PARLIAMENT OF VICTORIA

PARLIAMENTARY DEBATES (HANSARD)

LEGISLATIVE ASSEMBLY

FIFTY-SIXTH PARLIAMENT

FIRST SESSION

Thursday, 15 October 2009

(Extract from book 13)

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

By authority of the Victorian Government Printer

The Governor

Professor DAVID de KRETSER, AC

The Lieutenant-Governor

The Honourable Justice MARILYN WARREN, AC

The ministry

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

Legislative Assembly committees

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

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

Joint committees

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Heads of parliamentary departments

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

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

Parliamentary Services — Secretary: Dr S. O'Kane

MEMBERS OF THE LEGISLATIVE ASSEMBLY

FIFTY-SIXTH PARLIAMENT — FIRST SESSION

Speaker: The Hon. JENNY LINDELL

Deputy Speaker: Ms A. P. BARKER

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

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

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

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

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

Leader of The Nationals:
Mr P. J. RYAN

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

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

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

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THURSDAY, 15 OCTOBER 2009

CONTENTS

Thursday, 15 October 2009

The SPEAKER (Hon. Jenny Lindell) took the chair at 9.36 a.m. and read the prayer.

PARKS AND CROWN LAND LEGISLATION AMENDMENT (EAST GIPPSLAND) BILL

Introduction and first reading

Mr BATCHELOR (Minister for Community Development) — I move:

> That I have leave to bring in a bill for an act to amend the Crown Land (Reserves) Act 1978 and the National Parks Act 1975 to make further provision for parks in East Gippsland, and to make other amendments to those acts, and to make related amendments to another act and for other purposes.

Mr INGRAM (Gippsland East) — Could the minister please provide the house with a brief explanation of the bill?

Mr BATCHELOR (Minister for Community Development) — This is a continuation of the environmental credentials of the government, and we propose — —

An honourable member — This will not take long then.

Mr BATCHELOR — We will see, won't we? We are prepared through this bill to create new parks and reserves in East Gippsland, and the member will be briefed on the details of those.

Motion agreed to.

Read first time.

BUSINESS OF THE HOUSE

Notice of motion: removal

The SPEAKER — Order! I advise the house that under standing order 144 notice of motion 224 will be removed from the notice paper on the next sitting day. A member who requires this notice standing in his or her name to be continued must advise the Clerk in writing before 2.00 p.m. today.

PETITIONS

Following petitions presented to house:

Mental health: Bass Coast housing

To the Legislative Assembly of Victoria:

Bass Coast has an approximate population of 30 000. The region has no affordable one-bedroom units, particularly in the town of Wonthaggi, for single people with a chronic mental illness under the age of 55.

We, the undersigned concerned citizens of Victoria, ask the Victorian Parliament, the Minister for Housing and the Minister for Community Services to support our petition and act immediately to provide long-term housing for single people with a chronic mental illness.

By Mr K. SMITH (Bass) (206 signatures).

Equal opportunity: legislation

To the Legislative Assembly of Victoria:

The petition of the undersigned residents of Victoria draws to the attention of the house our grave concern about many of the proposals contained in the *Exceptions and Exemptions to the Equal Opportunity Act 1995 — Options Paper* published by the Scrutiny of Acts and Regulations Committee in May 2009.

The petitioners therefore request that the Legislative Assembly of Victoria ensures that Victorians in future will continue to enjoy the freedom of choice that the current exemptions and exceptions provide for us in the exercise of our faith and values. In particular we would like to retain the freedom to educate our children in accordance with our faith and values. Removal or limiting of the provisions that allow freedom of choice in regards to faith-based schools in particular must be avoided.

By Mr CLARK (Box Hill) (28 signatures).

Equal opportunity: legislation

To the Members of the Legislative Assembly:

The petition of certain citizens of the state of Victoria draws to the attention of the Legislative Assembly the objection of the Victorian community to the proposed changes to the Equal Opportunity Act 1995 which will:

1. seriously threaten the educational freedom of independent or faith schools and remove or restrict the freedom of faith-based schools to operate in accordance with their beliefs and principles;

2. remove or restrict the right of schools to employ staff who uphold the school's values;

3. provide the Victorian Equal Opportunity and Human Rights Commission with the power to launch investigations of 'systemic discrimination' whether or not it has received a complaint;

4. allow the Victorian Equal Opportunity and Human Rights Commission to enter schools, small businesses and churches to conduct searches and seize documents and other material as part of their investigations;

5. remove sporting and recreational clubs from having a single-sex membership base.

The petitioners therefore respectfully call on the state government to abandon its plan for the removal of the exemptions to the Equal Opportunity Act 1995 which currently serve to protect the core interests of our faith schools, single-sex clubs and small business.

By Ms WOOLDRIDGE (Doncaster) (65 signatures).

Rail: Mildura line

To the Legislative Assembly of Victoria:

This petition of residents of Victoria draws to the attention of the house for the reinstatement of the Mildura–Melbourne passenger train.

The petitioners register their request that the passenger service be suitable for the long-distance needs of the aged and disabled who need to travel for medical treatment, for whom travelling by coach or car is not a comfort option, and for whom flying is financially and logistically prohibitive.

The petitioners therefore request that the Legislative Assembly of Victoria reinstate the passenger train to service the needs of residents in the state's far north who are disadvantaged by distance.

By Mr CRISP (Mildura) (79 signatures).

Insurance: fire services levy

To the Legislative Assembly of Victoria:

The petition of residents of Victoria draws to the attention of the house the inequitable nature of the current fire services levy and points out to the house the unfair burden that the increasing percentage of fire services levy in insurance premiums places on country Victorian households (26 per cent) and businesses (68 per cent) compared with Melbourne households (21 per cent) and businesses (51 per cent).

The petitioners therefore request that the Legislative Assembly of Victoria investigate and implement a fairer model of funding fire services, as is the case in other states of Australia.

By Mr CRISP (Mildura) (27 signatures).

Patient transport assistance scheme: rural access

To the Legislative Assembly of Victoria:

The petition of residents of Victoria draws to the attention of the house the inequitable nature of the current level of reimbursement under the Victorian patient transport assistance scheme (VPTAS) and points out to the house that many rural patients are disadvantaged under the current scheme.

The petitioners therefore request that the Legislative Assembly of Victoria:

a. update and revise the VPTAS regulations from 100 kilometres to 50 kilometres one way to the most appropriate town centre with medical/dental specialist treatment, not just the nearest available town centre;

b. increase the current 17-cent-per-kilometre reimbursement rate and accommodation reimbursement rate of $35 plus GST to levels that are more reflective of the current travel and accommodation costs;

c. allow for the calculation of kilometres travelled to be based on the safest appropriate road route, not just the shortest distance alternative.

By Mr CRISP (Mildura) (19 signatures).

Students: youth allowance

To the Legislative Assembly of Victoria:

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

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

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

By Mr CRISP (Mildura) (69 signatures) and Mrs POWELL (Shepparton) (34 signatures).

Rail: Shepparton line

To the Legislative Assembly of Victoria:

The petition of residents of Victoria draws to the attention of the house the need to reinstate passenger rail services from Shepparton through Numurkah and Strathmerton to Cobram and return, to service this important area and provide the convenience of passenger rail services directly to and from Melbourne, as has previously been provided.

The petitioners therefore request that the Victorian government takes positive action to reinstate passenger rail services as a matter of urgency.

By Mr JASPER (Murray Valley) (153 signatures).

Tabled.

Ordered that petition presented by honourable member for Doncaster be considered next day on motion of Ms WOOLDRIDGE (Doncaster).

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

Ordered that petition presented by honourable member for Bass be considered next day on motion of Mr K. SMITH (Bass).

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

OFFICE OF THE PUBLIC ADVOCATE

Report 2008–09

Mr BATCHELOR (Minister for Community Development), by leave, presented report.

Tabled.

CONSUMER UTILITIES ADVOCACY CENTRE

Report 2008–09

Mr ROBINSON (Minister for Consumer Affairs), by leave, presented report.

Tabled.

VICTORIAN COMPETITION AND EFFICIENCY COMMISSION

Report 2008–09

Mr BATCHELOR (Minister for Community Development), by leave, presented report.

Tabled.

PUBLIC SECTOR ASSET INVESTMENT PROGRAM

Budget information paper no. 1 2009–10

Mr BATCHELOR (Minister for Community Development), by leave, presented paper.

Tabled.

PUBLIC ACCOUNTS AND ESTIMATES COMMITTEE

Budget estimates 2009–10 (part 2)

Mr STENSHOLT (Burwood) presented report, together with appendices, extract from proceedings and minority reports.

Tabled.

Ordered to be printed.

CHILDREN'S COURT OF VICTORIA

Report 2007–08

Mr HULLS (Attorney-General) presented report by command of the Governor.

Tabled.

DOCUMENTS

Tabled by Clerk:

Accident Compensation Conciliation Service — Report 2008–09

Adult, Community and Further Education Board — Report 2008–09

Adult Parole Board — Report 2008–09

Alexandra District Hospital — Report 2008–09

Alfred Health — Report 2008–09

Alpine Health — Report 2008–09 (two documents)

Altona Memorial Park, Trustees of — Report 2008–09

Ambulance Victoria — Report 2008–09

Austin Health — Report 2008–09 (two documents)

Australian Grand Prix Corporation — Report 2008–09

Bairnsdale Regional Health Service — Report 2008–09 (two documents)

Ballarat Health Services — Report 2008–09

Barwon Health — Report 2008–09

Barwon Region Water Corporation — Report 2008–09

Bass Coast Regional Health — Report 2008–09

Beaufort and Skipton Health Service — Report 2008–09

Beechworth Health Service — Report 2008–09 (two documents)

Benalla and District Memorial Hospital — Report 2008–09

Bendigo Health Care Group — Report 2008–09

Boort District Hospital — Report 2008–09 (two documents)

Building Commission — Report 2008–09

Calvary Health Care Bethlehem Ltd — Report 2008–09 (two documents)

Casterton Memorial Hospital — Report 2008–09

CenITex — Report 2008–09

Central Gippsland Health Service — Report 2008–09 (two documents)

Central Gippsland Region Water Corporation — Report 2008–09

Central Highlands Region Water Corporation — Report 2008–09

Cheltenham and Regional Cemeteries Trust — Report 2008–09

Child Safety Commissioner — Report 2008–09

City West Water Ltd — Report 2008–09

Cobram District Hospital — Report 2008–09 (two documents)

Cohuna District Hospital — Report 2008–09

Colac Area Health — Report 2008–09

Coliban Region Water Corporation — Report 2008–09 (two documents)

Commissioner for Law Enforcement Data Security, Office of — Report 2008–09

Community Visitors — Report 2008–09 under the *Mental Health Act 1986*, *Health Services Act 1988* and *Disability Act 2006* — Ordered to be printed

Confiscation Act 1997 — Asset Confiscation Operations Report 2008–09

Consumer Affairs Victoria — Report 2008–09 — Ordered to be printed

Country Fire Authority — Report 2008–09

Dental Health Services Victoria — Report 2008–09

Djerriwarrh Health Services — Report 2008–09 (two documents)

Dunmunkle Health Services — Report 2008–09

East Gippsland Region Water Corporation — Report 2008–09

East Grampians Health Service — Report 2008–09

East Wimmera Health Service — Report 2008–09

Eastern Health — Report 2008–09

Echuca Regional Health — Report 2008–09

Edenhope and District Memorial Hospital — Report 2008–09

Education and Early Childhood Development, Department of — Report 2008–09

Emerald Tourist Railway Board — Report 2008–09

Emergency Services Superannuation Board — Report 2008–09

Emergency Services Telecommunications Authority — Report 2008–09

Energy Safe Victoria — Report 2008–09

Environment Protection Authority — Report 2008–09

Essential Services Commission — Report 2008–09

Fawkner Crematorium and Memorial Park Trust — Report 2008–09

Fed Square Pty Ltd — Report 2008–09

Film Victoria — Report 2008–09

Financial Management Act 1994:

Report from the Minister for Community Services that she had received the Report 2008–09 of the Disability Services Commissioner

Reports from the Minister for Environment and Climate Change that he had received the reports 2008–09 of the:

Alpine Resorts Co-ordinating Council

Commissioner for Environmental Sustainability

Surveyors Registration Board of Victoria

Reports from the Minister for Health that he had received the reports 2008–09 of the:

Anderson's Creek Cemetery Trust

Bendigo Cemeteries Trust

Chinese Medicine Registration Board of Victoria

Chiropractors Registration Board of Victoria

Dental Practice Board of Victoria

Health Purchasing Victoria

Infertility Treatment Authority

Lilydale Cemeteries Trust

Maldon Hospital

Manangatang and District Hospital

Medical Radiation Practitioners Board of Victoria

Mildura Cemetery Trust

Omeo District Health

Optometrists Registration Board of Victoria

Osteopaths Registration Board of Victoria

Pharmacy Board of Victoria

Physiotherapists Registration Board of Victoria

Podiatrists Registration Board of Victoria

Preston Cemetery Trust

Templestowe Cemetery Trust

Wyndham Cemeteries Trust

Report from the Minister for Mental Health that she had received the Report 2008–09 of the Mental Health Review Board incorporating the Psychosurgery Review Board

Reports from the Minister for Planning that he had received the reports 2008–09 of the:

Architects Registration Board of Victoria

Dandenong Development Board

Heritage Council of Victoria

Reports from the Minister for Public Transport that she had received the reports 2008–09 of the:

Rolling Stock (VL-1) Pty Ltd

Rolling Stock (VL-2) Pty Ltd

Rolling Stock (VL-3) Pty Ltd

Report from the Minister for Women's Affairs that she had received the Report 2008–09 of the Queen Victoria Women's Centre

Geelong Cemeteries Trust — Report 2008–09

Gippsland and Southern Rural Water Corporation — Report 2008–09

Gippsland Southern Health Service — Report 2008–09 (two documents)

Goulburn Valley Health — Report 2008–09

Goulburn Valley Region Water Corporation — Report 2008–09

Goulburn-Murray Rural Water Corporation — Report 2008–09

Grampians Wimmera Mallee Water Corporation — Report 2008–09

Greyhound Racing Victoria — Report 2008–09

Growth Areas Authority — Report 2008–09

Health Services Commissioner, Office of — Report 2008–09

Hepburn Health Service — Report 2008–09

Hesse Rural Health Service — Report 2008–09

Heywood Rural Health — Report 2008–09

Human Services, Department of — Report 2008–09

Inglewood and Districts Health Service — Report 2008–09

Innovation, Industry and Regional Development, Department of — Report 2008–09

Irrigation Modernisation in Northern Victoria — Report 2008–09

Justice, Department of — Report 2008–09

Kerang District Health — Report 2008–09

Kilmore and District Hospital — Report 2008–09

Kooweerup Regional Health Service — Report 2008–09 (two documents)

