There are certain dimensions of that new arrangement which may lead to this chamber meeting again together to try to unravel difficulties which have resulted.

It is my view that each child brought into the world is a unique and special child with his or her own inherent qualities and abilities and contribution to make to the wider world. These are not matters which we embark upon lightly. What this legislation is intending to achieve or do is to rewrite the social order that has operated under the traditions that have developed in and

underpinned Western civilisation. It is an important issue.

All of us who are parents know the responsibilities that attach to parenthood, the important balance to be achieved and the level of commitment required. It is not necessarily a matter of rolling up to an IVF (in-vitro fertilisation) clinic and selecting the particular ovum from a lady who may have parented an aggregate of nine children to that date, artificially conceiving that ovum, producing a child and then, as a matter of convenience, reordering society.

There are fundamental questions about what is in the best interests of children in their psychosocial identity and in their individual welfare and development. I invite the Attorney-General in the wider context — a context that he might well be familiar with — to amplify what this legislation means in terms of the nature of the arrangements referred to in clause 39 which may be approved by the patient review panel as we balance the human rights of individuals against the best interests of the child.

Mr HULLS (Attorney-General) — Clause 39 makes it quite clear that no surrogacy arrangements can take place without the approval of the patient review panel and until after extensive counselling. As I have said earlier, the underlying principles of this bill are that the best interests of the children are absolutely paramount. That is why clause 39 is appropriate.

Clause agreed to.

The DEPUTY SPEAKER — Order! As a consequence of the house agreeing to clause 39, the member for Bentleigh will not be able to move amendments 7, 9, 11 to 17, 23 to 25, and 34 as they are consequential.

Clause 40

Mr HUDSON (Bentleigh) — I move:

2. Clause 40, after line 26, insert —

"(ba) that the surrogate mother —

(i) has previously carried a pregnancy and given birth to a live child; and

(ii) still has the care of that child;".

Amendment 2 in my name relates to the issues to be considered by a patient review panel. This is a very important clause, because this is the clause that sets the criteria and the matters to be considered by the patient review panel in deciding an application for approval of a surrogacy agreement. Clause 40(1)(b) states that a surrogate mother must be at least 25 years of age. What I am proposing is that in addition to that clause the surrogate mother must also meet two other criteria.

The first is that she must have previously carried a pregnancy and given birth to a live child; and secondly, she must still have the care of the child.

The purpose of that amendment is to ensure that a surrogate mother has previously borne children and experienced the attachment that comes from pregnancy and birth. I believe if a surrogate mother has previously had a child, previously been through the birth experience, borne the child, gestated the child, she will be much better equipped to understand the implications of relinquishing a child. Having had her own child will help inform her in her decision to consent to hand over that child to a commissioning couple.

There are lots of parallels for this. If you look at the French law in relation to medically assisted procreation, for example, it requires that a sperm donor must have already been a father before he can donate, and there are good reasons for that. It is important that people entering into these arrangements understand what it means to be a father or what it means to be a mother. If, as in this instance, they are going to be a surrogate mother, it is important that they understand what it is like to form emotional bonds and attachments to a child, to give birth to a child and to rear a child, so they can understand the enormity of the consequences of what they are going to do in entering into an agreement to relinquish that child.

A young woman of 25 who has not had a child is not in that position. She is not in the same position as a woman who has had to go through that experience, and that is why I am moving this amendment. I believe it is appropriate. It will mean that we will be ensuring that any woman who acts as a surrogate mother, in giving informed consent, will be doing that in the full knowledge of the consequences of what she would be doing in agreeing beforehand to relinquish a child.

Without having been through that birth experience, without having gestated the child and borne the child and formed the attachments with a child, how can a woman know what it is going to be like to relinquish that child after it is born? That is the purpose of these amendments that I commend to the house.

Mr CRISP (Mildura) — I would also like to support the member for Bentleigh's amendment. This is wise counsel on a very sensitive issue. Again he has drawn extensively from what I would agree is experience of human nature, also avoiding and minimising some of

the risks around attachment, at birth or after, by the person who is giving birth to a child, control of whom they will have to relinquish.

We have seen this end in tears in the past, and we must do the best we can to avoid it ending in tears in the future. Again we have to draw on our experience of adoption to ensure that we are getting this part of the legislation right. So I support what the member for Bentleigh has done. I think he has shown great wisdom in this amendment.

Mr HULLS (Attorney-General) — To address the issue raised by the speakers, the Victorian Law Reform Commission looked at this matter and concluded that whilst it is desirable that the intending surrogate has experienced pregnancy and childbirth, this should not be a steadfast requirement. Exceptions should be allowed where it is apparent that the surrogate understands the implications of the arrangement and is able to make an informed decision.

The bill requires that the surrogate mother receive counselling about the social and psychological implications of entering into the surrogate arrangement. As I have said previously, the patient review panel must approve each surrogacy arrangement and be satisfied that the parties to the surrogacy arrangement are aware of and understand the personal and legal consequences of the arrangement.

I am confident that the interests of the woman becoming a surrogate mother will be protected by these measures as will children who are born as a result of these arrangements. The requirements in the bill are already very stringent, and I do not consider further regulation is required.

Mr THOMPSON (Sandringham) — I want to say at the outset that I asked a question on the previous clause that is equally germane to this amendment moved by the member for Bentleigh. That question was about surrogacy arrangements and what the view of the relinquishing mother might be in those circumstances. I just want to get clarification from the Attorney-General as to whether under this legislation it is envisaged that not only a female couple may embark upon the journey to be surrogate parents but whether two men might likewise be able to embark upon this journey and arrange, under this legislation that has been brought into the house by the Attorney-General, the commissioning of a surrogate mother to produce a child and what her circumstances might be when she is required to hand back the child to the two male parents.

Mr HULLS (Attorney-General) — In relation to the situation referred to by the member, those arrangements can happen now, as we know. Men are going overseas and commissioning surrogate children. This puts a legal framework around arrangements in relation to situations where two men commission a surrogate.

Ms CAMPBELL (Pascoe Vale) — The Attorney-General just said that two men can go overseas and get a surrogate. Yes, they can. But we are talking about Victorian women and we are talking about Australian women. I think the member for Bentleigh has come up with an eminently sensible suggestion for members to consider.

When any of us have been through a pregnancy, either personally or with someone we love, we know the attachments that are involved once a child starts to move and kick, once a woman's breasts enlarge and how she lactates after birth. Physiologically and psychologically as well as biologically, pregnancy changes that woman. The member Bentleigh has said to members: stop and please consider the fact that if a woman is going to become a surrogate, she needs to understand the dimensions of what she is being asked to do. Until you have actually experienced having carried a child, I put it to any member here that it is impossible to understand what it does to you, firstly, biologically, and secondly, as a human person. This is a good recommendation. It is a good amendment, and I support it.

Mr THOMPSON (Sandringham) — I appreciate the hour is late and that it is a burden on the parliamentary staff, the security staff, the Hansard staff and the Clerk for legislation to be debated when the Labor government said it would introduce family friendly hours. Maybe the reason we are still debating is because the legislation is not family friendly and may not be in the best interests of the child as outlined at the beginning of the bill.

I was not sure if I heard the Attorney-General correctly. I think he originally said that two men in a relationship can seek a surrogate overseas. The member for Pascoe Vale indicated that she thought those people could go overseas to do that. But I just want to clarify that the Attorney-General is introducing into the law of Victoria an arrangement under this bill where two men would be able with the approval of the patient review panel to commission a woman to be a surrogate; then she will confront the circumstances previously alluded to by the member for Bentleigh in terms of the range of emotions and experiences as a relinquishing mother. I ask if the Attorney-General can, for the parliamentary record and the purpose of statutory interpretation in the courts of

Victoria, make it very clear what he, as the Attorney-General, is introducing into the law of Victoria under this particular bill.

As a member of Parliament over a 16-year period, I am familiar with the circumstances of a wide number of families. The greatest hardship I see are the circumstances involving family breakdown which lead to the need for families to be supported in two households; this relates to the differential custodial relationships that involve the welfare and the best interests of the children; it involves the competing emotions, aspirations and the hurt and the grief that derive from those circumstances and experience. I ask whether the Attorney-General, in introducing this change to the law, has sound empirical data and material that indicates that the fundamental principles of this bill will be in fact in the best interests of the child.

If he has that material in evidence and he is able to present it to the house, then let it be shown to the chamber. But while the Attorney-General is taking advice I would like him, for the purposes of the parliamentary record, for the purposes of statutory interpretation and in a voice that is audible to the chamber, to present his viewpoint on this matter, for which he as Attorney-General is responsible in terms of the legislation before the house.

Mr HULLS (Attorney-General) — I have already addressed this question. I will make it quite clear yet again that the overriding consideration in this legislation is the interests of the child. In relation to the particular clause that is being addressed, I have made my views very clear. I do not support this amendment. This matter was addressed by the Victorian Law Reform Commission. In relation to the issue that has been raised by the member for Sandringham about two males, I have already addressed that. That can happen now; it will continue to be able to happen — —

Mr Thompson — Under the law in Victoria — —

Mr HULLS — But under the law in Victoria there will be appropriate legislative framework for children born of these arrangements.

House divided on amendment:

Ayes, 33

Blackwood, Mr	Mulder, Mr
Brooks, Mr	Northe, Mr
Burgess, Mr	O'Brien, Mr
Campbell, Ms	Powell, Mrs
Clark, Mr	Ryan, Mr
Crisp, Mr	Seitz, Mr
Delahunty, Mr	Smith, Mr R.
Dixon, Mr	Stensholt, Mr
Fyffe, Mrs (*Teller*)	Sykes, Dr
Hodgett, Mr	Thompson, Mr
Hudson, Mr	Tilley, Mr
Ingram, Mr	Victoria, Mrs
Jasper, Mr	Wakeling, Mr (*Teller*)
Kairouz, Ms	Walsh, Mr
Kotsiras, Mr	Weller, Mr
Languiller, Mr	Wells, Mr
Merlino, Mr	

Noes, 41

Allan, Ms	Langdon, Mr (*Teller*)
Andrews, Mr	Lim, Mr
Batchelor, Mr	Lupton, Mr
Beattie, Ms	Maddigan, Mrs
Brumby, Mr	Marshall, Ms
Cameron, Mr	Morand, Ms
Carli, Mr	Munt, Ms
Crutchfield, Mr	Nardella, Mr
D'Ambrosio, Ms	Neville, Ms
Donnellan, Mr	Noonan, Mr
Duncan, Ms (*Teller*)	Overington, Ms
Eren, Mr	Pallas, Mr
Foley, Mr	Perera, Mr
Green, Ms	Pike, Ms
Harkness, Dr	Richardson, Ms
Helper, Mr	Robinson, Mr
Herbert, Mr	Scott, Mr
Holding, Mr	Thomson, Ms
Howard, Mr	Trezise, Mr
Hulls, Mr	Wynne, Mr
Kosky, Ms	

Amendment defeated.

Mr HUDSON (Bentleigh) — I move:

3. Clause 40, page 33, line 20, omit all words and expressions on this line.

This amendment is in relation to the whole question again of the criteria for the consideration of when surrogacy arrangements should be approved by the review panel.

Acting Speaker, I believe there is a drafting error and I do not wish to proceed to speak any further on this clause. I withdraw the amendment.

Mr CLARK (Box Hill) — In relation to the honourable member for Bentleigh's amendment, it seems to me — and I do not want to pre-empt his assessment of what his own amendment is — that we are in effect mainly focusing on the issue of clause 41 of the bill and as to whether or not the patient review panel should have a discretion as to approving non-complying surrogacy arrangements in exceptional circumstances. It seems that the amendment we are proposing before the house relating to clause 40 is to delete subclause (3) of clause 40 as a prelude to dealing with the issue of clause 41.

That is certainly the way I read the amendment when it was circulated, and it still seems to me that is the purpose of the amendment. On that assumption, I think it is a sound amendment, because clause 41 gives a broad discretion to the patient review panel to approve non-complying surrogacy arrangements in exceptional circumstances, and this in a sense compounds the problems with the surrogacy arrangement, given amongst other things the very sweeping criteria and broad grounds on which the patient review panel can make such a decision. The patient review panel under clause 41 can do so if the panel believes that the circumstances of the proposed surrogacy arrangement are exceptional and it is reasonable to approve the arrangement, which gives very little guidance whatsoever to the community.

If the intention of the honourable member is to proceed to argue that clause 41 should be deleted, with this amendment being in effect consequential on that, although coming up first in the order of debate, then I would certainly support the arguments the member for Bentleigh is putting.

Mr HUDSON (Bentleigh) — The member for Box Hill is correct. Part of the problem here is that perhaps the amendments could have been around the other way. But the first reference to the panel and its discretionary power occurs in relation to clause 40, page 33, line 20.

My concern about the patient review panel having this absolute discretion arises because what we have said in clause 40 is, 'These are the criteria that need to be considered by the patient review panel in deciding an application for the approval of a surrogacy arrangement'. We have set some quite strict and clear criteria which have to be followed by the patient review panel in deciding whether or not it should approve a surrogacy arrangement for the application of an ART procedure.

Having gone through all those criteria, what we then find is that under clause 41 the patient review panel may in fact approve a non-complying surrogacy arrangement in exceptional circumstances. In fact, what this panel can do, having had the Parliament set up a whole framework which outlines all the criteria or all the matters that must be taken into account in deciding an application for approval of a surrogacy arrangement, is in fact throw those criteria out the window. It can throw those out the window on the basis of two criteria. It may approve a surrogacy arrangement despite failing to be satisfied of all the matters referred to in clause 41 in circumstances that are exceptional and if it is reasonable to approve the arrangement in those circumstances.

In a sense, clause 41 is giving the patient review panel absolute discretion which seems to negate all of the criteria that are carefully listed and presumably will be passed by this Parliament in clause 40. We should not set up a set of arrangements whereby we have this very clear set of criteria for approving a surrogacy arrangement under this bill and then say, 'But all of those can be discarded, all of those can be ignored, all of those can be put aside if the patient review panel thinks there are exceptional circumstances and if it thinks it is reasonable to approve the arrangement'. What that does is give the patient review panel, not this Parliament, the absolute power to decide what matters should be considered. They will not be the ones that are listed in clause 40. In fact, they can be a wide range of matters. I have asked what would be exceptional circumstances, and I do not believe there has been a satisfactory answer to that. I do not believe this Parliament should grant such wide discretionary powers to this panel for a purpose which would negate the effect of clause 40.