Kyabram and District Health Service — Report 2008–09

Kyneton District Health Service — Report 2008–09

Latrobe Regional Hospital — Report 2008–09

Legal Practitioners Liability Committee — Report 2008–09

Lorne Community Hospital — Report 2008–09

Lower Murray Urban and Rural Water Corporation — Report 2008–09

Mallee Track Health and Community Service — Report 2008–09

Mansfield District Hospital — Report 2008–09 (two documents)

Maryborough District Health Service — Report 2008–09

McIvor Health and Community Services — Report 2008–09

Melbourne and Olympic Parks Trust — Report 2008–09

Melbourne Convention and Exhibition Trust — Report 2008–09

Melbourne Health — Report 2008–09

Melbourne Market Authority — Report 2008–09

Melbourne Water Corporation — Report 2008–09

Mercy Public Hospitals Inc — Report 2008–09 (two documents)

Metropolitan Fire and Emergency Services Board — Report 2008–09

Moyne Health Services — Report 2008–09

Mt Alexander Hospital — Report 2008–09

Nathalia District Hospital — Report 2008–09 (two documents)

National Environment Protection Council — Report 2007–08

National Parks Act 1975 — Report 2008–09 on the working of the Act

National Parks Advisory Council — Report 2008–09

Necropolis Springvale, Trustees of — Report 2008–09

North East Region Water Corporation — Report 2008–09

Northeast Health Wangaratta — Report 2008–09

Northern Health — Report 2008–09 (two documents)

Numurkah District Health Service — Report 2008–09 (two documents)

Nurses Board of Victoria — Report 2008–09

Ombudsman — Brookland Greens Estate — Investigation into methane gas leaks — Ordered to be printed

Orbost Regional Health — Report 2008–09

Otway Health and Community Services — Report 2008–09

Parks Victoria — Report 2008–09 (two documents)

Parliamentary Contributory Superannuation Fund — Report 2008–09

Peninsula Health — Report 2008–09 (two documents)

Peter MacCallum Cancer Centre — Report 2008–09

Phillip Island Nature Park — Report 2008–09

Planning and Community Development, Department of — Report 2008–09

Plumbing Industry Commission — Report 2008–09

Police Appeals Board — Report 2008–09

Police Integrity, Office of — Report 2008–09 — Ordered to be printed

Port of Hastings Corporation — Report 2008–09

Port of Melbourne Corporation — Report 2008–09

Portland District Health — Report 2008–09

Premier and Cabinet, Department of — Report 2008–09

Primary Industries, Department of — Report 2008–09 (two documents)

Public Transport Ticketing Body — Report 2008–09

Queen Elizabeth Centre — Report 2008–09 (two documents)

Radiation Advisory Committee — Report 2008–09

Regional Development Victoria — Report 2008–09

Residential Tenancies Bond Authority — Report 2008–09

Roads Corporation (VicRoads) — Report 2008–09

Robinvale District Health Services — Report 2008–09

Rochester and Elmore District Health Service — Report 2008–09

Rolling Stock Holdings (Victoria) Pty Ltd — Report 2008–09

Rolling Stock Holdings (Victoria-VL) Pty Ltd — Report 2008–09

Royal Botanic Gardens Board — Report 2008–09

Royal Children's Hospital — Report 2008–09

Royal Victorian Eye and Ear Hospital — Report 2008–09

Royal Women's Hospital — Report 2008–09

Rural Finance Corporation of Victoria — Report 2008–09

Rural Northwest Health — Report 2008–09

Seymour District Memorial Hospital — Report 2008–09 (two documents)

South East Water Ltd — Report 2008–09

South Gippsland Hospital — Report 2008–09

South Gippsland Region Water Corporation — Report 2008–09

South West Healthcare — Report 2008–09

Southern and Eastern Integrated Transport Authority — Report 2008–09

Southern Cross Station Authority — Report 1 July 2008 to 31 July 2009

Southern Health — Report 2008–09

St Vincent's — Report 2008–09 (two documents)

State Electricity Commission of Victoria — Report 2008–09

State Services Authority — Report 2008–09

State Sport Centres Trust — Report 2008–09

State Trustees Ltd — Report 2008–09

Stawell Regional Health — Report 2008–09

Sustainability and Environment, Department of — Report 2008–09

Sustainability Victoria — Report 2008–09

Swan Hill District Health — Report 2008–09

Tallangatta Health Service — Report 2008–09 (two documents)

Terang and Mortlake Health Service — Report 2008–09

Timboon and District Healthcare Service — Report 2008–09

Tourism Victoria — Report 2008–09

Transport Accident Commission — Report 2008–09

Transport, Department of — Report 2008–09

Treasury and Finance, Department of — Report 2008–09

Treasury Corporation of Victoria — Report 2008–09

Tweddle Child and Family Health Service — Report 2008–09 (two documents)

Upper Murray Health and Community Services — Report 2008–09 (two documents)

V/Line Passenger Corporation — Report 2008–09

V/Line Passenger Pty Ltd — Report 2008–09

VicForests — Report 2008–09

Victims of Crime Assistance Tribunal — Report 2008–09

Victoria Legal Aid — Report 2008–09

Victoria Police — Chief Commissioner, Office of — Report 2008–09

Victoria State Emergency Service Authority — Report 2008–09

Victorian Coastal Council — Report 2008–09

Victorian Commission for Gambling Regulation — Report 2008–09

Victorian Curriculum and Assessment Authority — Report 2008–09

Victorian Electoral Commission — Report 2008–09

Victorian Environmental Assessment Council — Report 2008–09

Victorian Funds Management Corporation — Report 2008–09

Victorian Government Purchasing Board — Report 2008–09

Victorian Health Promotion Foundation — Report 2008–09 (two documents)

Victorian Institute of Forensic Mental Health — Report 2008–09 (two documents)

Victorian Institute of Sport Trust — Report 2008–09 (two documents)

Victorian Institute of Teaching — Report 2008–09

Victorian Managed Insurance Authority — Report 2008–09

Victorian Rail Track — Report 2008–09

Victorian Regional Channels Authority — Report 2008–09

Victorian Registration and Qualifications Authority — Report 2008–09

Victorian Skills Commission — Report 2008–09

Victorian Urban Development Authority — Report 2008–09

Victorian WorkCover Authority — Report 2008–09

Wannon Region Water Corporation — Report 2008–09

Water Industry Act 1994 — Reports under s 77A (three documents)

West Gippsland Healthcare Group — Report 2008–09

West Wimmera Health Service — Report 2008–09

Western District Health Service — Report 2008–09

Western Health — Report 2008–09

Western Region Water Corporation — Report 2008–09

Westernport Region Water Corporation — Report 2008–09

Wimmera Health Care Group — Report 2008–09

Wodonga Regional Health Service — Report 2008–09

Yarra Bend Park Trust — Report 2008–09

Yarra Valley Water Ltd — Report 2008–09 (three documents)

Yarram and District Health Service — Report 2008–09 (two documents)

Yarrawonga District Health Service — Report 2008–09 (two documents)

Yea and District Memorial Hospital — Report 2008–09

Young Farmers' Finance Council — Report 2008–09

Youth Parole Board and Youth Residential Board — Report 2008–09

Zoological Parks and Gardens Board — Report 2008–09 (two documents).

BUSINESS OF THE HOUSE

Adjournment

Mr BATCHELOR (Minister for Community Development) — I move:

That the house, at its rising, adjourn until Tuesday, 10 November.

Motion agreed to.

MEMBERS STATEMENTS

HMAS *Canberra*: dive site

Ms NEVILLE (Minister for Mental Health) — On Sunday, 4 October, the HMAS *Canberra* was scuttled off the coast of Ocean Grove. It was a great day, despite some delays due to weather conditions, with thousands of people lining the coast to watch this historic event. It is the first time a decommissioned navy ship has been scuttled in Victoria. I remember raising the matter in this house in 2006 for the then tourism minister. I asked

the minister to advocate to the commonwealth government for the HMAS *Canberra* to be gifted to Victoria. The HMAS *Canberra* was subsequently gifted, and the Victorian government provided $1.5 million in funding to support the project and the decommissioning.

The artificial reef that will now be formed will result in this becoming one of Australia's premier dive states. It will be a boon for the local tourism region, the dive tour operators and the whole Bellarine region. The scuttling will mean that even more visitors will come to the beautiful region to dive on the exciting new reef that will create a real underwater wonderland.

Studies by Tourism Victoria estimate the net economic benefit to Victoria of the dive site through spending by new visitors to be around $1.3 million per annum. That will see the creation of new local jobs, and that is great news for the Bellarine. The scuttling is another way that the state government is showing its commitment to supporting tourism, which provides jobs to 180 000 Victorians and generates $15 million for the state's economy.

Box Hill: central activities district

Mr CLARK (Box Hill) — The Brumby government is continuing to short-change residents of Box Hill. In December last year, the government declared Box Hill one of six central activities districts (CADs) under its Melbourne @ 5 million policy. This means, according to the government, that Box Hill is supposed to have 'a range of public facilities' and 'additional investment' put into it, and 'close attention' paid to transport needs.

However, to date labelling Box Hill as a CAD has turned out to be just as empty as the government's labelling of Box Hill as a transit city in 2001. Box Hill residents have had spreading high-density developments forced upon them but have got none of the promised benefits. Even on its Box Hill CAD web page the government admits Box Hill has received only $2 million, including council money, and all that has done is upgrade the appearance of the Box Hill mall and pay for the preparation of a structure plan.

If the government is fair dinkum about calling Box Hill a CAD, it must at least commit to the long overdue upgrade of Box Hill's poorly designed, inefficient and windswept bus interchange. It must also work with the community and Whitehorse council on projects such as improving traffic flow, pedestrian movement and car parking, and provide the funds needed to implement those projects.

Last but not least, if the government seriously wants Box Hill to be a transport hub, it needs to put Box Hill in public transport zone 1 for tram 109 and in the zone 1+2 transition for train services, so that Box Hill is accessible on a single zone ticket for commuters from either east or west. Currently zone 1 ends just one station westwards at Mont Albert, which means that commuters travelling to or from closer to Melbourne have to buy a two-zone ticket, and that discourages public transport use and undermines the whole transport hub strategy.

Breast cancer: Diamond Creek events

Ms GREEN (Yan Yean) — I want to commend the fantastic women from across my electorate who organised and attended Girls Night In events for fundraising to find a cure for breast cancer. This week has seen or will see events organised by the Diamond Creek Living and Learning Centre, Curves gym in Diamond Creek and paramedics stationed at Diamond Creek, and Laurimar women will all get together this Saturday.

I want to pay particular tribute to the Girls Night In event organised by the Diamond Creek Living and Learning Centre last Friday night. It was the most amazing event. More than 500 women 'pinked up' to the nines and drank pink drinks, ate pink food and danced to the great tunes of A2G, with music from the 1960s, 1970s and 1980s. It was great to see that some $13 633.45 was raised to be shared between Cancer Council Victoria and our local support group, the 4Cs.

So many people worked tirelessly to make this event the success it was, but special mention must be made of the major sponsors, the Bendigo Bank and the Diamond Creek Community Centre, as well as the volunteer organising committee from the friends group: Christina Altamore, Desiree Pain, also known as Miss Candy Floss, Michelle Chubb, Michelle Molinaro, Cheryl Davies, Sherrilyn Ballard, Agata Commisso, Monica Hemphill, Annie Formica, Anthony Herrett, Maeve Clonan, Maria Maurer and Dawn McDonald. Well done to all these great women and the businesses that generously supported this event.

Bushfires: local government

Mrs POWELL (Shepparton) — As this is Fire Action Week, I would like to pay tribute to the action local governments are taking to assist their communities to rebuild their lives after the recent disastrous bushfires. Many councillors, council officers and staff were affected by the fires themselves or know of someone who has been and they have still been

tirelessly working with their communities to help them recover. I have met with a number of councils whose municipalities were badly affected by the fires and I know the toll this has taken on the councils and officers over the past seven months as they support the people who have lost their loved ones, their homes and, in some cases, their livelihood.

The 2009 Victorian Bushfires Royal Commission released an interim report in August. One of its recommendations was a shift in emphasis from built structures acting as refuges to the use of other options such as existing venues, including car parks, amenity blocks and open spaces. The government's response was that for the next fire season sites would be identified as appropriate 'neighbourhood safer places', with priority in the 52 towns identified as most at risk this season and that the public would be educated about the use of those places.

Councils have raised a number of concerns with me about the use of safer places. They do not have any guidelines about the type or location of safer places or who would be responsible for the provision of access to and maintenance of those safer places. The councils have asked if there will be extra funding from the state government to cover those extra responsibilities, and they want to know who will be responsible for the liability of those safer places. I ask the government to assist those councils.

South Pacific tsunami

Mr DONNELLAN (Narre Warren North) — I have been watching with great sadness the events unfolding in Samoa, American Samoa, and Tonga since 29 September, and have been deeply affected by the stories of loss and hardship this disaster has brought to the people of the region. The natural beauty of Samoa, American Samoa and Tonga is what draws so many people from all over the world to visit year after year, but events such as these can quickly shock us into remembering the sheer power of nature and the fragility of human life.

I would like to express my sincere sorrow at the damage and loss wrought by this tragedy. It is difficult to comprehend the weight of such a loss of life. The loss of a child, a mother, a father, a friend or a colleague is a tremendous weight for anyone to bear. What we are dealing with here is the loss of entire sections of communities, with many people of all ages killed or injured. It is a scene that I can only begin to comprehend.

I would like the people of Samoa, American Samoa and Tonga to know that I, like all Australians, am keeping them in my thoughts and prayers. I extend my sympathies and condolences to the people of Samoa, American Samoa and Tonga, and I hope that the support of Australia and the global community reaches those affected as quickly and as effectively as possible.

Further, my sympathy goes out to local members of the Samoan-Tongan community in Narre Warren North who have lost relatives in these terribly difficult circumstances.

Bushfires: native vegetation clearance

Mr MORRIS (Mornington) — Over one month ago the government announced interim measures for bushfire protection for all except 21 municipalities across the state. While many councils have expressed their concern at losing total control of the process, they have nevertheless taken the changes in their stride. The Mornington Peninsula council has traditionally taken a tough line on vegetation clearance, and it has been the subject of many complaints to my office. Despite reservations, the council has embraced the changes and given appropriate publicity to the new arrangements. In doing so it has recognised that homeowners will almost always be responsible in the way they prepare for the fire season. I congratulate the council on its pragmatic approach.