Mr LANGUILLER (Derrimut) — Very succinctly, I think the member for Bentleigh makes a good case. I raise this in the context of wanting to ask the minister to explain, because that section establishes criteria that are very comprehensive, but it appears to be negated by clause 41. I particularly would appreciate it, and submit very respectfully to the minister, if the minister could provide to the house examples of what exceptional circumstances may be. I think if he were to do that it would certainly help me and others, I am sure, to clarify these two matters and particularly the matter on clause 41.

Mr HULLS (Attorney-General) — I do not support this amendment. The patient review panel will have a very important role in approving all surrogacy arrangements. It will need to be satisfied that the parties to the surrogacy arrangements have met very stringent criteria which are set out in the legislation being referred to by the member for Bentleigh. However, clause 41 recognises that legislation cannot, and we have had experience of this before, contemplate all circumstances where a surrogacy arrangement may be appropriate. That is why clause 41 provides the patient review panel with some flexibility. I expect, and I expect all members of the house expect, that the patient review panel would only rely on clause 41 in very rare circumstances.

The member for Derrimut indicated what possible arrangement outside that set out in the criteria could be envisaged. Under the legislation, a surrogate mother and her partner have to receive counselling and legal advice. It is possible that a surrogate mother could have

received such counselling but her partner was not able to attend because he was unwell or incapacitated.

It may be that in those circumstances clause 41 would be used. I repeat it is envisaged that the provision would only be used in rare circumstances, but we have seen examples in the past where we have tried to envisage every single circumstance and place it in legislation. It is always appropriate to give some form of flexibility, and that is what this legislation does.

Mr CLARK (Box Hill) — I want to reinforce the concerns raised by the members for Derrimut and Bentleigh. In a sense I go further than the member for Bentleigh if the Attorney-General's attribution to him was correct because I do not regard the criteria in clause 40 as being particularly stringent. The criteria in clause 41 are the exact opposite of stringent — they are extraordinarily open-ended. The member for Derrimut rightly asked what are the clause 40 criteria that could be relaxed.

The Attorney-General mentioned possibly somebody need not have obtained counselling and legal advice, but I would have thought that would have been capable of being remedied. Could we dispense with the requirement that the surrogate mother be at least 25 years of age? Could we dispense with the requirement that the commissioning parent be unlikely to become pregnant? It is very difficult to see the circumstances in which clause 41 would be invoked.

On top of that, the drafting of clauses 41 and 40 raises the whole issue of the welfare and interests of the person or persons to be born. There is not a single mention of that as a criterion in either clause 41 or clause 40. That is in striking contrast to the fact that in clause 147, where it is proposed to insert a new section 22 into the Status of Children Act to govern the court making a substitute parentage order, it is specified that the court must be satisfied that the making of the order is in the best interests of the child.

The test is to be applied at that point, as I indicated in the second-reading debate, but there is no corresponding criterion specified in either clause 40 or 41 that the welfare and interests of the child likely to be born as a result of the arrangement must be taken into consideration. That is a fundamental weakness throughout the bill.

Furthermore, we have to ask who will be on this patient review panel that will be making these very important decisions in clauses 40 and 41. The only thing we know about the panel, when we look at clause 83 of the bill, is that at least one member must have expertise in child protection matters. Apart from that these people could be anybody that the Governor in Council, presumably on the recommendation of the Attorney-General, chooses to appoint. We are entrusting to this body of people whose backgrounds we have no idea about these extraordinarily wide and open-ended discretions in clause 41. Under clause 40 there is a set of criteria, most of which are fairly mechanical, but there is no criterion requiring the panel to have regard to the welfare and interests of the child to be born. All the considerations reinforce the proposal made by the member for Bentleigh to omit clauses 41 and 42.

Ms CAMPBELL (Pascoe Vale) — I, like the member for Derrimut, would like to know what is meant by the term 'exceptional circumstances'. I went to the definitions section, but there is nothing there. When the member asked his question, I thought, 'Good, I will have a better understanding of clause 41(a)'. However, I am unconvinced by the explanation given by the Attorney-General. I think this clause is extraordinarily broad.

As I said, I looked at the definitions, and I have just asked the member for Bentleigh about who comprises the patient review panel and in which clause we find it. The member for Box Hill pointed out the importance of outlining and reinforcing that the primary interests of the child need to be taken into consideration. I agree, but the provisions in clause 40 — which are to be overridden by clause 41 — are not strong enough regarding the extent of the surrogate's knowledge of what awaits her; the requirements should not be watered down any further with clause 41. I am afraid I got no comfort from the answer provided by the Attorney-General. I think we are running on blind faith, and it is not good enough. I support the member for Bentleigh.

Mr BURGESS (Hastings) — I have listened very carefully to the Attorney-General's answers to several questions throughout the evening, and I am looking for clarification — absolute clarification, if possible — a simple yes or no answer to two questions: firstly, can two males use this legislation to obtain a child? Secondly, can one male use this legislation to obtain a child? They are simple questions that look for yes or no answers.

Mr THOMPSON (Sandringham) — The member for Hastings has put a question to the Attorney-General, who has not been quick off the mark to answer it. It is fair that this be clarified. There are issues of statutory interpretation; he as the chief law officer of the state has the capacity, with the assistance of staff, to define the issue. He seems to be reticent about describing in clear

and unequivocal language the exact parenting arrangement that will take place.

The member for Bentleigh has posed an important question. When I put that question to the Attorney-General earlier he was reluctant to answer it in clear and categorical terms. I think it is important for the purposes of clear-cut statutory interpretation that he clearly answer the question rather than using words that only a judge or legal mind could interpret. That would be highly useful.

The question of surrogate arrangements is a very interesting one. I think it is relevant to quote from the 1984 committee that considered the social, ethical and legal issues arising from in-vitro fertilisation. I quote the parliamentary library research paper, which states that the committee found:

> … that commercial surrogacy arrangements as part of IVF access were 'completely unacceptable', on the grounds that the buying and selling of children was 'inhuman'.

I note for the assistance of Hansard at this late and socially unacceptable hour that I am quoting from page 20. The research paper continues:

> While the committee acknowledged that altruistic surrogacy could be of … benefit to infertile couples, it had the potential for serious complications for the surrogate herself, the child, the commissioning parents and — in the worst-case scenario — government welfare services. Cases in Britain and New South Wales of surrogates choosing not to relinquish the child informed these judgements. Ultimately the committee considered all forms of surrogacy to be the 'deliberate manufacture of a child for others', and therefore unable to be 'in the best interests of the child whose birth is planned'.

That report was given to a Labor government in 1984, and for the purposes of posterity I would like the Attorney-General to describe to the house his rationale for wanting this change to be incorporated and why he chooses to adopt the opinion of the Victorian Law Reform Commission as opposed to the former Committee to Consider the Social, Ethical and Legal Issues Arising from In Vitro Fertilisation, noting the importance of this issue for the welfare of children and for the best interests of the child — not for the good interests of the child and not for the social interests of the child but for the best and paramount interests of the child.

This is a critical issue. The Attorney-General is a man who moves in wide circles and who speaks with people in a range of important fields of service provision and welfare. He has worked as a legal aid lawyer. He has fought for the rights of many single people. He has fought for the rights of people who are in difficult financial circumstances. We should not underestimate the importance of trying as a community and as a society to provide the best, strongest and most enduring foundation for children to be reared.