Unfortunately the City of Frankston has decided that the changes do not apply to it. Instead of supporting its community, the council has threatened to prosecute community members, falsely claiming that trees over a certain size cannot be removed. The council's stance is causing considerable confusion, and more importantly, delay in preparation for the fire season. I urge the ministers for local government and planning to make sure that all residents of Frankston understand the real rules, rather than the misinformation being peddled by the council.

Aichi Prefecture: Typhoon Melor

Mr MORRIS — On another matter, last week Typhoon Melor tore through our sister region in Japan, Aichi province. Wind speeds reached 198 kilometres an hour, damaging houses, paralysing road, rail and air transport and causing widespread blackouts. There have been a number of deaths and injuries. My thoughts are with Governor Kanda and the people of Aichi as they deal with the aftermath of the typhoon.

Carbon capture and storage: government initiatives

Mr BROOKS (Bundoora) — Today marks the first anniversary of the successful passage through this house of the Greenhouse Gas Geological Sequestration Bill. As members of this house are aware, the Brumby Labor government is committed to reducing Victoria's greenhouse gas emissions by 60 per cent by 2050 compared to levels in 2000. The act provides Victoria with the legislative framework for the progression of carbon capture and storage technologies in the face of growing global awareness of the need to tackle climate change.

Carbon capture and storage, or CCS, refers to the emerging technology that will allow us to make significant cuts in CO_2 emissions from stationary CO_2 sources, such as power plants and chemical plants, by capturing greenhouse gases, liquefying them and injecting them into underground geological formations for the purpose of their permanent storage, thereby eliminating the harmful effects they would have on our atmosphere.

This government is fostering the use of CCS technology. We have allocated $110 million to our energy technology innovation strategy program, which will support large-scale demonstration projects, geological assessment of possible storage sites and developing regulations to support the Victorian Greenhouse Gas Geological Sequestration Act.

The federal government should also be congratulated for its involvement in advancing the development of CCS in Australia, with its announcement earlier this year of $2.4 billion for the CCS Flagships program, which will accelerate the development of CCS technology across Australia through supporting a number of industrial-scale demonstration projects over the next nine years.

Rail: Frankston line

Mr THOMPSON (Sandringham) — Today I give expression to the anger and anguish of Sandringham electorate train travellers, in particular a Mentone constituent who travels to work every day from Mentone station, which she has been doing for the last 35 years. It has now reached a stage where it is an occupational health and safety hazard getting on and off the trains, let alone travelling on the trains themselves without monitoring or supervision. She is 63 years old and has to stand both to and from work. She catches a train between 8.00 and 8.30 in the morning and comes home on the 5.37 p.m. train from Melbourne Central — when it runs. By the time the train does arrive at Melbourne Central there are no seats available.

My constituent is tired of cancelled trains, reduced carriages and the non-arrival of trains. She does not want to hear the spin about new trains and new services. The Frankston line will not be getting any new trains. The trains she travels on are old, grubby and not looked after, and they are dangerously overcrowded. She is happy she does not have to work until she is 67 under changes to retirement laws, because she would have to put up with this for another four years. She works with Telstra in the complaints area, and the service offered by Telstra is far superior to that offered by Connex. The concern of many constituents is that the Labor Party has been in government for 20 of the last 27 years and has failed to make provision for basic infrastructure requirements.

Casey Secondary College: name change

Ms GRALEY (Narre Warren South) — As a member of this house I am proud of the strong investment in our government schools by the Brumby and Rudd Labor governments. The community can rest assured that the Brumby Labor government fully supports our government schools. That is why we are undertaking the biggest schools modernisation program in Victoria's history. In my electorate of Narre Warren South families are benefiting from the nine new schools that the government has built in this local area since being elected. One of these schools is Casey Central Secondary College. They are schools that our community is very proud of. The schools are run by wonderful teachers and principals committed to giving our children the best education possible.

The reputations of these dedicated people were recently smeared by the member for Nepean, who was featured in an article in the most recent *Sunday Herald Sun* and was reported as saying that Casey Central was having its name changed because it had a bad reputation. When will the member for Nepean stop talking down our government schools and start making a positive contribution? In order to correct the untruths of the member for Nepean I inform the house that Casey Central was always going to be a temporary name so that the community could choose a name for the new school. The community has chosen Alkira Secondary College. Of course we do not expect anything better from members opposite than this continuous vendetta against government schools. After all, when the Liberal Party and The Nationals were in government they closed 330 of them.

Alkira is a local Aboriginal word meaning 'big sky'. At Alkira Secondary College our students are being urged to reach for the sky. I suggest that the member for Nepean raise his standards and support the teachers, students and parents of Alkira Secondary College. The member for Nepean should apologise to the people of my electorate for his ill-informed attack on government schools.

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

Youth: Gippsland mentoring scheme

Mr INGRAM (Gippsland East) — I rise on behalf of the Plan It Youth mentoring scheme in Gippsland East, which is run by the Gippsland local learning and employment network. This is a great program and has been very successful in Gippsland East in mentoring young people over the last five years. In that time it has trained over 100 adults as mentors, mentored over 180 students and worked with other organisations such as schools to promote the mentoring of young people and give them opportunity and good advice. This is a substantial achievement for my area, which has a small population base and large distances when compared with many other parts of Victoria.

The grant money that currently operates this scheme runs out on 31 December 2009. After that date the project will no longer be able to employ a coordinator to train the mentors and match mentors with schools and young people. The government must provide dedicated youth mentoring programs and funding in Gippsland East. This is a very important project, so it is important that we provide mentors for young people in our community who have troubles.

Parliament: tabling of reports

Mr INGRAM — On another matter, I need my trailer at Parliament House this week for the 260 reports that have been tabled. The Parliament must address this issue. We should guarantee that a maximum number of reports are tabled each day and that the Parliament sits for at least two weeks towards the end of October each year.

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

Forest Hill electorate: Kirstie's Cover competition

Ms MARSHALL (Forest Hill) — It was with great pleasure that on the evening of 8 October I was able to formally announce the winners of the Kirstie's Cover competition of 2009 at Forest Hill Chase shopping centre in front of a crowd of proud parents and very excited primary school students. Students participating in the competition were asked to design an alternative dust jacket for their favourite book. The aim of the competition was to give primary school students in the electorate of Forest Hill the opportunity to be creative and demonstrate artistically their understanding of their favourite book. The competition ran for six weeks, with 122 students participating from six schools. The task of judging all 122 entries fell to me, and it was an arduous task as the quality of entries was phenomenal. I congratulate every student who participated and the teachers and the principals who encouraged them, and I give special mention to the winners from each school.

The winners were: Amanda Karagiannidis, Parkmore Primary School; Erica Xle, Vermont Primary School; Emily Seneviratne, Weeden Heights Primary School; Siew-Ting Lim, Burwood Heights Primary School; Ruby King, Livingstone Primary School; and Sam Tassone, Orchard Grove Primary School. Each winning entry offered something very different, and the students should be very proud of their efforts.

I would like to acknowledge Forest Hill Chase shopping centre manager, Paula Jones, and its marketing coordinator, Rebecca Jones, for their generous support in hosting the presentation ceremony. It is a pleasure to be continually associated with such a great organisation.

Bushfires: fuel reduction

Mr NORTHE (Morwell) — Given this week is Fire Action Week it is pertinent to raise in this house the views of Gippsland residents as they prepare for the impending bushfire season. Many residents have expressed concern over the lack of prescribed burning over a period of time in our region, specifically in the Morwell National Park.

An article in the *Herald Sun* of 9 September relayed the sentiment of many people who reside in the vicinity of the park. Comments attributed to the Jumbuck self-help group refer to no fuel reduction burning having been conducted in the park for at least 20 years and a huge fuel load on the ground. The article further states that the Premier has said that the government will play its part in preparing the state for the next bushfire season but that there is no sign of a clean-up in the Morwell National Park. The sentiment of the Jumbuck self-help group is that a sense of urgency normally associated with search-and-rescue missions is now required.

These comments have been further endorsed by members of the public who have since contacted my office on the same issue. The Environment and Natural Resources Committee has recommended that a prescribed burning target of 385 000 hectares be adopted. However, this recommendation appears to be falling on deaf ears, as the Brumby government ignores such advice. I hope the government will recognise the concerns expressed by groups such as the Jumbuck self-help group and ensure that in the future fuel reduction burns on public land are increased substantially for the benefit of all Victorians.

Diwali in the West festival

Ms THOMSON (Footscray) — I want to congratulate all those involved with the very first Diwali in the West festival, which was held on 3 October. During the day 20 000 people came through and there were spectacular fireworks and entertainment. I want to give special thanks to the sponsors who made it possible in what was a very short time: Karen Trevorrow, who helped coordinate the festival for the day; the overseas students, particularly the Indian students, who helped organise before the festival and on the day; and the students in the schools who undertook activities in the lead-up and learnt all about Diwali and the importance of the Hindu holiday.

I thank all the volunteers: Claudine Spinner; Helen Rodd from the West Footscray neighbourhood house; Liza Lukusa; Deiter Goethel; Jag Shergill; Habir Kang and Sheila from the Braybrook neighbourhood house; Rodney Johnstone and all the team from Footscray Rotary; Dinesh Malhotra and all his team at the *Bharat Times*, who got involved in making this a success; Chris Owner; Sarah Carter; Martin Zakarov; David Downey and the team at Kosdown; and David Smorgon and Anna Mitchell from the Western Bulldogs. We could not have done it without the Bulldogs, and Whitten Oval was a fantastic venue for all of us.

I also thank Trevor Carter from Victoria Police, and Craig Spicer, Jarrod Fox and all the police at Footscray who participated in making it a wonderful event. John Hale from the Metropolitan Fire Brigade worked tirelessly, and thanks to the team from the MFB who were there on the day, including the guys from Footscray; Colin Campbell and his sons, Michael and Lachlan — —

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

Police: corruption

Mr BURGESS (Hastings) — More than one type of corruption can infiltrate a police force. There are the well-known situations involving drugs, money and sometimes worse, and then there is what I refer to as political corruption. This is a kind of corruption where particular officers in positions of authority run the government's propaganda and ensure that those below them do so as well, even when that is damaging to their colleagues and the community they have sworn to protect.

Cultural and political corruption are alive and well in Victoria Police. The cultural corruption within Victoria Police was instigated and nurtured by the Bracks and Brumby governments for their own political purposes. The appointment of former Chief Commissioner of Police Christine Nixon, who I am informed had to resign her New South Wales ALP membership to take the job as chief commissioner in 2001, was the beginning of Labor's dismantling of the independence of Victoria Police. This neutering has been enforced by the public punishing of dissenters and the rewarding of those who run the government line.

The Brumby government's soft-on-crime policies and a desperate shortage of police officers has caused crime to spiral out of control in the Hastings and Somerville areas. Our hardworking local officers are stretched past breaking point and with one vehicle are expected to cover the entire 700 square kilometres of the eastern side of the peninsula. Consequently they are often unable to attend crime scenes. Yet, in the face of such rampant crime levels and the shortage of police, Assistant Commissioner Paul Evans continues to run the Brumby government line, denying that crime levels are a problem or that there is a shortage of police.

After 32 years of decorated service, District Inspector Gordon Charteris was bullied out of the force for saying he did not have enough police to do his job. One of the officers accused of bullying Gordon Charteris, Superintendent Emmett Dunne, has since been promoted to assistant commissioner.

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

Burwood electorate: church groups

Mr STENSHOLT (Burwood) — I would like to commend the work of the local churches in my community and all they do to support so many people and groups in our local area. They provide support for those in need, they care for the elderly and they run

kindergartens and playgroups. They provide places of support for new arrivals to the area and to our shores and run youth groups and programs as well as provide for the spiritual needs of their members.

Time permits me to mention only a few today. For example, the Glen Iris Road Uniting Church will be holding a community day this Saturday; the church centre has become a hive of community activity over the last couple of years. The church also runs a very successful preschool, as does St Dunstan's in Wattle Valley Road, Camberwell. St James Uniting Church in Wattle Park is another church that has a kindergarten, and I had the privilege several weeks ago of joining the Governor and his wife — they are long term members of that congregation — in celebrating the state government-funded renovations. That church is one of many in the area that has provided strong support for refugees and new settlers over the last few years.

Ashburton Uniting Church has also welcomed new settlers, and there have been active refugee support groups led by people from St Michael's in Ashburton and St Dominic's in Camberwell.

The Salvation Army in Camberwell is also to be commended for developing a special program for welcoming newcomers to Australia from all countries. It has a very active program helping out the most disadvantaged in our community. Similar work is done by groups such as the St Vincent de Paul Society at local Catholic churches, including at St Michael's.

Most churches also have programs for youth and children. One of the largest in our area is the Ashburton Baptist Church, which has over many years provided strong support for the aged, including the day dementia care program at Elsie Salter House.

Bushfires: community preparedness

Dr SYKES (Benalla) — Last week I spent a couple of days in the Mudgegonga-Rosewhite bushfire area. Much of the fire-affected countryside is responding magnificently to the kind season and to the hard work and investment of land-holders and volunteers. There are still, however, stark reminders of the fires: thousands of black, dead trees and areas of bare earth moonscaped by the overwhelming heat of the fires.

The community is not travelling so well. Some are getting on with their lives, but many are still highly stressed and feel forgotten by the Brumby government. Many are appreciative of food parcels delivered with tender loving care by people such as Cheryl Sanderson. There are those waiting to rebuild their homes, such as Sam and Dolores Crisci who speak out openly about the frustrations of red tape. Bill and Trish Carroll are attempting to re-establish their 1200 acre fire-affected farm and replace 34 kilometres of fencing; they are absolutely frustrated. I am told there are only two case managers for around 100 clients.

Country Fire Authority volunteers Andrew Cross and Barry Mapsley have expressed their concern about the expectations on them coming into the next fire season as they are still grappling with the last fire season. Many people are concerned by the lack of government action to address the communications black hole in the area.

On the bright side, the Pasture Regeneration Day, which was conducted by Kerry Murphy and the TAFCO Rural Supplies team, was an outstanding example of local people, support agencies and businesses helping people recover.

I call on the Brumby government to show the people of Mudgegonga, Rosewhite, Kancoona, Stanley, Dederang and Running Creek that it cares, and I call on the Brumby government to lift its game and slash red tape to ensure adequate staffing, resourcing and coordination of the bushfire recovery in preparation for the next fire season.