In concluding I seek a response to the questions put by the member for Hastings in clear, unequivocal and unambiguous language, and also the Attorney-General's view as to how this surrogacy clause is in the best interests of a child whose birth is planned when that was not an arrangement supported by the 1984 Committee to Consider the Social, Ethical and Legal Issues Arising from In Vitro Fertilisation.

Mr LANGUILLER (Derrimut) — Very briefly, I feel compelled to make a comment in relation to the matters raised by the last two speakers in the context of clause 41 — —

The DEPUTY SPEAKER — Order! I indicate that we are actually on clause 40. I realise that clause 41 has some relationship to the issue, but it is a referral to clause 40.

Mr LANGUILLER — In relation to that as well, Deputy Speaker, if I may, I will just comment as a member of the Scrutiny of Acts and Regulations Committee that we have had extensive discussions in relation to this bill, and from the advice we have received and our interpretation of the bill we have come to understand and in fact to accept what the bill will do. Of course this is for public consumption on the internet. I refer members to the section of *Alert Digest* No. 1 of 2008, which relates to surrogacy, and to the fourth point, which states:

> Surrogacy will be available regardless of a person's marital or relationship status or sexual orientation.

Mr HULLS (Attorney-General) — In relation to the issues that have been raised, we are talking about clauses 40 and 41. I have raised the issue in relation to exceptional circumstances, and I think I have outlined that.

In relation to the issues which have been raised by the members for Sandringham and Hastings, I have previously answered them, and no doubt the member for Sandringham will look at *Daily Hansard* tomorrow. I answered that question previously. The fact is, and it has been outlined by the Scrutiny of Acts and Regulations Committee as mentioned by the member for Derrimut, that no-one who is unable to carry a pregnancy is indeed precluded from applying to the patient review panel in relation to surrogacy arrangements. A whole range of criteria have to be taken into account in assessing that application, and

indeed that decision by the panel is reviewable by the Victorian Civil and Administrative Tribunal.

Dr SYKES (Benalla) — I ask the Attorney-General for a simple, unambiguous clarification of the question and an answer to the question put by the member for Hastings. I will repeat that question for the Attorney-General; it is very simple and has two parts.

The DEPUTY SPEAKER — Order! Does it relate to clause 40?

Dr SYKES — On clause 40.

Mr Hulls interjected.

Dr SYKES — I am asking the Attorney-General a question. The question is: does this legislation allow for two males to commission a surrogate pregnancy? Part B of that question is: does this legislation allow for one male to commission a surrogate pregnancy? The minister has the choice: it is yes, yes; no, no; yes, no; or no, yes.

Mr HULLS (Attorney-General) — This question has been answered unequivocally.

Mr BURGESS (Hastings) — We are being asked to vote on an important piece of legislation; in fact I would describe it as an outrageous piece of legislation. The Attorney-General keeps rolling his eyes and making all sorts of noises as if he really does not want to be here, but he is asking us to vote on this piece of legislation. Many members have now asked this question, and I am about to ask it again. We are asking for a simple yes or no on those two questions — that is, under this legislation can two males commission a child; and under this legislation can one male commission a child? Does this legislation give that potential?

Mr HULLS (Attorney-General) — I think this will be the fifth or sixth time I have answered this question. No-one who is unable to carry a pregnancy is precluded from applying to the patient review panel. The panel has a whole range of criteria under which it will make an assessment. I repeat, that the panel's decision is reviewable by the Victorian Civil and Administrative Tribunal.

Mr Thompson — Deputy Speaker, I draw your attention to the state of the house.

Quorum formed.

Honourable members interjecting.

Mr Thompson — On a point of order, Deputy Speaker — —

Mr Crutchfield interjected.

The DEPUTY SPEAKER — Order! The member for South Barwon!

Mr Thompson — On a point of order, Deputy Speaker, the member for South Barwon is using offensive language at an important stage of the debate in the house today. I ask him to withdraw the statement that he made to me and ask for an apology for the statement that he has made at this instance.

Mr Crutchfield — I withdraw.

The DEPUTY SPEAKER — Order! Does the member for Sandringham wish to speak again on clause 40?

Mr Thompson — I did not quite hear the enunciation of the words by the member for South Barwon.

The DEPUTY SPEAKER — Order! The member for South Barwon has withdrawn. Does the member for Sandringham wish to speak again on clause 40?

Mr Thompson — That was a point of order; I was not speaking on the clause.

The DEPUTY SPEAKER — Order! The member for Benalla.

Dr SYKES (Benalla) — In the presence of a quorum I repeat my question to the Attorney-General in the interests of the clarity of the legislation before the house. I repeat it simply, and I seek a simple answer. I address the Attorney-General through the Chair and ask the question: does the legislation before the house allow for two males to commission a surrogate pregnancy? And secondly, does the legislation before the house allow for one male to commission a surrogate pregnancy?

As I said before, the Attorney-General — if he would care to listen, and show some respect for the Parliament — can answer the question with 'Yes, yes'; 'Yes, no'; 'No, yes'; or 'No, no'. It is as simple as that. Will the Attorney-General please provide for the Parliament a clear statement of the implications of this legislation so that this Parliament and the public of Victoria understand those implications fully. I thank the Attorney-General in anticipation.

Ms PIKE (Minister for Education) — I have been listening very carefully to the responses that the

Attorney-General has been making and I have heard him on numerous occasions indicate that this bill does in fact allow for same-sex couples to commission a surrogate arrangement.

I must say that I find it deeply concerning that members are continuing to request that the Attorney-General reiterate this when he has already done so time and time again. I can certainly draw no other conclusion than that those who are making this request are wanting us to continue to uphold discrimination on the basis of sexual preference alone, when there is absolutely no evidence that there is a correlation between sexual preference and antisocial behaviour, and in fact when there is absolutely no evidence anywhere that parents of the same gender are any less capable of loving, caring for and nurturing their children.

As I said, I have listened very carefully to this debate and I have heard the Attorney-General very clearly on numerous occasions acknowledge that this legislation allows for people in our community to have access to all their rights and obligations under the law irrespective of their race, colour, religion, gender or sexual preference. The fact that people keep asking the question again and again when the answer has been so clearly given can only lead me to believe that they wish to reinforce laws that are fundamentally discriminatory.

Mr FOLEY (Albert Park) — I too listened to the Attorney-General's answers in my room, and I was very clear in my understanding. I would perhaps address the question in a different way through the personal experience of a number of same-sex male couples in my electorate who have come to visit me on this issue, two of whom have been very brave indeed in putting their experience into a documentary form that was shown on SBS television a couple of months ago. This loving couple has two very healthy children born through surrogacy arrangements in the United States of America at huge expense to the two loving parents concerned.

I have listened with great respect and at some length to the comments of members opposite on this issue. As my old Nan used to put it, there are none so deaf as those who do not wish to hear. In this particular circumstance, if people keep reiterating the same point over and over to reinforce discriminatory, stereotypical arrangements in an attempt at this very late hour to try to force some kind of response from the Attorney-General, with the very greatest of respect, that is a very thinly disguised version of what I would call — —

Mr Thompson — On a point of order, Deputy Speaker, the member for Albert Park would make a worthy contribution if he in fact answered the questions put by the member for Hastings — —

The DEPUTY SPEAKER — Order! The member for Sandringham knows that is not a point of order. Does the member for Albert Park wish to continue?