Water: north–south pipeline

Mr HARDMAN (Seymour) — I rise to express my appreciation to the Sugarloaf Pipeline Alliance project team and workers for the professional way they are doing their jobs. All members would be aware that the north–south pipeline has been a very difficult issue for me and many in the Seymour electorate, particularly because of the traditionally held view that water should not go south to Melbourne, even though the water is a share of savings as a result of an investment by the government and Melbourne Water users. There are many who passionately hold this view, and we have seen a vigorous campaign. Many rural land-holders and farm businesses have been impacted by the construction of the pipeline on its 70 kilometre stretch from Killingworth near Yea to the Sugarloaf Reservoir near Yarra Glen.

At the peak of construction around 1100 workers manned hundreds of extra vehicles, trucks and pieces of construction equipment along this route. The Sugarloaf Pipeline Alliance — Melbourne Water, GHD, SKM and John Holland — ensured that clear induction training for these workers was available on environmental issues, health and safety issues and their responsibility to the local community. I have had less

complaints then I expected. The Sugarloaf Pipeline Alliance has taken all complaints seriously and addressed issues by following them up sensitively.

There is still a lot of work going on and issues such as land-holder compensation to be negotiated. I continue with my regular briefings and discussions with the Sugarloaf Pipeline Alliance and thank the alliance for the professional way it does its job. I remind it of the importance of continuing this work until the fruition of the project and well into the future as management of the infrastructure continues.

Member for Benalla: comments

Mr HARDMAN — I would also like to condemn the member for Benalla for politicising once again the bushfire recovery and reconstruction efforts. It is appalling that he continues to do that. There is a lot of work going on, a lot of great volunteers and a lot of great agencies and workers doing their very best to help people.

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

Hockey: national under-13 tournament

Mr DELAHUNTY (Lowan) — As the shadow minister for sport and recreation and shadow minister for youth affairs I am able to inform the house that both the Victorian under-13 boys and under-13 girls hockey teams recently returned from the Australian invitational tournament held in Coffs Harbour in New South Wales last week. I congratulate both teams who played other state and territory teams and acquitted themselves extremely well both in the competition and off the field, becoming great ambassadors for hockey and for Victoria.

I also thank their enthusiastic parents and supporters, many of whom travelled to New South Wales to lend their loud vocal support. I particularly single out the hardworking and dedicated coaching staff. For the boys it was head coach Marten de Man, assistant coach Daniel Gibbons and team manager Emma Gibbons. For the girls it was head coach Helen Padget, assistant coach Margie Conley and team manager Sarah Gaskill. I am informed that the coaches and team managers have worked tirelessly over the last four months moulding both teams into a formidable hockey force.

I cannot overemphasise the importance of sport to people of all ages, providing an opportunity for fitness, fun, friendship and the exhilaration of competition. Hockey Victoria is to be congratulated for giving 32 young Victorians this wonderful opportunity to participate in an Australia-wide tournament.

Soccer: Asian Cup

Mr DELAHUNTY — I also congratulate the Socceroos on their win last night against Oman, therefore qualifying for the Asian Cup. I wish the boys all the best for the future. They make Australia very proud. I am proud to wear their scarf today.

Margaret Boyd

Ms DUNCAN (Macedon) — I rise to pay tribute and to say thank you to Margaret Boyd, a neighbour of mine and fellow rookie, who this week received a Fire Awareness Award for her work in writing articles in the *Bullengarook Bellows* over the last 11 years. Margaret was prompted to write articles in the monthly *Bellows* following her retirement in 1998 as her way of contributing to the local community. She was very concerned that some residents of the Macedon Ranges had died during the Ash Wednesday fires, and she felt many people did not see bushfires as a threat.

Bullengarook backs onto the Wombat State Forest and is a very fire-prone area. Margaret felt that new residents to the area move in during the cooler months when everything is calm and lovely and green, as she describes it. As she says, they may not realise they are heavily exposed to the possibility of being surrounded by a bushfire, and they need to take advance action to protect themselves and their families. Margaret felt the *Bullengarook Bellows* was the ideal vehicle for awakening residents to the dangers of bushfires and explaining to them what to do about it. Margaret used a range of sources for her articles including Country Fire Authority publications, newspaper articles, magazines, books and TV programs. Of course one of Margaret's best sources, and a great support, is her husband, Arthur, himself a CFA volunteer of 34 years.

Fire awareness awards are supported by the Metropolitan Fire Brigade, the CFA and the Department of Sustainability and Environment, and seek to support the hard work and initiatives of individuals, groups and organisations in reducing the incidence and impact of fire in Victoria. We all have a role to play in protecting ourselves against bushfires, and I would like to take this opportunity to acknowledge — —

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

Fallshaw family

Mr LANGDON (Ivanhoe) — I am pleased to bring to the attention of the house the achievements of a West Heidelberg family business that has through its ingenuity, hard work and persistence found itself ingrained as part of Melbourne's history. For five generations the Fallshaw family under one banner or another has manufactured everything from school classroom furniture for the department of education to slate billiard dining tables for Melbourne's elite and the pews of some of Melbourne's most notable churches.

The family company's 130-year history was captured recently in a publication entitled *Five Generations of Furniture Manufacturing in Australia — 1875–2009 — Fallshaw*. In over 100 pages the book details the history of F. Fallshaw and Sons from its inception in the 1870s when Victoria was awash with wealth from the gold rush period and a small furniture making factory was established in Horsham. Touching on this company's journey through the war years and its near collapse during the Great Depression, this book is not just the history of the family but a history of Melbourne. It is a narrative about the history of Melbourne, and I commend the book to anyone who could possibly read it.

I commend the Fallshaw family, whose members over five generations have exhibited through their business such tenacity, flexibility and craftsmanship to remain a part of the Melbourne furniture scene. It is an extraordinary effort. With its headquarters now located in West Heidelberg, I am delighted to have such a flagship for successful business within my electorate of Ivanhoe, and I hope the company remains strong for the next generations of the Fallshaw family.

Soccer: Asian Cup

Mr KOTSIRAS (Bulleen) — I congratulate the Socceroos on their magnificent 1 to 0 win last night. Unfortunately I was not able to attend, but I am told it was a magnificent game!

PARKS AND CROWN LAND LEGISLATION AMENDMENT (RIVER RED GUMS) BILL

Statement of compatibility

Mr BATCHELOR (Minister for Community Development) tabled the following statement in accordance with Charter of Human Rights and Responsibilities Act:

In accordance with section 28 of the Charter of Human Rights and Responsibilities, I make this statement of compatibility with respect to the Parks and Crown Land Legislation Amendment (River Red Gums) Bill 2009.

In my opinion, the Parks and Crown Land Legislation Amendment (River Red Gums) Bill 2009, as introduced to the Legislative Assembly, is compatible with the human rights protected by the charter. I base my opinion on the reasons outlined in this statement.

Overview of bill

The bill will:

create new park areas in the river red gum area of northern Victoria under the National Parks Act 1975 and the Crown Land (Reserves) Act 1978;

insert transitional provisions in the National Parks Act 1975 and the Crown Land (Reserves) Act 1978 associated with the creation of the new park and reserve areas;

insert provisions in the National Parks Act 1975 and the Crown Land (Reserves) Act 1978 associated with the ongoing management of the new park areas;

deem the new parks under the Crown Land (Reserves) Act 1978 to be 'restricted Crown land' under the Mineral Resources (Sustainable Development) Act 1990 and amend the definition of that term;

create a framework under the Conservation, Forests and Land Act 1987 for the establishment of traditional owner majority boards of management for areas of public land;

insert strict liability offences in the Forests Act 1958 relating to campfires and barbecues;

make other, related or miscellaneous amendments to the National Parks Act 1975, Crown Land (Reserves) Act 1978, Forests Act 1958, Land Act 1958 and Wildlife Act 1975.

Human rights issues

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

Section 12 — freedom of movement

Section 12 of the charter provides for the right for every person to move freely within Victoria and to enter and leave it and to have the freedom to choose where to live. It includes the freedom from physical barriers and procedural impediments.

It may be perceived that the creation of new park areas may limit the ability of a person to move freely within those areas. However, the bill does not create any restrictions on a person moving freely within the parks or within Victoria.

It may also be perceived that, because certain areas of land cease to be roads by virtue of clause 10 of the proposed schedule one AA of the National Parks Act 1975 (inserted by clause 18 of the bill) and proposed sections 63A(1)(d) and 63F(e) of the Crown Land (Reserves) Act 1978 (inserted by

clause 31 of the bill), those provisions may limit access and the ability to move freely. However, those provisions simply change the status of the Crown land when it is included in particular parks. They do not create any restriction on persons moving freely in those areas of public land.

Therefore, the bill does not limit or restrict the scope of the rights under section 12 of the charter.

Section 19 — cultural rights

Section 19 provides for the right for Aboriginal persons to maintain their distinctive spiritual, material and economic relationship with the land and waters and other resources with which they have a connection under traditional laws and customs.

The bill does not deprive any Aboriginal person of a relationship with the subject land and is not intended to affect existing native title rights and interests. Therefore, there is no limitation or restriction of the cultural rights of Aboriginal persons in section 19 of the charter.

Section 20 — property rights

Section 20 of the charter provides that a person must not be deprived of his or her property other than in accordance with law.

In relation to the new park areas under the National Parks Act 1975, to the extent (if any) that a firewood licence or permit, grazing licence, apiary licence, miscellaneous licence or tour operator licence constitutes some form of property right, the bill provides for these to be saved. In particular, clause 2 of the proposed schedule one AA of the National Parks Act 1975 (inserted by clause 18 of the bill) saves any firewood licence or permit existing immediately before the creation of two national parks; clause 3 saves any grazing licence or permit existing immediately before the creation of specified park areas; clause 4 saves any apiary licence, permit or right existing immediately before the creation of specified park areas; clauses 5–7 continue various miscellaneous licences existing immediately before the creation of specified parks; and clause 8 saves any tour operator licence existing immediately before the creation of specified parks.

Proposed sections 63A(1)(b) and 63F(c) of the Crown Land (Reserves) Act 1978 (inserted by clause 31 of the bill) provide, in relation to the new reserve areas under that act, that when the parks are created, the land forming the parks is taken to be freed and discharged from all trusts, limitations, reservations, restrictions, encumbrances, estates and interests.

In relation to the proposed Murray River Park, proposed section 63A(1)(e) (inserted by clause 31) of the Crown Land (Reserves) Act 1978 saves any lease that exists over the land. Therefore clause 31 does not deprive any person of property.

In relation to the Murray River Park and Kerang and Shepparton regional parks, to the extent (if any) that licences, permits and other authorities constitute some form of property right, proposed sections 63A(1)(e) and 63E of the Crown Land (Reserves) Act 1978 (inserted by clause 31 of the bill) provide for licences, permits and other authorities to continue.

Therefore, there is no limitation or restriction of the right protected under section 20 of the charter.

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

It is not necessary to consider section 7(2) of the charter as all the human rights relevant to the bill are not limited but are in fact protected and enhanced by the proposed amendments.

Conclusion

I consider the bill is compatible with the Charter of Human Rights and Responsibilities because it does not limit or restrict any rights under this charter.

Peter Batchelor, MP
Minister for Energy and Resources

Second reading

Mr BATCHELOR (Minister for Community Development) — I move:

That this bill be now read a second time.

The Parks and Crown Land Legislation Amendment (River Red Gums) Bill 2009 will significantly expand the state's parks and reserves system in the river red gum area of northern Victoria. It will also establish the basis for traditional owner majority boards of management for areas of public land and enhance the enforcement regime applying to campfires on public land.

The bill fulfils a key election commitment relating to the protection of the river red gum forests of northern Victoria as well as a commitment to explore indigenous joint management arrangements. It complements the measures that the government is taking to expand the parks and reserves system in East Gippsland and elsewhere in the state.

The government is proud of its record in permanently protecting significant parts of the state's natural and cultural heritage in Victoria's parks and reserves system: the creation of park additions in 2000; new and expanded box ironbark parks and a world-class representative system of marine national parks and marine sanctuaries in 2002; new park and reserve areas across the state in 2004; the Great Otway National Park and the new Point Nepean National Park in 2005; the Otway Forest Park and several regional parks in 2006; Cobboboonee National Park and Cobboboonee Forest Park in 2008; and the addition of the quarantine station to Point Nepean National Park in 2009. These are all part of a legacy for future generations, a legacy added to by this bill.

Expanding the parks system in the river red gum forests

Protecting our river red gum heritage

The river red gum forests of northern Victoria are a special part of our heritage and are valued by many people. However, since European settlement, large areas have been cleared or otherwise impacted upon, and the remaining forests and their associated ecosystems are now under significant stress from altered and changing water regimes.

The three-year investigation by the Victorian Environmental Assessment Council (VEAC) into the river red gum forests highlighted the need for additional protection of representative samples of this ecosystem. Additional protection will help to reinforce the benefits obtained from the environmental watering of key areas along the Murray River.

The bill will implement the government's decisions on the council's final report as it relates to parks, considering the advice of the community engagement panel on the report's recommendations. I take this opportunity to thank the members of both the council, chaired by Mr Duncan Malcolm, and the panel, chaired by Mr Craig Cook, for the work they did in the interests of protecting this precious river red gum heritage and balancing the needs of local communities and recreational users and the environment.

The bill will create four new national parks and other park areas totalling more than 140 000 hectares. This will not only help protect significant areas of the river red gum forests but also provide a wide range of opportunities for visitors to continue to enjoy them.

In particular, the bill will amend the National Parks Act 1975 to:

create Barmah, Gunbower, Lower Goulburn and Warby Ovens national parks on the Murray, Goulburn and Ovens rivers;

create Gadsen Bend, Kings Billabong and Nyah-Vinifera parks on the Murray River; and

expand the existing Hattah-Kulkyne, Mount Buffalo, Murray-Sunset and Terrick Terrick national parks, Leaghur State Park and Murray-Kulkyne park. The additions to Terrick Terrick National Park also include important remnant native grasslands of the northern plains.

The bill will also amend the Crown Land (Reserves) Act 1978 to:

create Kerang and Shepparton regional parks; and

establish the legislative framework for the creation of the Murray River Park by the Governor in Council when the detailed surveying of the park boundaries is completed (this is similar to the approach taken with the creation of the Otway Forest Park).

The new parks created under the Crown Land (Reserves) Act will be specified as restricted Crown land under the Mineral Resources (Sustainable Development) Act 1990, and the definition of that term updated.

Helping local communities to adjust

The government appreciates that not everyone supports the creation of the new river red gum parks. However, it is worthwhile reflecting on the significant opposition to the creation of the Grampians National Park a quarter of a century ago and how, 25 years on, that park is highly valued, including for its contribution to the local economy.

The government is mindful that the land-use changes in the river red gum area will involve some adjustments by the communities and individuals directly affected. The government has endeavoured to reduce the impact of the changes through a series of assistance and transitional measures.