Mr FOLEY — I have finished my contribution.

The DEPUTY SPEAKER — Order! Because this amendment deletes words from the clause, the question is — —

An honourable member — There is a question here.

The DEPUTY SPEAKER — Order! I had already started calling the question and I will therefore put the question. Because this amendment deletes words from the clause, the question is:

> That the words proposed to be omitted stand part of the clause.

Those supporting the amendment moved by the member for Bentleigh should therefore vote no. All those in favour say aye. Those against say no. I think the ayes have it.

Mr Thompson — The noes have it.

Amendment defeated.

The DEPUTY SPEAKER — Order! The question is:

> That clause 40 stand part of the bill.

Mr Thompson — On a point of order, Deputy Speaker, did you hear my comment that I did not accept the call? I called for a division.

The DEPUTY SPEAKER — Order! No, the member for Sandringham did not call for a division. I did not hear him call for a division. He said, 'The noes have it'. I put the question that clause 40 stand part of the bill.

Mr Clark — On a point of order, Deputy Speaker, the longstanding custom in this house is that when the Chair or Deputy Chair says that he or she thinks that a certain side of the vote has it and a member calls out that the opposite side has it, that is customarily taken as a call for a division — and any single member of the house has the right to call for a division. The honourable member for Sandringham has exercised his right, and regardless of what other members of the house may think about it, his call to assert that the other

side of the house had the question is, in accordance with longstanding practice, a requirement for a division. I submit with the greatest of respect, Deputy Speaker, that given we did hear the honourable member for Sandringham utter those words, that should be taken as a call for a division.

The DEPUTY SPEAKER — Order! I do not uphold the point of order because the member for Sandringham did not actually call for a division.

Mr Burgess — On a point of order, Deputy Speaker, nothing has happened on this occasion that has not happened earlier tonight, and I do not think the lateness of the hour should compromise in any way the rights of the member to a division.

The DEPUTY SPEAKER — Order! I do not uphold the point of order. As I indicated, the member for Sandringham did not call for a division; he indicated no.

Mr Thompson — On a point of order, Deputy Speaker, my understanding of the process is that when there is a mixed call the question 'Division required?' is put. I do not recall that question being put to the chamber.

The DEPUTY SPEAKER — Order! I asked whether the ayes had it or the noes had it. As I said, the custom is — —

Mr Thompson — As one voice — —

The DEPUTY SPEAKER — Order! I am not calling the member for Hastings. I am just about to say something, and I would ask him to sit down.

As it is very late and as there has been a lot of intense debate on this, I shall resubmit the question at my discretion. Does that suit the member for Sandringham?

Mr Thompson — Yes.

House divided on omission (members in favour vote no):

Ayes, 44

Allan, Ms
Andrews, Mr
Batchelor, Mr
Beattie, Ms
Brooks, Mr (*Teller*)
Brumby, Mr
Cameron, Mr
Carli, Mr
Crutchfield, Mr
D'Ambrosio, Ms
Donnellan, Mr
Duncan, Ms
Eren, Mr
Foley, Mr
Green, Ms
Harkness, Dr
Helper, Mr
Herbert, Mr
Holding, Mr
Howard, Mr
Hulls, Mr
Kosky, Ms
Langdon, Mr (*Teller*)
Languiller, Mr
Lim, Mr
Lupton, Mr
Maddigan, Mrs
Marshall, Ms
Morand, Ms
Munt, Ms
Nardella, Mr
Neville, Ms
Noonan, Mr
Overington, Ms
Pallas, Mr
Perera, Mr
Pike, Ms
Richardson, Ms
Robinson, Mr
Scott, Mr
Stensholt, Mr
Thomson, Ms
Trezise, Mr
Wynne, Mr

Noes, 31

Blackwood, Mr
Burgess, Mr
Campbell, Ms
Clark, Mr
Crisp, Mr
Delahunty, Mr (*Teller*)
Dixon, Mr
Fyffe, Mrs
Hodgett, Mr
Hudson, Mr
Ingram, Mr
Jasper, Mr
Kairouz, Miss
Kotsiras, Mr (*Teller*)
Merlino, Mr
Morris, Mr
Mulder, Mr
Northe, Mr
O'Brien, Mr
Powell, Mrs
Ryan, Mr
Seitz, Mr
Smith, Mr K.
Smith, Mr R.
Sykes, Dr
Thompson, Mr
Tilley, Mr
Wakeling, Mr
Walsh, Mr
Weller, Mr
Wells, Mr

Amendment defeated.

Mr CLARK (Box Hill) — I want to make some brief points in relation to clause 40. First of all I want to reiterate the fact that the welfare of the child to be born as a result of a surrogacy arrangement is not one of the criteria that is specified to be taken into account by the patient review panel in deciding whether or not to approve a surrogacy arrangement.

That reinforces the point that many other members and I have been making throughout: that this is a bill that puts the adults first and the children a long second. If the welfare of the child to be born as a result of the arrangement were truly front and foremost in the minds of the drafters of this legislation, this would have been specified as the first criterion of which the patient review panel needed to be satisfied before it could approve a surrogacy arrangement. As I said earlier, this is in contrast with the provisions relating to the test that is applied later on when the child born by surrogacy is the subject of a substitute parentage order application made to the court.

I also reiterate my concerns about the fact that the patient review panel is a body about whose likely composition the Parliament knows very little and over which it certainly has very little control.

Thirdly but certainly not the least, I want to respond to the argument put by the Attorney-General in the

previous debate — that is, it was open for an appeal to be taken to the Victorian Civil and Administrative Tribunal against a decision of the patient review panel. The difficulty with that argument is that when one looks at clause 96 of the bill one sees that an application may be made to Victorian Civil and Administrative Tribunal for a review of the decision of the panel not to approve a surrogacy arrangement, but there is no provision for an application to be made to VCAT for review of a patient review panel decision to approve a surrogacy arrangement.

That is yet another reinforcement of the fact that there is no inbuilt safeguard of a right of appeal in respect of protecting the interests of a child that might be born. It is only if the arrangement is not approved by the patient review panel that an appeal can be brought. There is no scope for the Victorian Assisted Reproductive Treatment Authority or for anybody else for that matter — the minister — to initiate an appeal to VCAT under clause 96 of the bill, and indeed — —

Honourable members interjecting.

The DEPUTY SPEAKER — Order! I ask members to keep the conversation level down.

Mr CLARK — That is reinforced by clause 97 of the bill, which indicates that an application under clause 96 can only be made by a person whose interests are affected by a decision of the panel or the failure of the panel to act.

It is quite clear that this is all running one way and there is no-one in there involved with the process who is oversighting the actions or decisions of the patient review panel and who is capable of initiating an appeal to protect the best interests of the child concerned.

Mr HULLS (Attorney-General) — Briefly on the issue that was raised by the member, clause 5 of the bill sets out the guiding principles for everything that occurs under this legislation. The guiding principles make it quite clear in clause 5 that:

> It is Parliament's intention that the following principles be given effect in administering this Act, carrying out functions under this Act, and in the carrying out of activities regulated by this Act —
>
> (a) the welfare and interests of persons born or to be born as a result of treatment procedures are paramount …

Then what has been raised under clause 40 by the member is that there is nothing that deals with the interests of the child being paramount and the things that the patient review panel will take into account. The fact is that the patient review panels are set out under this bill and indeed regulated under this bill, and it is a guiding principle of this bill that everything done under this bill has to have as the guiding principle that the welfare and interests of the children born of treatment procedures are paramount.