The government has provided $38 million over four years to implement its response to VEAC's final report. This includes funding for 30 new Parks Victoria positions and additional positions to undertake improved park management.

Timber workers affected by the decision to cease commercial timber harvesting in the new parks have been able to access a $4.5 million assistance package, including industry adjustment payments and training. Re-employment opportunities for at least 10 timber workers are also being provided through the active forest health program. Gunbower, Benwell and Guttram state forests will continue to be available for timber harvesting.

The government appreciates the importance of an adequate firewood supply for local communities. Firewood will be available from state forests. In addition, the bill will also enable firewood to be collected under permit in areas of Shepparton Regional Park and Murray River Park designated by the land manager from time to time, for use outside the parks for local domestic or camping purposes. The need to fell any trees to supply firewood from these parks will be reviewed in 2011 in the light of the regional firewood

implementation plan that will be prepared after the statewide firewood strategy is finalised.

As a transitional measure, firewood will be able to be collected until 30 June 2011 from previous sawlog harvesting residue remaining on the ground in specified areas of Barmah and Gunbower national parks. This is similar to the transitional arrangements accompanying the creation of some of the box-ironbark parks and, more recently, Cobboboonee National Park, and will assist in meeting the local demand for firewood for domestic purposes.

The Forests Act 1958 will be amended to provide appropriate authority for agents to issue domestic firewood permits on the minister's behalf.

Licensed stock grazing will not be permitted in the new park areas. To assist licensees to adjust, grazing will be progressively phased out across the parks by no later than 30 September 2014. This will allow licensees to make alternative arrangements, particularly in relation to the watering of stock. If necessary, this could include piping water across a park to adjoining freehold land. The government has also offered a package of financial assistance and free professional advice to those who previously grazed their cattle in Barmah forest but have not done so since 2007 because of the drought.

Apiculture will be permitted to continue in the new park areas. The bill saves any existing apiary licences and permits. The bill also saves several other miscellaneous licences. These activities will either be phased out or subsequently authorised under the National Parks Act or Crown Land (Reserves) Act.

Improving the ecological health of the parks

The active forest health program will help to ensure that the parks are managed to achieve the best ecological outcomes in conjunction with the benefits obtained from environmental watering. As a part of the program, ecological thinning may be carried out where there are clear ecological benefits. Any wood surplus to the ecological requirements of the forests may be removed and sold for firewood or other best end use.

Also as part of this program, recreational hunters who are registered by the Sporting Shooters Association of Australia will be able to assist in the control of pest animals in the new park areas through targeted control programs. The association will be supported by $400 000 over four years to implement this program, which will build on the partnership already developed with Parks Victoria.

The government will endeavour to provide additional water for the new national parks according to water availability across the northern Victorian water system. In addition, new water infrastructure will be built so that the available environmental water can be used more effectively.

Enjoying the parks

The government is committed to the parks continuing to be places where visitors can camp, fish, relax and enjoy the great outdoors. Overall, the parks will provide for a wide range of recreational activities. The regional parks and the Murray River Park will complement the parks under the National Parks Act by providing for a wider range of activities, such as camping with dogs.

Dispersed, self-select camping will be the predominant form of camping in the new riverine park areas. The relevant regulations will be amended as necessary to reflect this, recognising that there may be a need to manage camping more intensively in some locations or, at particular times, to help protect particular values or to enable areas to recover from intensive use.

The government recognises that campfires are an integral part of the camping experience for many visitors to our parks and forests, including along the Murray River. However, with that enjoyment comes the responsibility for ensuring that the fire is safe and is not left unattended.

Three offences that relate to maximum fire size and clearance around a camp fire or barbecue currently attract high penalties (including imprisonment) and require prosecution before a court. To assist in the enforcement of responsible camp fire use, the Forests Act 1958 will be amended to convert these offences into strict liability offences for which a penalty infringement notice can be issued. The existing Forests (Fire Protection) Regulations 2004 will be amended as necessary. A fourth strict liability offence will also be created for leaving a camp fire or solid fuel barbecue unattended. The offences will apply in state forest, protected public land and parks under the National Parks Act 1975.

The parks are rich in cultural heritage, both indigenous and European. The increasing involvement of traditional owners in the management of the parks will enhance visitors' enjoyment and understanding of our indigenous heritage. The cultural heritage associated with past grazing and timber cutting in the parks will also be recognised.

Increasing traditional owner involvement in public land management

A key element of the bill is to provide a legislative basis for the creation of traditional owner majority boards of management for areas of public land. This reflects the government's commitment to involving traditional owners in the management of public land and to helping traditional owners achieve their long-held aspirations to be involved in caring for country.

Establishing traditional owner majority boards of management will bring a number of benefits. Of particular importance, boards will facilitate the incorporation of traditional owner knowledge into the management of the land for which they are appointed. They will help to recognise traditional owner groups' unique relationship to the land and to promote partnerships and reconciliation between traditional owner groups, the state and the public who use the appointed land.

The bill will amend the Conservation, Forests and Lands Act 1987 and other relevant land legislation to create an enabling framework for the appointment and operation of incorporated boards of management for specified areas of public land. Importantly, the legislation will enable the role of a board to evolve over time depending on changing aspirations, increasing capabilities and available resources.

Initially, boards will be established for Barmah National Park (involving the Yorta Yorta traditional owners) and Nyah-Vinifera Park (involving the Wadi Wadi traditional owners), as recommended by VEAC. However, the provisions have been developed so that they may apply to other areas of public land in the future.

Each board will comprise a majority of traditional owners or their representatives. The minister must ensure that a board comprises persons with appropriate experience and skills for the board's operations. These could include persons with experience in park management, natural resource management, governance and finance, or persons with traditional knowledge. It would be expected that the boards would include members from the Department of Sustainability and Environment or Parks Victoria.

Those matters common to all boards will be specified in the Conservation, Forests and Lands Act, while the details of matters that may vary from board to board, or from time to time, will be specified in determinations published in the *Government Gazette*. The act will provide that certain matters must be included in a determination (such as the number of members, the term of office and the role of the board) while other matters will be discretionary.

Boards will operate within the state's established legislation and policy frameworks. The minister and the Secretary to the Department of Sustainability and Environment will continue to have ultimate responsibility for the land (including fire management). Boards will undertake agreed activities relating to the management of specified land.

This is historic legislation for Victoria. For the first time, the ability for traditional owners to be decision-makers and to have a substantial involvement in the management of their traditional lands will be enshrined in the state's law.

Miscellaneous amendments

The bill will also make several miscellaneous amendments to the National Parks Act. The definition of 'recreational fishing equipment' will now refer to the definition in the Fisheries Act 1995 so that there is ongoing consistency between the two acts. The bill will also enable maps lodged in the central plan office to be used to describe land in notices under the act, in particular when designating areas for the searching of minerals in specified parks. The bill will also repeal several redundant or spent provisions of the National Parks Act.

Conclusion

Victoria's parks and reserves system is one of the state's greatest assets, protecting significant natural and cultural values and providing many opportunities for this and future generations to enjoy them.

The increased protection that this bill will afford additional areas of natural and cultural heritage significance in the river red gum forests will be of lasting value, not only for the areas protected but also for their local communities and the visitors who come to enjoy these special places.

I commend the bill to the house.

Debate adjourned on motion of Ms ASHER (Brighton).

Debate adjourned until Thursday, 29 October.

STATUTE LAW AMENDMENT (EVIDENCE CONSEQUENTIAL PROVISIONS) BILL

Second reading

Debate resumed from 17 September; motion of Mr HULLS (Attorney-General).

Mr CLARK (Box Hill) — The Statute Law Amendment (Evidence Consequential Provisions) Bill inserts transitional provisions into the Evidence Act 2008 and makes amendments to other acts consequential on that act. The bill renames the existing Evidence Act 1958 as the Evidence (Miscellaneous Provisions) Act 1958 and it uses that act to retain provisions relating to evidence that are outside of the matters covered in the uniform evidence law that is constituted by the Evidence Act 2008.

The bill also amends the Crimes Act 1958 to remove provisions that are now covered in the Evidence Act 2008 and brings the onus of proof regarding confessions in the Crimes Act into line with the Evidence Act 2008. The bill amends the Evidence Act 2008 to add to the definition of unavailability of witnesses for the purposes of hearsay evidence rules, implementing a recommendation from the combined commonwealth, New South Wales and Victorian law reform commissions report of 2005. It also updates that act in relation to oaths and affirmations in order to parallel the Evidence Act 2008 and to make modified provisions for the giving of affirmations.

The bill inserts transitional provisions into the Evidence Act 2008 so that the new rules in that act will apply, in effect, to all hearings starting on or after the commencement of the 2008 act, which is scheduled for 1 January 2010. The bill replaces current references in other acts to the Evidence Act 1958 with references to the Evidence (Miscellaneous Provisions) Act 1958. It also makes other consequential amendments to various acts to replace references to provisions in the Evidence Act 1958 with references to the corresponding provisions in the Evidence Act 2008, and it makes various amendments relating to when statutory privileges regarding the giving of evidence are relevant and when common-law privileges apply.

The opposition parties were supportive of the 2008 act for the reasons I gave at that time, and we continue to be supportive. However, I can testify to the house from firsthand family experience that the 2008 act is causing understandable consternation to law students and law lecturers alike across the state as they come to grips with an entirely new legislative regime. Law students are asking reasonable questions such as how section 137 of the Evidence Act 2008, which provides a general discretion for the courts to refuse to admit evidence adduced by the prosecutor if its probative value is outweighed by the danger of unfair prejudice to the defendant fits with more specific provisions such as that contained in section 101(2) of that act which states:

> Tendency evidence about a defendant, or coincidence evidence about a defendant, that is adduced by the prosecution cannot be used against the defendant unless the probative value of the evidence substantially outweighs any prejudicial effect …

I remark on that not with any reflection on the officers or others involved in preparing this legislation, which has been a massive exercise, but simply to indicate that there is a very heavy transitional workload imposed on practitioners and others involved with the law in coming to terms with this new regime.

The opposition parties are also generally supportive of the bill before the house. However, there is one matter to which the Scrutiny of Acts and Regulations Committee (SARC) of the Parliament in its usual diligent way has given considerable attention and which we believe requires further consideration in the course of debate on this bill.

The issue that has been raised by the Scrutiny of Acts and Regulations Committee relates to clause 52 of the bill, which inserts an additional paragraph into item 4 in part 2 of the dictionary relating to the unavailability of witnesses. In addition to the existing tests in the Evidence Act 2008 regarding the unavailability of a person, the bill adds an additional paragraph so that in relevant respects item 4 will read:

> (1) For the purposes of this Act, a person is taken not to be available to give evidence about a fact if —
>
> …
>
> (g) the person is mentally or physically unable to give evidence and it is not reasonably practicable to overcome that inability.

As I mentioned earlier, this amendment arises from a recommendation of the combined commonwealth, New South Wales and Victorian law reform commissions and was contained in the report of the commissions on uniform evidence law in 2005, but SARC indicates that that amendment was omitted from the model endorsed by the Standing Committees of Attorneys-General and is not being followed in any other Australian jurisdictions.

The 2005 report indicates that a submission received from the Office of the Director of Public Prosecutions

in New South Wales pointed to the fact that United Kingdom legislation relating to criminal proceedings contains a provision permitting the admission of hearsay evidence of a person who was unfit to be a witness because of his bodily or mental condition. Accordingly, in the discussion paper the commissions propose that the uniform evidence acts be amended to provide that a person is taken not to be available to give evidence about a fact if the person is mentally or physically unable to give evidence about that fact. If the person is unavailable, one of the consequences is that various hearsay provisions of the act would be triggered, in particular in a criminal context under the provisions contained in section 65 of the 2008 act.

The combined commissions report refers to the submissions received on their proposal, and in paragraph 8.29 it states:

> Women's Legal Service Victoria supports a provision which treats a witness as unavailable because of mental inability to give evidence due to fear, and cites the United Kingdom legislation approvingly.

At paragraph 8.30 the report states that the Law Society of New South Wales objected to the proposal, which it found:

> … disturbing given the potential breadth of interpretation of the proposed definition and the consequential loss of the ability of the defendant to cross-examine the witness.

The report said that one practitioner considered the wording of the proposal would leave it open to manipulation by witnesses to allow untested statements to be admitted.

The report then refers to points that were made by the Australian government Attorney-General's department which supported the policy behind the proposal but raised various issues about its wording. Having considered those matters the commissions expressed their concluded view which was that the definition should be broadened with a modification to the definition that had been included in their discussion paper. It is observed at paragraph 8.35:

> As to mental inability, it is intended that such an amendment may facilitate, in at least some cases, the admission of the transcript of a complainant's evidence in a retrial. Requiring the complainant to testify again may, depending on the circumstances of the case, do such emotional or psychological harm to the complainant that the complainant should be considered unavailable to give the particular evidence.

The report goes on to say that it was not intended that the amendment should lower the standard of unavailability generally and that it was not intended that a person should be considered unavailable to give evidence simply by producing a medical certificate. A real mental or physical inability to testify must be shown, which is a factual question courts are well placed to consider. Similar statements have been included in the second-reading speech of the bill.

The Scrutiny of Acts and Regulations Committee report cites the explanatory memorandum of the bill saying:

> The uniform evidence acts do not accommodate witnesses who should be considered unavailable because of their physical or psychological condition; this is particularly pertinent to sexual offence complainants in retrials.

The explanatory memorandum goes on to say that the sections repealed by the bill relate to matters that are covered in the Evidence Act 2008, which continue to do the work currently achieved by sections 55AB and 55AC of the existing Evidence Act. The concern that SARC raises is that the amending definition goes much further than the existing sections 55AB and 55AC of the Evidence Act, which SARC said are provisions limited to past depositions and retrials where the accused had a full opportunity to cross-examine the witness. The SARC report goes on to state:

> The new definition applies the exceptions in section 65(2), which are not limited in this way. The committee therefore considers that clause 52 may engage defendants' charter rights to a fair hearing and to examine witnesses against them.

The report goes on to observe:

> … the new definition of unavailability may apply when the victim or major eyewitness to a crime is unable to testify due to trauma or fear relating to the crime, but is willing to make a detailed statement to the police. The effect of clause 52 is that such a police statement may be presented in a criminal trial as the sole or decisive evidence against the accused, without the accused being able to cross-examine the person who made it.

The SARC report then refers to a European Court of Human Rights ruling and a United Kingdom Court of Appeal ruling, and it refers the issue to the Parliament for its consideration.

SARC has raised a very important issue which needs careful attention for a number of reasons. I also point out there is a slight divergence between the recommended wording of the combined law reform commissions report and the wording in the bill in relation to reference to the facts in question. This leads on to the broader issue of divergence between Victoria and other jurisdictions that may emerge if Victoria proceeds with this amendment and other jurisdictions continue not to do so.