Mr THOMPSON (Sandringham) — In looking at this particular clause I go back to some issues that have been raised. The *Alert Digest* is reasonably deficient in its analysis of a number of these provisions and in terms of what might represent the best interests of the child. Under clause 40 there are certain matters to be considered by the patient review panel in deciding an application for approval of the surrogacy arrangement, and the criteria to be applied — —

Honourable members interjecting.

The DEPUTY SPEAKER — Order! I am finding the noise level a little high. Members should listen to the member for Sandringham.

Mr THOMPSON — We have not yet got to the part of the bill dealing with the constitution of the patient review panel, but that is further delineated in part 9. It is relevant in considering the question of surrogacy to review the patient review panel, being the body that will be making these important determinations and guiding the best interests of the child or children who will be born as a consequence of this bill. The bill states that the patient review panel is to consist of five members. Clause 83(2) provides that the members are to include:

> (a) a chairperson appointed by the Governor in Council; and
>
> (b) a deputy chairperson appointed by the Governor in Council; and
>
> (c) 3 other members appointed by the chairperson and chosen from the list of approved names under section 84.

Clause 83(3) states that:

> Of the members appointed under subsection (2)(c), at least one member must have expertise in child protection matters.

Clause 84 deals with a list of approved names:

> The Governor in Council, on the recommendation of the Minister, is to approve a list of names of persons suitable for appointment to the patient review panel.

Under the bill there is a patient review panel provided in a list appointed by the Attorney-General, and so the independence and judgement of this panel are in the hands of the Attorney-General.

Mr Hulls — The Minister for Health.

Mr THOMPSON — I stand corrected if it is the Minister for Health. The panel is appointed by a minister of the Crown, probably on the advice of his colleagues, and the Attorney-General has a wide overview in this particular field.

In terms of the process that was undertaken by the Victorian Law Reform Commission, there were some comments as to the impartiality and independence of the skills set of those people. They were highly qualified Melbourne professionals, highly qualified lawyers, highly qualified academics — but were their skills representative of the community interest and the skill sets in Victoria?

We have a surrogacy arrangement that is to be determined by people appointed from a list supplied by the minister, so it is in the hands of the government as to the range of people involved. There is a question, I put to the house, as to their independence, judgement and whether it is a balanced review and as to whether people who are on the panel might be key stakeholders with an interest in outcomes, as opposed to people who might have a different view about what might be in the best interests of the children. In going through the surrogacy arrangement, firstly, you require a doctor to have formed an opinion that in the circumstances, the commissioning parent is unlikely to become pregnant, be able to carry a pregnancy or give birth.

Some questions were put by the member for Hastings about whether the commissioning parents who will be entering into the surrogacy arrangement can be two men, or even one man. The Attorney-General has implicitly but not directly answered the question. He has not put on the record for the purpose of posterity the precise wording intended by the government in this legislation.

At this stage I want to take up a point raised by the Minister for Education. At a personal level I respect the rights of all people within our community. All people should be treated with respect; however, at the present time we are changing the law regarding parenting arrangements in Victoria, and I have no doubt about the human qualities we all possess, both in this chamber and in the Victorian community, but I question — —

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

House divided on clause:

Ayes, 44

Allan, Ms
Andrews, Mr
Batchelor, Mr
Beattie, Ms
Brooks, Mr
Brumby, Mr
Cameron, Mr
Carli, Mr
Crutchfield, Mr
D'Ambrosio, Ms
Donnellan, Mr
Duncan, Ms
Eren, Mr (*Teller*)
Foley, Mr
Green, Ms
Harkness, Dr
Helper, Mr
Herbert, Mr
Holding, Mr
Howard, Mr
Hulls, Mr
Kosky, Ms
Langdon, Mr (*Teller*)
Languiller, Mr
Lim, Mr
Lupton, Mr
Maddigan, Mrs
Marshall, Ms
Morand, Ms
Munt, Ms
Nardella, Mr
Neville, Ms
Noonan, Mr
Overington, Ms
Pallas, Mr
Perera, Mr
Pike, Ms
Richardson, Ms
Robinson, Mr
Scott, Mr
Stensholt, Mr
Thomson, Ms
Trezise, Mr
Wynne, Mr

Noes, 29

Blackwood, Mr
Burgess, Mr
Campbell, Ms
Clark, Mr
Crisp, Mr
Delahunty, Mr
Dixon, Mr
Fyffe, Mrs
Hodgett, Mr (*Teller)*
Hudson, Mr
Ingram, Mr
Jasper, Mr
Kairouz, Ms
Kotsiras, Mr (*Teller*)
Merlino, Mr
Mulder, Mr
Northe, Mr
Powell, Mrs
Ryan, Mr
Seitz, Mr
Smith, Mr K.
Smith, Mr R.
Sykes, Dr
Thompson, Mr
Tilley, Mr
Wakeling, Mr
Walsh, Mr
Weller, Mr
Wells, Mr

Clause agreed to.

Debate adjourned on motion of Mr BATCHELOR (Minister for Community Development).

Debate adjourned until next day.

Remaining business postponed on motion of Mr BATCHELOR (Minister for Community Development).

ADJOURNMENT

The DEPUTY SPEAKER — Order! The question is:

That the house do now adjourn.

Planning: water tanks

Mr WELLS (Scoresby) — I wish to raise a matter with the Minister for Planning, and a matter of significant importance to my constituents Mr and Mrs John and Catherine Marotta of Rowville.

The Marottas have been battling for some time with the local Knox council planning and state building regulations in relation to the placement of a 6000-litre water tank on their Rowville residential property.

The Marotta family, like many other people living in Melbourne, struggles to keep its garden alive during the drought, and in line with state government initiatives to encourage water conservation and the installation of water efficient appliances and good environmental practices, it took the decision to install a water tank in November 2007.

The action I seek is for the Minister for Planning to undertake an immediate investigation into the adequacy of existing building regulations, many of which have not been amended for a long time, with respect to the installation of water conservation measures, including rainwater tanks, in the front setbacks of new and existing residential properties.

Whilst the Marotta family considered that a rear yard installation was preferable, like many retrofit installations to homes unfortunately it was too difficult to have the existing plumbing modified to direct the water to fill the tank as the rear of the Marotta's property is elevated. So although it was not ideal from an aesthetic perspective, following careful consideration of the relevant local planning regulations, including property front and side setbacks, the Marottas decided to install the tank in the front yard of their property.

The Marottas believed that by choosing a pleasing colour for the tank and with the appropriate planting of evergreen trees and shrubs of a reasonable size they could in time fully conceal the water tank from view and overcome any objections based on streetscape intrusion. But due to the dry and harsh summer it was decided that the serious landscaping works could not be completed before the beginning of the autumn. There was an objection, and Knox council took up the objection and backed the person who objected, which meant the Marottas were in the difficult situation of having to move the tank from the front to closer to the back of their house.

In these difficult times of drought and water conservation I am asking the Minister for Planning to look at amendments that would allow the placement of water tanks and water conservation devices in the front setbacks of new and existing residential properties where it is appropriate. We believe the current planning laws do not allow for this update of environmental measures.