Clearly a large part of the purpose of this exercise was to achieve uniform evidence law between at least the major jurisdictions in Australia. If at this early stage Victoria is embarking on having different provisions to

other jurisdictions then that undermines the uniformity. That is something that is obviously completely aside from the merits of the issue. Unless there is an overwhelming case for Victoria to adopt a different path it would be far preferable, if at all possible, that agreement of the Standing Committee of Attorneys-General be obtained and that the change that is to be made be agreed to uniformly by all participating jurisdictions.

Apart from the issue of uniformity there are a range of conflicting considerations that need to be weighed in assessing the concern that has been raised by the Scrutiny of Acts and Regulations Committee. It seems clear from what SARC says, from what the law reform commissions report of 2005 said and from what has been said in the material supporting this bill that it is intended potentially to cover cases where extreme fear or anxiety or other psychological factors are in practical terms rendering the witness unable to give evidence. As the explanatory memorandum states, this may be particularly pertinent to sexual offence complainants.

There are competing considerations that need to be resolved. On the one hand one wants to avoid trials being frustrated due to lack of evidence, where suitable evidence is available. On the other hand one does not want to deprive defendants of the opportunity to have the jury listen to examination and cross-examination of the witness or to observe the general presentation of the witness in the witness box as distinct from their presentation through a written statement. We also need to be cognisant of the fact that issues and allegations about psychological conditions are inherently very difficult to establish with certainty. There can be a range of conflicting assertions by the witness and by others as to the true state of the person's psychological or mental condition and what effect their being required to give evidence would have. It is therefore an area which is going to be very difficult for a court to apply.

There are two other considerations that need to be borne in mind in assessing this issue. The first is that the availability or unavailability of a witness is not conclusive as to whether or not hearsay evidence can be admitted. I should say we are talking in the context of what is referred to as firsthand hearsay evidence, which in effect means prior statements that have been made by the witness concerned rather than statements by other parties as to what the witness, or the person who would otherwise be a witness, had said previously.

In order for the exception under section 65 of the Evidence Act 2008 to apply, other conditions have to be met, in particular section 65(2), which says:

> The hearsay rule does not apply to evidence of a previous representation that is given by a person who saw, heard or otherwise perceived the representation being made, if the representation —
>
> (a) was made under a duty to make that representation or to make representations of that kind; or
>
> (b) was made when or shortly after the asserted fact occurred and in circumstances that make it unlikely that the representation is a fabrication; or
>
> (c) was made in circumstances that make it highly probable that the representation is reliable; or
>
> (d) was —
>
> (i) against the interests of the person who made it at the time it was made; and
>
> (ii) made in circumstances that make it likely that the representation is reliable.

In other words there are a series of hurdles that need to be crossed before the hearsay evidence rule is avoided. Simply for the witness not to be available would not automatically mean that their prior written witness statements could be admitted.

Another provision is section 65(3), which is about the hearsay rule not applying to evidence of a previous representation made in the course of giving evidence in proceedings, has the same qualifications and protections as the existing Evidence Act 1958 about situations where there has been cross-examination of the person who made the representation or a reasonable opportunity to cross-examine the person.

These competing considerations need to be weighed. Also what needs to be taken into account — and I do not think SARC has done so — is the fact that other provisions are being put before this house presently that are also relevant. Those are the provisions in the Criminal Procedure Amendment (Consequential and Transitional Provisions) Bill 2009 at proposed section 378 and following about admission of recorded evidence of a complainant in sexual offence matters. That provision deals with the situation where there is a retrial or other event that would require a person to again give evidence they had given previously which had been recorded.

In effect that says that subject to certain safeguards the person is not required to give evidence again, and those provisions would therefore seem to be relevant to at least the core issue that the explanatory memorandum considered the amendments to the Evidence Act to be relevant to — namely, sexual offence complainants in retrials. So it seems we have a detailed set of procedures to deal with the use of previously recorded

evidence in that case, which is subject to court discretion and various other tests, and at the same time we are proposing to have a broader change to the definition of 'unavailability of persons' and therefore the potential for previous statements to be inserted into the Evidence Act 2008.

There is an important question as to how those various provisions are intended to fit together. Does one remove the need for the other? Are we at risk of ending up with complexity and overlap unnecessarily? These are important considerations that have been raised by the Scrutiny of Acts and Regulations Committee report. Yet again it is to be congratulated for its diligence and attention to these important issues, and this is a matter that we believe needs to be addressed and hopefully resolved during the course of the debate on the bill.

Nonetheless, as we said in relation to the 2008 bill, the coalition parties believe there are very good reasons for supporting the introduction of a uniform evidence law in Victoria, and subject to hopefully being able to sort out this matter that I have referred to we believe the remaining provisions of the bill carry forward the process of introducing uniform evidence law into Victoria and make a range of necessary consequential provisions. We are therefore supportive of the bill.

Mrs MADDIGAN (Essendon) — I am pleased to support the government bill, and it is good to know that the opposition is also supporting this bill as it goes through the house.

The bill in some ways is a very technical bill and quite complex, so like the member for Box Hill I will not attempt to cover all of it in my short contribution. It is a bill that continues to enact the provisions of the justice statement made in 2004 by the Attorney-General, and part of this is to adopt a uniform Evidence Act for Victoria, which is a process that has been very involved and has involved other states and the commonwealth.

When the Evidence Act 2008, as I think the member for Box Hill said, was introduced, the Attorney-General foreshadowed this further act to deal with additional and consequential amendments, and these recommendations are based on recommendations of the Victorian Law Reform Commission in its implementation report. A major part of this exercise is to bring Victoria's evidence laws into line with those already existing in the commonwealth, New South Wales and Tasmania.

The member for Box Hill said that some students were confused by the changes. I suspect it is not only students who are confused by the changes, because we are replacing two acts from 1958 — the Evidence Act and the Crimes Act — and they have not had a major overhaul until this act and the 2008 act, and it is very complex and very difficult. I know the Department of Justice has done a great deal of work in ensuring that the world at large is aware of the changes, because very few of us go through life without giving evidence about something at some stage in our careers, and I am sure if we all looked into our personal lives we would see that we have had the experience perhaps following a traffic accident of giving evidence to the police or speaking to other people. So if you think about it, it is an area that takes up a lot of people's time and it is very important to ensure that the provisions of evidence acts are very clear and really reflect the community's expectations and the legal expectations. I believe this act — the enabling act — is part of that process to allow the Evidence Act 2008 to commence on 1 January 2010.

The member for Box Hill spent most of his time talking about one of the provisions of the act, and that was the definition of the 'unavailability of persons'. Indeed this is a really complex and difficult matter; to try to have a definition that does not exclude some people who you want included is very difficult, and I know the Department of Justice spent a lot of time preparing the definition and working on this. Perhaps the test of that is in the fact that the member for Box Hill did not put up an amendment suggesting a better definition, because it is really very difficult.

Mr Clark — I question whether it should be there at all.

Mrs MADDIGAN — The member for Box Hill interrupts. Perhaps he could have suggested something if he can think of a definition that would suit the bill better, because it is a very difficult definition to provide.

As the member for Box Hill said, this area particularly relates to people in trials that involve some sort of sexual abuse. Those trials are very delicate, and I am sure all of us in our lives, not only as members of Parliament but also as members of the public, have heard or read stories of people whose lives have been quite shattered by some experience that has occurred to them during their life. We really do not want to have a definition that is so narrow that we cause terrible trauma to some people or in fact that the trial cannot go on because a person is just not capable of testifying.

In relation to people being excused, it is not as though you are going to waltz up with your medical certificate and the court will say, 'Go away'. It will be a very stringent process to ensure that people are not allowed to escape their responsibilities, but it will be done in a

way that ensures that the legal system does not make the trauma that people have suffered through some accident — which had nothing to do with their own actions and in which they may have had absolutely no fault at all — even worse and make the psychological or physical conditions that they have much worse.

When we talk about justice we really are talking about ensuring justice to everyone involved in cases that come before the courts — not just the person who might be charged but the victim and the victim's family.

It really is a very complex area, and to try to make the definition more prescriptive would put the courts in a position where they may not be able to provide the best judicial system. However, if the member for Box Hill can think of a definition, I am sure we would be more than happy to have a look at it in the future.

The importance of evidence is shown by the fact that there are consequential amendments to 137 acts which deal with matters connected to criminal procedure and evidence, so we are really talking about a very significant provision of the law. The Evidence Act 2008, which is closely related to that, has some very important issues which were perhaps discussed at length by members when the Evidence Act was passed through this house, so I will not go into them in detail except to briefly say that perhaps the reforms in that act relating to hearsay admissions, privilege against self-incrimination, jury warnings and original document rules were particularly significant reforms that have been broadly welcomed by the community at large.

I commend this bill to the house. It is, as I said, really part of the first Evidence Act of 2008. It clarifies a large part of the important law relating to evidence, and I believe that the community at large will warmly welcome these changes. As the minister said in his press release, it covers a number of areas that the community is particularly interested in.

The reforms together represent some significant improvements in law reform and in fact probably make Victoria one of the leaders in law reform in this country. The member for Box Hill suggested that we moved earlier than some other states; I would have thought that would be something to be proud of. In fact we may be the model for other states that have not moved as far as we are now moving. But the Evidence Act and the Crimes Act together aim to reduce delays by promoting the early resolution identification of issues at trial, make changes to the appeals process to reduce the number of costly retrials, modernise existing laws in relation to the giving of evidence in sex offence cases, clarify the law in relation to appeals from the Children's Court, broaden the offence of perjury and abolish the requirement for parties to keep original documents, which will cut red tape and reduce the unnecessary record-keeping burden on businesses. They are some of the aims of these acts, and I believe the community of Victoria will be very pleased to see this law enacted.

Mr JASPER (Murray Valley) — This bill, as indicated by the two previous speakers, is a technical and complex bill, and I do not pretend to understand the complexities of it, not being legally trained. However, I have done some assessment of the legislation and will be making a contribution on issues that I believe need to be brought to the attention of the house, particularly in my position as a member of the Scrutiny of Acts and Regulations Committee.

The bill is the second of two bills which bring into operation a uniform evidence act within Victoria. It repeals a significant proportion of the Evidence Act 1958. It also makes consequential amendments to legislation across the statute book and provides for transitional arrangements to ensure effective implementation of the act.

Last year the Parliament passed the Evidence Act 2008. The act delivered one of the significant commitments made by the government in the 2004 justice statement — namely, the adoption of an act which would bring Victoria's evidence laws into harmony with the evidence act laws in operation in New South Wales, Tasmania and the commonwealth. The Evidence Act 2008 is key to reforming the outdated rules of evidence within Victoria. What we are regularly getting now in Victoria is legislation implementing uniformity across Australia. That is an issue I want to talk about in commencing my contribution on the bill before the house.

The issue we find as members of the Scrutiny of Acts and Regulations Committee is that bills and regulations regularly come before the house and before the committee and the regulation review subcommittee which it is indicated are bringing uniformity with the other states of Australia and the commonwealth. That provides us with some difficulties because often with the introduction of uniform legislation there is an expectation that we should accept those bills and regulations. That certainly creates difficulties for us as a committee, because we find we cannot scrutinise the bill as we otherwise might.

I think we need to look at that and make sure that if the act comes into operation it is not only uniform with the

other states and the commonwealth, but indeed meets the requirements of the state of Victoria. I think we as a Parliament need to be very much aware of the problems the Scrutiny of Acts and Regulations Committee has in looking at bills and regulations that are being introduced as uniform legislation and regulations.

The other issue I wanted to talk about is that because of the Charter of Human Rights and Responsibilities we find that in relation to the bills that come before the Parliament usually more detail is provided on meeting the obligations of the charter than in the second-reading speech, which is usually much shorter. With this bill we find that the statement of compatibility, when it was tabled, was 11 pages long, while the second-reading speech was just 4 pages long. So you really need to read through much of the information provided in the statement of compatibility.

I want to refer to a particular part in the statement of compatibility made by the Attorney-General, and that is retrospective criminal laws. I, for one, have in the Parliament over many years spoken about the problems introducing retrospectivity could cause for people who have operated under the law previously, before changes are made. I have regularly brought to the attention of the Scrutiny of Acts and Regulations Committee instances of retrospectivity, where there could be issues of concern.

Under the heading 'Section 27: retrospective criminal laws' the information provided by the Attorney-General together with the second-reading speech states:

> Section 27(1) of the charter provides protection from the operation of retrospective criminal laws.

I think we need to take that into account. The minister in providing information as it relates to the charter goes on to indicate that the legislation does not provide problems as far as retrospectivity is concerned. He goes on:

> Section 27 of the charter protects this right in two ways. First, it prohibits the law from retrospectively criminalising conduct. Second, it prohibits the imposition of a penalty on any person for a criminal offence that is greater than the penalty that applied to the offence when it was committed.

The indication is that section 27(2) and section 27(3) of the charter prevent the imposition of a greater criminal penalty than would have been imposed at the time of the offence being committed and confirm that again the bill does not propose to increase penalties.

In conclusion the Attorney-General signs off by saying:

> I consider that the bill is compatible with the human rights charter because, even though it does engage human rights, it does not limit those rights.

This is certainly an issue of concern which we believe needs to be taken into account. The Nationals opposed the Charter of Human Rights and Responsibilities when it went through the Parliament as legislation because we had concerns about how far the charter would go, and we are finding now that those concerns are being borne out. The charter is impacting on all the legislation and regulations that go through the Parliament. As I have indicated, you have 11 pages in which the minister responds to the charter, and only 4 pages of the second-reading speech. They are the sorts of concerns that I have in relation to this.

Uniformity of legislation is another issue which the Scrutiny of Acts and Regulations Committee is very much aware of. While ministers might meet on regular occasions throughout Australia and say, 'We will introduce uniform legislation', when it is introduced into Victoria we are not sure whether it is uniform with the other states of Australia and the commonwealth. Importantly, though, we do not in fact undertake the same scrutiny of it that we would of legislation introduced into the Victorian Parliament as Victorian legislation. I indicate to the house that I am not opposed to looking at uniformity. As a member of Parliament representing an area on the border between Victoria and New South Wales I am very much aware of the differences between state regulations and state laws and of the fact that we need to try to achieve greater uniformity between the states, across the borders, between Victoria and New South Wales.

The other issue I want to comment on, which was mentioned by the member for Box Hill, is covered in the report of the Scrutiny of Acts and Regulations Committee in the charter report on the bill. We have an excellent person who provides us with information, reviews all the bills and regulations and then provides advice as to whether they meet the provisions of the Charter of Human Rights and Responsibilities. Jeremy Gans, a consultant, provides us with excellent research and recommendations on legislation and, as I indicated, regulations as well. He referred to clause 52 which will extend firsthand hearsay exceptions in the Evidence Act 2008 to representations made by persons who are unfit to testify in court. The committee considers that clause 52 may engage a defendant's charter rights to a fair hearing and to examine witnesses against them. The recommendation at the end of our report indicates:

> The committee refers to Parliament for its consideration the question of whether or not clause 52, by permitting a witness statement to be used as the sole or decisive evidence against an accused without any opportunity for cross-examination, is compatible with defendants' charter rights to a fair hearing and to examine witnesses against them.

This is an issue I believe we need to bring before the Parliament as a genuine concern. I believe the minister should review the provisions in clause 52 and whether they cut across the Charter of Human Rights and Responsibilities and the rights to a fair hearing and to examine witnesses against them in particular circumstances.

I again confirm the concerns which we have heard from the committee in relation to clause 52. Importantly, in closing my comments, I again indicate concerns from the committee about the huge workload that is imposed on the committee not only in reviewing legislation and regulations but also in having to review those matters covered by the Charter of Human Rights and Responsibilities, which has taken up a huge amount of time for the executive staff and indeed us as a committee. I think we will get to a stage where the Scrutiny of Acts and Regulations Committee will need to be divided, where one committee will look at the bills and another committee will look at the regulations that come before the house.

Ms DUNCAN (Macedon) — I rise to support the Statute Law Amendment (Evidence Consequential Provisions) Bill. Like previous speakers, I too confess to finding this legislation very complicated, which just goes to show how complicated the rules of evidence have been in this state and in this country and the reason for seeking to reform various aspects of the Evidence Act.

The bill before us is essential for the commencement of the Evidence Act 2008, which delivers on one of the significant commitments made by the Attorney-General in the justice statement of 2004 by facilitating the adoption of the Uniform Evidence Act here in Victoria. Last year the Parliament enacted the Evidence Act, which delivers on commitments made under the justice statement, mainly the adoption of a uniform evidence act. However, before the Evidence Act 2008 can commence operation a number of amendments need to be made to other acts across the statute book. The Statute Law Amendment (Evidence Consequential Provisions) Bill serves this function.

This bill is the second of two bills which bring into effect the operation of a uniform evidence act within Victoria, and it repeals a significant portion of the Evidence Act 1958. When we look to see how old some of these acts are, it is timely that they should be overhauled now. The Attorney-General and this government are very keen to modernise legal proceedings in this state, and a number of things within this bill foreshadow future changes around a range of other evidence, for example, but I think it also demonstrates that legal proceedings are an evolving thing so we continue to make changes into the future as well as introducing the bill that is before the house today.

As we know, the Evidence Act was passed last year as part of the justice statement. In the main the adoption of the act will bring Victoria's evidence laws into line and make them consistent with evidence laws already operating in New South Wales, Tasmania and in the commonwealth.

The details of this bill are quite complex. The purpose of the bill is to ensure that the Evidence Act 2008 commences operation by making consequential amendments to legislation across the statute book. The bill repeals a large portion of the Evidence Act 1958, and particularly evidentiary provisions of the Crimes Act 1958, which are intended to be replaced by the Evidence Act 2008, preserve other existing evidentiary provisions and make appropriate transitional arrangements for the commencement of the Evidence Act 2008.

Section 8 of the Evidence Act 2008 expressly preserves the operation of all specific evidentiary provisions that exist in Victorian legislation, which means that where an evidentiary provision in another act is inconsistent with the Evidence Act 2008 the specific provision will override the provisions of the Evidence Act. Consequently it is critical that the statutory provisions intended to be replaced by the Evidence Act 2008 are repealed and any legislative provisions referring to any repealed provisions are amended appropriately. If that has not confused people already, I guess it gives a little bit of an insight into the complexity of some of these changes and the legislation that currently applies.

The purpose of this bill is to accommodate the implementation of the Evidence Act 2008, and I will briefly outline some of the major changes that are part of that act. Some of the key features of those are in the areas of hearsay, in the areas of admissions and privilege against self-incrimination, warnings to juries and rules that apply to the use of original documents. Around the issue of hearsay, the common-law rule against hearsay evidence is very complex and is quite uncertain. The Evidence Act in 2008, as consistent with the justice statement in 2004, provides a modernisation of that and a more liberal and structured approach to

hearsay evidence. It contains specific exceptions, which allow hearsay evidence to be admitted where it may be the best available account of what occurred.

In terms of admissions, where a party has admitted matters which are not in that party's best interest to admit, those matters may be adduced in evidence as an exception to the hearsay rule under common law and the Evidence Act 2008. The Evidence Act 2008 supplements existing common-law rules by restricting the admissibility of evidence of an admission where the integrity of that evidence may be compromised. The Evidence Act 2008 therefore focuses on the reliability of the evidence rather than whether it was voluntarily provided.

In regard to the privilege against self-incrimination, the Evidence Act 2008 allows the court to require a person to give evidence that may tend to incriminate the person if the interests of justice require it. The witness is provided with a certificate preventing the use of that evidence in subsequent court proceedings against them. Currently common law does not allow the court to require this evidence.

In regard to jury warnings, we know that warnings or directions to juries are often a point of appeal in future trials. At common law judges are required to give warnings to juries about certain evidence in certain circumstances. Under the Evidence Act 2008 these warnings will continue, but in most cases a party will be required to request a warning be given to the jury. As I said earlier, the failure of a judge to give a warning or a direction to a jury is a common ground for appeal, so requiring a party to request a warning hopefully will reduce the incidence of appeals.

In terms of the original document rule, the Evidence Act 2008 provides a broad, clear, modern framework for admissibility of documentary evidence, a significant aspect of which is the abolition of the original document rule. The original document rule requires that the contents of documents be proved by production of the original document. The Evidence Act 2008 permits parties to use originals, copies, transcripts, computer printouts, business extracts and official printed copies of public documents. Abolishing the original document rule will assist in facilitating improvements in the efficiency and business record-keeping.

They are just some of the major changes that have been made to the Evidence Act 2008. The reason for this bill being before the house today is to help put that legislation into effect. Hopefully none of us will ever have to face a court in either civil or criminal proceedings, because it is an incredibly traumatic experience. Proceedings can be very long and repetitive, especially when retrials are involved. All the changes foreshadowed in the justice statement of 2004 are aimed at making our judicial system more user-friendly, easier to understand and less traumatic for victims of crime and other users of the courts. This government has a strong record of improving our judicial system and seeking to modernise what in many cases is old, outdated and unnecessarily complex legislation that can lead to unnecessary trauma for all those involved. I suspect that is particularly so for victims of crime and people who are not accustomed to finding themselves in court.

I commend the government on its previous and future legislative changes, for using the Victorian Law Reform Commission to give advice to government about some of these changes and for bringing our laws into the 21st century. The government and the Attorney-General are very proactive in this regard. I commend the bill to the house.

Mr THOMPSON (Sandringham) — The Statute Law Amendment (Evidence Consequential Provisions) Bill deals with myriad issues that are outlined in the bill's explanatory memorandum. It should be pointed out that the law of evidence has evolved under the Westminster system and British common-law tradition over several hundred years, and subtle changes may have ramifications down the track. It requires ongoing vigilance to make sure that in bringing in a uniform legislative framework there is not an omission of individual features that the state of Victoria has developed on its statute book that other states do not have or that have been expunged.

The main provisions of the bill are: the renaming of the existing Evidence Act 1958 as the Evidence (Miscellaneous Provisions) Act 1958 and using it to retain provisions in the Evidence Act 2008 relating to evidence outside the matters covered in the Uniform Evidence Act; amending the Crimes Act 1958 to remove provisions now covered in the Evidence Act 2008 and to bring the onus of proof regarding confessions into line with the Evidence Act 2008; amending the Evidence Act 2008 to add to the definition of unavailability of witnesses for the purposes of the hearsay evidence rules arising from Victorian Law Reform Commission recommendations; inserting transitional provisions into the Evidence Act 2008 so that the new rules apply to all hearings starting on or after the commencement of the Evidence Act 2008; replacing references in other acts to the Evidence Act 1958 with references to the Evidence (Miscellaneous Provisions) Act 1958; and making other consequential amendments to various acts to replace

references to the Evidence Act 1958 provisions with references to corresponding provisions in the Evidence Act 2008.

I trust those general remarks clarify any underlying misapprehension that members of the house may have regarding the impact of the bill before the house. The opposition has wisely raised a number of areas of concern through the shadow Attorney-General, the member for Box Hill, who has addressed the issue of a general risk of unexpected problems in making substantial changes to a fundamental area of the law. Some provisions of the Victorian legislation incorporate amendments to the uniform evidence law that were recommended by the Australian, New South Wales and Victorian law reform commissions in 2005 and included in a model bill endorsed by the Standing Committee of Attorneys-General. These amendments are yet to be fully tested in practice, and there is also a learning curve for practitioners and the courts in moving to the new act.

The shadow Attorney-General has also pointed out that one senior practitioner was concerned that the new rules regarding warnings will operate less favourably for the accused person even if the crime was allegedly committed before the amendments commenced. This is where the legislature needs to be quite categorical about which law applies at a particular time. In the case of the law of retrospectivity there has been a long tradition that where there is to be a retrospective benefit, no harm is done. Where there is a retrospective burden it has generally been the position of the house that you do not impose a burden that has a retrospective impact. There is some concern as to what the ambit of that will be in its application.

The Scrutiny of Acts and Regulations Committee has examined a number of aspects of this bill. The member for Murray Valley pointed out some of the concerns in his wise contribution. At page 17 of *Alert Digest* No. 12 there is the issue that is referred to Parliament for consideration:

> … whether or not clause 52, by permitting a witness statement to be used as the sole or decisive evidence against an accused without any opportunity for cross-examination, is compatible with defendants' charter rights to a fair hearing and to examine witnesses against them.

The court records of a number of jurisdictions in Europe, North America and Australia bear testimony to the cases of people convicted in error who have served custodial sentences over a period of time. It is important that the process of our legal system is not weakened in a way that may lead to a situation where an innocent person is convicted. In a Law Reform Committee trip to the United States a number of years ago members heard evidence of a case where a person who to all intents and purposes appeared to be guilty of an offence was apprehended. It was only through the application of DNA evidence that the person was acquitted when against a range of benchmarks the evidence indicated the person was guilty.

There were also the circumstances in the successive Chamberlain trials in the Northern Territory, where the evidence of the forensic biologist, Joy Kuhl, was called into question and at one point led to a conviction and later to an acquittal. It is important in cases of that nature that the benchmarks that have been set and have stood the test of time are not weakened in a way that could expose people who are subject to prosecution and conviction of an offence of which they are innocent. The opposition does not oppose this bill but believes there are some unanswered questions and that reform in such a wide area of the law needs to be undertaken very cautiously.

In the case of any bill before the house dealing with a law reform matter, I will continue my practice of bringing to the attention of the house the issue of the Labor Party's condemnation during the 1990s of the removal of rights of appeal to the Supreme Court, a practice that the Labor Party adopted on over 300 occasions while in government in the 1980s and early 1990s. It was a practice that was condemned by a number of leading Labor figures who later served in senior office in this place, as ministers and even as Premier, and decried the removal of appeal rights to the Supreme Court by what were termed section 85 clauses. The Scrutiny of Acts and Regulations Committee has chronicled the use of those clauses. Many times the removal of the jurisdiction of the Supreme Court is a wise thing.

Mr Stensholt interjected.

Mr THOMPSON — I am pleased that the member for Burwood has commented on that, because he is keen on law reform issues and it is a law reform matter. In the case of the Evidence Act, I have expressed caution about the changes being made — and it is a bill in which the legal profession will take a keen interest.

The Labor Party is yet to apologise to the law institute for having misled it in relation to the operation of section 85 clauses. We are seeking legal exactitude in the present case, and I think it is important for the future that the legal profession understand that addresses to the law institute president's lunch a number of years ago contained statements which were misleading and inaccurate, and that the Labor Party has continued the

practice of incorporating in legislation section 85 clauses often with good reason, but which nevertheless remove the jurisdiction of the Supreme Court.

Mr STENSHOLT (Burwood) — I am pleased to follow the member for Sandringham because he and I served on the Law Reform Committee some years ago when it dealt with a range of matters, including at least one matter which is dealt with by the bill. It deals with it well, and I will come back to that a little bit later.

I support the bill. It is an excellent bill put forward by the Brumby Labor government and our reforming Attorney-General. He continues to be a leading light in legal reform and in modernising our legal system. I commend him for his work in the past and for his continuing work today in bringing forward the bill.

Our system of law relies very much on precedents in terms of the common law. A lot of it has never been written down, and while that is one of its great parts, it can be somewhat frustrating. The courts produce then their interpretation and changes. As the member for Box Hill has already said, law students have to go through many references and pages of law looking up the precedents, weighing them up and making judgements, which of course is very much a part of the legal formative process in developing sharp minds. Evidence is very much at the centre of our courts. You could say, as Sherlock Holmes said to Dr Watson, 'Elementary, my dear Watson'. when he was referring to the right evidence, and that is what we are about today.

The bill stems from Australian Law Reform Commission work in the 1980s and the development of uniform evidence acts, which I understand are currently in force in the commonwealth, including in New South Wales and Tasmania, and they were brought into this chamber and passed last year. The Attorney-General indicated last year that this separate bill would be brought forward to deal with consequential and transitional provisions.

When you look at the bill, you can see just how pervasive evidence is. A look at the schedule shows how many acts are touched by evidence and by the Evidence Act. Part 1 of the schedule relates to some 68 acts. Even the substitution of the Evidence Act 1958 with the new title affects some 59 acts, so there are quite considerable changes in terms of consequential arrangements. As I and others have already mentioned in some detail, the bill also covers the transitional provisions.

As I mentioned before, the Law Reform Committee of this Parliament dealt with the administration of oaths in its inquiry into oaths and affirmations with reference to the multicultural community. Item 33 of the schedule relates to the Juries Act and effects changes to the Evidence Act to bring it into line with the Juries Act. The committee's report recommended that there be broader arrangements for people of faith to be able to take an oath.

Page 43 of the bill sets out oaths by jurors in a criminal or a civil trial. They can 'swear by Almighty God' or name a god recognised by their religion. That is very much in line with the multicultural multifaith community we have here in Victoria. I may be incorrect in terms of the figure, but my recollection is that there are well over 100 faiths followed by people in the Victorian community. That highlights the role of the Law Reform Committee to recommend changes. They are echoed through the bill in a way which further supports and underpins the great society we have here in Victoria in terms of multicultural multifaith communities.