Bereavement Assistance Ltd: funding

Mr LANGDON (Ivanhoe) — I raise a matter for the Minister for Community Services. The action I request from the minister is to ensure that Bereavement Assistance Ltd, located at the Heidelberg Repatriation Hospital, in my electorate, can continue to meet the increased requests for assistance from members of our community who cannot afford funeral and burial services for their loved ones.

Mr Ted Worthington, JP, is a founder of this not-for-profit, charitable organisation, which has been deemed a public global benevolent institution. Since 1997 Ted has provided funeral and bereavement services for those people who cannot afford their own, through a mix of public donations, state government assistance and his own personal funds — and I stress 'his own personal funds'. The demands on and the cost of these services are increasing, and it has now reached the stage where the organisation urgently requires additional support.

The Department of Human Services recently provided a hearse, and now I urge the minister to consider this very strong case for further ongoing funding that will ensure this charitable and compassionate funeral service can continue to provide assistance for those who cannot afford commercial alternatives.

I also wish to take this opportunity to commend Ted Worthington and his organisation for providing sensitive and compassionate bereavement services for those whose loss and grief are compounded by the problem of unaffordable funeral costs. As the member for the area and the chair of the repatriation master plan, I have become aware of this organisation. I believe the organisation moved into the repat hospital site in 2003. I commend the service to the house. I urge the minister to address this shortfall.

Teson Trim: closure

Dr SYKES (Benalla) — My issue is for the attention of the Minister for Regional and Rural Development. I request that the minister acknowledges the severe impact of the closure of Teson Trim in Euroa, the loss of 92 jobs there and also the loss of 30 jobs in Mitcham. My request of the minister is to make all available programs immediately available to help affected people and their families by creating or fast-tracking jobs and by undertaking programs such as the skills assessment of the 92 employees and the upgrading of their skills.

I would like to put the loss of 92 jobs in the small community of Euroa into context. The community of Euroa has about 2000 to 2500 people. The total workforce in that area would be about 1000. We are talking about just under 10 per cent of jobs which have been lost in one hit. These are people that have worked at Teson Trim for many years. In some cases whole families are employed there. The implications for those families and the local community are very significant. I will also put this in context: the minister recently announced — I think — 590 employees of South Pacific Tyres would be losing their jobs and that a $700 000 program has been put in place to assist them.

I also indicate that for the people of Euroa, there are not jobs just around the corner. With the government's assistance, there is the opportunity to fast-track jobs in the Strathbogie shire, but in the absence of that, people will need to travel to other centres such as Shepparton, Benalla, Wodonga and Seymour; there will be significant travel costs involved. In addition to these job losses there is also the 12th year of a drought impacting on Euroa and its district as it is impacting on the whole community in northern Victoria and much of country Victoria. Of course the community of Euroa and the nearby area is also impacted by the foolhardy north–south pipeline.

I reiterate my request to the Minister for Regional and Rural Development to implement all programs available to ensure that the 92 people who have lost their jobs in Euroa can quickly find jobs and alternative — —

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

Nepean Highway–Bay Road, Cheltenham: red-light camera

Ms MUNT (Mordialloc) — The issue I raise is for the attention and action of the Minister for Police and Emergency Services. I ask the minister to take action to ensure the testing of road safety cameras, particularly the road safety camera located at the intersection of Bay Road, Karen Street and Nepean Highway in Cheltenham. I have been contacted by a number of my constituents in regard to this particular camera. While I am advised that regular servicing and testing is conducted on all digital camera sites around Victoria as part of a rigorous maintenance program, my constituents have asked that this be verified and applied to the camera at this intersection.

I must make it clear, however, that I do not dispute the need for a safety camera at this site. VicRoads statistics show that the intersection of the Nepean Highway and Bay Road is the most dangerous intersection in the Kingston local government area. There have been more than 26 casualties crashes at the intersection over the past five years, and the majority of these have been caused by motorists turning right into oncoming traffic. This is a dangerous intersection, and for the safety of motorists, pedestrians, motorcyclists and bicyclists measures must be put in place to make users of this intersection aware that every caution and care must be taken upon entering. It is the driver's responsibility to enter the intersection only when they are facing a green light — or amber when it is unsafe to stop.

Since 1997 there have been accidents involving 15 serious injuries and 16 other injuries at this intersection. Also, from 2005 to 2007 there were 12 collisions with other vehicles, 2 pedestrian accidents, 1 collision with a pole, 10 weekday crashes, 5 weekend crashes, 10 daytime crashes, 4 night-time crashes, 1 dusk-dawn crash, 3 wet road crashes and 5 high-alcohol time crashes. Motorists must be aware that this is the most dangerous intersection in the Kingston local government area, but they must also be assured that the working of the safety camera located there is precise and fair.

Health Information Exchange: funding

Ms WOOLDRIDGE (Doncaster) — I raise a matter for the attention of the Minister for Mental Health. I call on the minister to provide ongoing funding to the Salvation Army's night service operated at its Health Information Exchange in Grey Street, St Kilda.

The Health Information Exchange is a needle-syringe program which implements a range of public health measures to prevent and reduce the incidence of blood-borne viruses and sexually transmissible infections. It is a place for condoms, lube, needles and needle disposal, and it is also, importantly, where hundreds of people every month obtain access to comprehensive health information including drug-treatment programs.

Needle-syringe programs have received bipartisan support for over 20 years, saving many thousands of lives and billions of dollars. That is why the government's failure to commit to ongoing funding for this unique overnight service is so disappointing.

The Department of Human Services initiated the idea of the Health Information Exchange operating overnight, extending the existing 9.00 a.m. to 11.00 p.m. hours. It was a pilot program, but following an independent evaluation by Monash University that was completed in

August, which positively reviewed the program, the staff, management and community were optimistic about the program's future. The Health Information Exchange supports some of the most vulnerable Victorians: young women and men who are addicted to drugs, and young female and male sex workers.

Now, with three weeks till the funding runs out and the overnight doors having to be closed, the service has no commitment from the government about future funding. Shutting down overnight operations will guarantee that the 30 to 60 people who use the service every evening will be forced to take their chances. This means more reused needles, more unsafe sex, less information disseminated and possibly more infections.

Again and again we see pilots announced with much fanfare and a good photo opportunity for the minister, many of which are then evaluated as having a positive and beneficial impact for the community, but they are either not funded to continue or taken down to the wire before their funding is confirmed. Bureaucratic processes consistently delay good decision making, and this government's arrogance means it does not care. It does it again and again.

The impact is community organisations unable to plan, staff members uncertain about their jobs, and individuals and families who have no idea if they will continue to have access to important services. This is absolutely the wrong way to do business, but utterly typical of this minister and this government. The minister must fund this service, save lives and stop this ridiculous practice of driving services to the wall before funding is committed.

Sunbury–Loemans roads, Bulla: roundabout

Ms DUNCAN (Macedon) — I wish to raise a matter for the attention of the Minister for Roads and Ports. I ask the minister to take action to alleviate the congestion on the Sunbury Road, particularly city-bound traffic in the mornings. Sunbury Road is carrying increasing volumes of traffic and there are a number of points that cause traffic to slow down, creating a build-up. A number of sections of this road are listed at 60 kilometres per hour, and this obviously has an impact.

However, the roundabout at the corner of Loemans Road and Sunbury Road has a particular impact on the city-bound traffic. Traffic entering Sunbury Road from Loemans Road has priority, and this causes long delays in the morning peak. Loemans Road is not a particularly busy road, but it has a steady flow which has a disproportionate impact on the much heavier volume of traffic on the Sunbury Road. This issue has been raised with me and the minister and council. I know Hume council has been working with VicRoads in developing a solution to this problem.

A number of suggestions have been put to me in an effort to reduce the impact of this roundabout on city-bound traffic. I trust that together VicRoads and the City of Hume can design a solution for this roundabout. Sunbury and towns like Romsey and Lancefield have experienced significant growth in recent years, all of which is exacerbating the congestion. I call on the minister to do all that he can to ensure that a solution to this problem is found as quickly as possible.

Human Services: interim accommodation orders

Mr INGRAM (Gippsland East) — Acting Speaker, I am sure it is a spectacular morning outside! The matter I raise is for the Minister for Community Services and the action I seek is for the Department of Human Services to stop holding children overnight or without an independent review, and reduce the time children can be held at police stations before the likes of a bail justice is required to hear a case.

I have been contacted by a number of people who have raised concerns about this matter. Bail justices have an out-of-hours role in deciding applications for bail and interim accommodation orders until these matters can be heard by a magistrate. The authority to hear the applications for interim accommodation orders is given in sections 262 to 271 of the Children, Youth and Families Act 2005. Decisions must be made in accordance with the best interest principles detailed in section 10 of the Children, Youth and Families Act 2005.

The act states that a child taken into safe custody must be brought before a court or a bail justice as soon as possible after being in safe custody, and in any event within 24 hours after that event. In recent years the practice under this act and the corresponding section of the former Children and Young Persons Act has been to bring most safe custody applications taken outside court business hours before a bail justice. This practice has ensured that the placement of a child is considered by an independent authority as soon as possible. Whilst it is unusual for a bail justice to refuse to grant an interim accommodation order, there are circumstances when the bail justice will make an order for an alternative placement to that suggested by the protective intervenor.

A number of bail justices have been surprised and concerned that the Department of Human Services has issued a protocol which now requires protective intervenors to bring safe custody applications before the Children's Court as soon as practicable without the necessity of bringing the application before a bail justice, unless statutory or exceptional circumstance apply. This directive was made without consultation with bail justices or the Department of Justice's honorary justices office and means that unless no Children's Court is sitting the next day, children will be placed by a protective intervenor without any review.

The action I seek is for the minister to make sure that this is redressed and that bail justices are given the opportunity to assess the needs of young people, because we need at al times to look after the best interests of children. Sometimes it may not be what has been proposed by the relevant authorities.

Northside Christian College: funding

Mr BROOKS (Bundoora) — The matter I wish to raise tonight is for the attention of the Minister for Education. The specific action I seek is for her to fund a portion of the total project cost of a stage 2 upgrade at Northside Christian College, a college that is located in my electorate of Bundoora. I understand there is a state needs-based capital assistance program which at the moment allocates $30 million over four years to assist non-government schools that have capital needs.

Northside Christian College is a great local school in Bundoora. It is a growing school, and it has a great principal in Stephen Leslie. I was very lucky to be at the opening of stage 1 of their new Victorian certificate of education and technologies building some time ago, which was funded by the federal government. I was there with the member for Scullin in the federal Parliament, Harry Jenkins. The college is now looking to stage 2 of that development, which would create a media studies area, three general learning areas, a common room, careers counsellor's office and a staff work area. Obviously these works would help to expand the opportunities for students at the school and improve learning outcomes.

The total project cost for stage 2 is around $1 million. It would be fantastic if the minister could commit to funding a portion of that cost for Northside Christian College.

Rail: Mooroolbark station car park

Mr HODGETT (Kilsyth) — I wish to raise again a matter of importance with the Minister for Public Transport. The action I seek is for the minister to intervene in the stalled land swap negotiations between VicTrack and the Shire of Yarra Ranges, which will, when completed, see an upgrade to and increase of car parking facilities at Mooroolbark railway station in my electorate of Kilsyth.

As I have informed the house before, the abolition of zone 3 fares, a policy proposed by the coalition and taken up by those opposite, and the current economic and social climate all Victorians now face, has led to more commuters taking the cheaper and environmentally friendlier option of using public transport to get to and from work. Unfortunately for commuters using Mooroolbark station there is not enough capacity for them to park in the station's designated parking spaces, creating the issue of commuters parking in alternative long-term spaces, and in some cases short-term spaces, in and around Brice Avenue, causing frustration to traders and customers of this busy shopping precinct.

Whilst I am yet to receive any response from the minister to my adjournment debate matter of March this year on the issue of funding to increase car park provisions at train stations in my electorate, I am informed that negotiations are currently being undertaken between the Shire of Yarra Ranges and VicTrack, the government's facilities management group, to develop a strategy to extend the car park at Mooroolbark railway station. The strategy requires the Shire of Yarra Ranges to hand over ownership of land around the Mooroolbark railway station which can then be utilised to form additional car parking spaces. Rather than a straight sale, it is proposed that a mutually agreeable land swap be undertaken, with VicTrack acquiring the railway station land in Mooroolbark in exchange for a parcel of undeveloped land in Healesville. Any difference in value of the two properties would require a cash payment by either party so that the deal was fair and reasonable to all parties.

VicTrack, however, has placed the Shire of Yarra Ranges in a difficult position, claiming that the Healesville property is worth approximately $4 million, and is seeking these funds as part of the negotiations. The Healesville property is nowhere near any existing public transport assets and is currently vacant. Negotiations on the land swap deal are now stalled, with VicTrack claiming the Healesville property is worth much more than the market expectations and seeking this exorbitant amount as part of the negotiations. I find this situation unreasonable and ludicrous.

I call on the minister to intervene with this arm of the government's asset management service and facilitate a fair, just and equitable land swap which is in the interests of all parties. Let the work begin on the expansion of the Mooroolbark railway station car park so that local commuters have access to all-day parking bays at the Mooroolbark railway station.

Bushfires: preparedness

Ms GREEN (Yan Yean) — The matter I wish to raise is for the attention of the Minister for Police and Emergency Services. The action I seek is for him to ensure that Victoria's fire services are adequately resourced for the forthcoming fire season. Disturbingly, Victoria is in its 12th year of drought, and it is apparent that climate change is certainly with us. Only the last month Melbourne saw the driest September on record.

Two megafire events have ravaged Victoria in the eight years of this century. Last season, although no large fires were seen, the number of fire events was still very high. It is imperative that members of our community are confident in the ability of our fire services to protect them and that they feel empowered to protect their own lives and property, as the big red trucks — the BRTs as we in the game call them — and our volunteers cannot be in every street and near every house to protect them.

It is very pleasing to see, following the really difficult events of the early 1980s and the high loss of life, that our communities learnt from each of those events. However, it is important that we keep up the effort and ensure that our community has confidence. There is no doubt that there is a large amount of fuel. We had a bit of rain over winter which has caused a bit of fuel growth. It is very important that people taking holidays, particularly in our tourism areas, be alert to looking out for themselves and that our fire services in those areas — not just on the perimeter of Melbourne but across Victoria — have access to great firefighting services and access to water in order that they can continue to do the great job they do in protecting the lives, properties and farms of Victorians.

Responses

Mr MERLINO (Minister for Sport, Recreation and Youth Affairs) — I will refer those matters raised by members to the ministers responsible for their action.

House adjourned 2.45 a.m. (Thursday).