In conclusion, this is a major initiative of the government in terms of changing the Evidence Act. The member for Murray Valley spoke earlier. I am sure he is very concerned about supporting small business, as indeed am I. The bill and the changes it contains will have quite an impact on business in terms of cutting red tape and on the way evidence can be presented. It has the potential to save businesses $10 million a year, and it will bring Victoria into line with uniform laws across Australia. I am a strong supporter of anything which cuts red tape and helps small business, and I see this bill doing that.

There is a lot of work to be done in terms of implementing the bill, including a lot of training to modernise the skills and qualifications of people working in the justice system. The government has committed some $3 million to update technology and key resources. This is a good step forward. It is a further modernisation of the already wonderful legal system we have here in Victoria. I commend the Attorney-General. I support the bill and commend it to the house.

Mr CRISP (Mildura) — I rise to make a contribution on the Statute Law Amendment (Evidence Consequential Provisions) Bill 2009. The Nationals in coalition are supporting the bill. I probably do not need to echo the words of other speakers by saying that these are complex issues dealing with evidence. I will not go into those complexities but perhaps deal with some of their implications.

The purpose of the bill is to make transitional changes in the Evidence Act 2008 and consequential amendments to other acts as required to maintain evidence provisions, ensure that onus of proof regarding confessions complies with the Evidence Act 2008, and add to the definition of unavailability of witnesses with regard to hearsay evidence. As I said, this is a very technical bill, and the rules are planned to apply to all hearings starting on or after the commencement of the Evidence Act 2008 which is scheduled for 1 January 2010.

There are a lot of provisions in the bill, and I will run quickly through some of them. The bill provides for the renaming of the existing Evidence Act 1958 as the Evidence (Miscellaneous Provisions) Act 1958, and uses it to retain provisions relating to evidence that are outside the matters covered in the uniform evidence law in the Evidence Act 2008. It will amend the Crimes Act 1958 to remove provisions now covered in the Evidence Act 2008, and to bring the onus of proof in relation to confessions into line with that act. The bill amends the Evidence Act 2008 to add to the definition of unavailability of witnesses for the purposes of the hearsay evidence rules, arising from Law Reform Commission recommendations. It provides for the insertion of transitional provisions into the Evidence Act 2008 so that the new rules apply to all hearings starting on or after the commencement of the Evidence Act 2008, which is scheduled for 1 January 2010. References in other acts to the Evidence Act 1958 will be replaced with references to the Evidence (Miscellaneous Provisions) Act 1958. The bill makes other consequential amendments to various acts to replace references to the Evidence Act 1958, and it replaces provisions with references to corresponding provisions in the Evidence Act 2008.

The member for Box Hill in his address did raise a number of concerns, and I am going to reinforce those. As always with such complex legislation that amends so many acts there is a general risk of unexpected problems occurring in making substantial changes to the fundamental areas of law. Some provisions of the Victorian legislation incorporate amendments to the uniform evidence law that were recommended by the Australian, New South Wales and Victorian law reform commissions in 2005 and included a model bill endorsed by the Scrutiny of Acts and Regulations Committee in July 2007. Those amendments are still to be fully tested in practice. There is going to be a learning curve for practitioners in the courts moving to the new act. Perhaps that is one of the areas that I can look at.

In his second-reading speech in the fifth paragraph the minister said:

> … the Victorian Law Reform Commission released a report entitled *Implementing the Uniform Evidence Act* in 2006 (the VLRC report). The VLRC report made a number of recommendations regarding the drafting of transitional provisions and consequential amendments required upon the introduction of the new Evidence Act in Victoria. This bill draws largely on the recommendations of the VLRC report and the transitional provisions and consequential amendments acts in NSW and the commonwealth …

The minister also spoke of the Victorian government's work with the commonwealth and New South Wales. That is particularly important across border areas; there are difficulties for cross-border legal practitioners when they have got two sets of rules for evidence material that are separated by a thin strip of water. There are a number of legal practitioners who practise on both sides of the river who are based in Mildura. It is very much hoped that this bill does deliver some simplicity, because having different sets of rules across borders adds expense to justice and also adds delays to justice. There is the old saying that justice delayed is justice denied.

We are very hopeful that when this act is implemented in 2010 — and I note that many legal practitioners will have to make some adjustments to this — the changes that arise will be welcome.

It also helps understanding to have language that is kept simple and contemporary. An example of that is found in sections 62 and 63 of the bill, where the bill makes references to the Water Act. The Water Act is something that people in the north of the state are familiar with, and this legislation is full of many examples of this kind of simplified language. This bill merely substitutes 'books of account' with 'business records'. When you are sitting in a lawyer's office trying to understand the complexities of what is going to be presented even this kind of simplified terminology can help the ordinary person to better understand the process they are involved with.

There are also a number of other evidence areas which seem to be missing from the act. I have to admit that I have not read every phrase of the act. But one of the issues in this area that does concern me relates to children, and that is border hopping, particularly when it relates to school attendance. Some families that are not as committed to education as one would like them to be allow their children to hop across the border because the evidence of school attendance cannot easily move across the borders. We need to somehow keep these families and children engaged in education. That is becoming an increasing concern in my electorate.

That issue is beyond the Evidence Act, but it is something we still need to work on in these cross-border issues. A quality education requires work from everybody, and there is work to be done in that area.

The Nationals in coalition are supporting this bill. The support is based on the introduction of uniform evidence laws last year. That was supported by The Nationals in coalition, and the bill contains the transitional consequential provisions that are necessary to enable the operation of the act that has been previously supported.

Debate adjourned on motion of Mr LIM (Clayton).

Debate adjourned until later this day.

CRIMINAL PROCEDURE AMENDMENT (CONSEQUENTIAL AND TRANSITIONAL PROVISIONS) BILL

Second reading

Debate resumed from 17 September; motion of Mr HULLS (Attorney-General).

Mr CLARK (Box Hill) — The Criminal Procedure Amendment (Consequential and Transitional Provisions) Bill is a bill to make various amendments to the Criminal Procedure Act 2009 and to make amendments to other acts consequential on the Criminal Procedure Act 2009.

The bill makes sundry additions and modifications to the Criminal Procedure Act, including transferring into it provisions previously in the Evidence Act 1958. The bill transfers, with changes, provisions from the Evidence Act 1958 relating to the prior sexual history of the complainant in a sexual offence matter and changes a requirement about cross-examination in relation to these matters from that of exceptional circumstances to being in the interests of justice.

The bill amends the Public Prosecutions Act, the Magistrates' Court Act and the Supreme Court Act to bring procedures and terms in those acts into line with the Criminal Procedure Act 2009. It makes sundry consequential amendments to numerous other acts, including cross-referencing changes. It allows previously recorded evidence by the complainant in sexual offence matters to be used at a retrial subject to certain conditions and to the court's discretion. It amends the Children, Youth and Families Act 2005 to apply to that act provisions for procedures of a type similar to those in the Criminal Procedure Act 2009, with modifications. It provides that costs cannot be granted against a child in appeals where the child loses the appeal or abandons the case.

It allows for issues relating to the Charter of Human Rights and Responsibilities Act 2006 to be referred directly from the County Court to the Court of Appeal. It makes a person liable for the penalties of perjury in relation to all deliberate false statements made in writing for the purposes of a criminal trial, not just where the statement was for the purposes of a brief of evidence for summary or committal proceedings as applies at present.

The bill also makes some other miscellaneous changes, including that where a single judge of an appeal allows leave to appeal against a sentence, that single judge can give leave for particular grounds of appeal and refuse leave for others. The bill provides the Children's Court with a rule-making power for criminal procedures and provides for time limits for the filing and service of notice of appeal and extensions of time limits for appeals under the Crimes (Mental Impairment and Unfitness to be Tried) Act 1997.

The bill contains some section 85 clauses which have been considered by the Scrutiny of Acts and Regulations Committee, and it also contains some transitional provisions relating to the commencement of the new procedures which are generally in line with similar provisions in relation to the Evidence Act 2008. In general terms it will apply to all proceedings after the commencement date, which is expected to be the same as for the Evidence Act 2008 — 1 January 2010 — and will also apply to all hearings that commence after 1 January 2010.

The opposition parties have welcomed in principle the consolidation of the law of criminal procedure. We expressed reservations about some aspects of the Criminal Procedure Act that was passed earlier this year, and we also have some reservations about aspects of this bill; however, we will not be opposing it.

To mention some aspects that should be flagged, I refer to the proposal that costs cannot be granted against a child in appeals where the child loses the appeal or where the child appellant abandons the appeal. It would be worthwhile for the government to set out in more detail what its reasoning is in support of that amendment. The Attorney-General in the second-reading speech said that it 'may inappropriately discourage a child from appealing' and a child is unlikely to be able to pay the legal costs. However, the Attorney-General went on to make the point that:

> … in the majority of appeals to the County Court and the Supreme Court a child will be legally represented and acting on advice …

The question is whether or not in those circumstances there needs to be some responsibility, particularly on the part of those who advise the child about the bringing of an appeal. We certainly do not express a concluded view on this issue, but I think there is a fair question as to why this provision is being enacted in relation to children, particularly when they are likely to be acting on legal advice and with the support of others.

As I referred to earlier, the bill also makes provision in relation to issues arising under the Charter of Human Rights and Responsibilities Act 2006 so that questions arising in relation to the application of the act or the interpretation of a statutory provision can, in addition to current referrals, be referred directly from the County Court to the Court of Appeal. It is notable that the Attorney-General's second-reading speech is silent as to the extent to which referrals of these questions of law are occurring or what the consequences of those referrals have been. We have made clear in the past that we believe it is inappropriate to make courts the arbiters and deciders of what are at the core policy issues that should be decided by the community through the Parliament and through public debate, rather than pretending that policy issues are in fact points of law. It imposes a grossly unfair burden on judges to expect them to decide policy matters as if they were matters of law, and it undermines the functioning of the judiciary in upholding and applying the law rather than in creating the law in accordance with their own policy views.

The charter act has also shown in a number of ways already that it has the potential to add to delays and lead to points of law being taken that are contrary to what the Parliament or the community might have expected. Courts are already suffering from enormous delays and backlogs due in part to the huge amount of resources that have had to be channelled into implementation of matters relating to the 2006 act. We know, for example, that the Victorian government solicitor has boasted that the bulk of the extra 30 staff members that joined his staff were appointed to attend to charter issues. We have seen a huge increase in the amount of legal expense being incurred by the state of Victoria on government and administrative law matters — I am very confident that a large part of that huge increase has been generated by the 2006 act. We also know that large swathes of public sector time, resources and additional staff have been involved in instructing public servants about charter matters, running seminars and the like.

Frankly, if you look at the lack of practical human rights at the coalface in our court system, if you look at the massive injustices that have been done to victims and witnesses and indeed to accused persons themselves who have been forced to wait for two, three or four years for their cases to come to trial, if you look at all of those denials of practical and real-world human rights, you have to ask yourself whether or not we would have been far better channelling the millions of dollars that have been spent on the esoteric implementation of the 2006 act into making sure that our courts were better supported to deal with cases, that more funds were provided to legal aid and that the Director of Public Prosecutions office was better resourced so that those cases could be dealt with expeditiously and we would no longer continue to see justice delayed and therefore justice denied.

Practitioners across the state have pointed to the gravity and extent of the delays in our courts, not least of all the Director of Public Prosecutions, Mr Jeremy Rapke, QC, in a very forceful speech that he gave in Queen's Hall here in Parliament House on 28 October 2008.

The Attorney-General remained mute about all the consequences of his charter act when he referred to the issue in his second-reading speech, and I would be interested to see if he is prepared to give the house some practical information about how that act is operating in the court system in relation to the matters he referred to in that speech.

As I mentioned earlier, this bill deals with the granting of leave to appeal and contains a provision which in itself seems a sensible one — that is, it enables a single judge of appeal to grant leave to appeal against a sentence only for particular grounds of appeal and to refuse it for others. However, I suggest there are other aspects of the operation of the leave to appeal system that need to be addressed, and from recent firsthand discussions with one family affected by a crime of a very serious nature it appears that in many respects the current application for leave to appeal is being treated as a matter of mere process and, if not a formality, close to simply an administrative exercise. If the appellant is able to show, on very limited grounds, that they may have a reason for an appeal, that issue is not strongly contested by the Director of Public Prosecutions (DPP) staff, who have to deal with an enormous number of these cases and who show every sign of being overwhelmed by the volume of work, as is supported by the remarks made by the DPP himself in the speech I mentioned earlier.

Clearly, accused persons need to have a right to appeal where they have justifiable grounds for arguing either

that their conviction was wrong or that the sentence was excessive. However, it is also fair to say that at the very least the current system is under enormous pressure and that arguably we need to look again at how it is operating in practice in order to better strike an appropriate balance between protecting the rights of accused persons and avoiding unjustifiable appeals proceeding.

I also make the point — and I referred to this issue in debate on the Statute Law Amendment (Evidence Consequential Provisions) Bill earlier — that the bill before us inserts in the Criminal Procedure Act new section 378 and following sections which will allow the use of previously recorded evidence in sexual offence matters, particularly where there is a retrial or other need for the repetition of evidence. In the course of the earlier debate I raised the question of how this new provision will sit with the more general provisions on the admissibility of evidence by witnesses who are unavailable to give evidence. As I indicated in the earlier debate, I think we need to make sure the provisions we are introducing in this legislation fit well with other legislation, do not create unnecessary complexity and properly balance the competing considerations that need to be taken into account. That point probably applies more to the provisions in the Evidence Act than to the provisions in this bill, which have a number of discretions and conditions that need to be applied.

In addition to those matters, the Scrutiny of Acts and Regulations Committee (SARC) has examined this bill very diligently and raised a number of issues that deserve some consideration. SARC has raised concerns about some aspects of division 2 of new part 8, which is inserted by clause 50 of the bill. The committee's report talks about the fact that section 342 contains a ban on admitting evidence as to the sexual activities of the complainant without leave. It says the High Court has held that this formulation does not extend to evidence that tends to prove the state of the complainant's sexual experience. The SARC report goes on to say:

> So, the Victorian statute, unlike some others in Australia, permits a complainant to be asked without prior leave about his or her lack of sexual experience.

The report then says that new section 349 bars a court from granting leave to admit sexual history evidence during a trial unless it is satisfied that the evidence has substantial relevance to a fact in issue, but there is no provision for evidence that is relevant only to a complainant's sexual credibility. The report goes on to observe that this approach appropriately excludes attempts to link the complainant's sexuality to his or her honesty, but it may also exclude some relevant evidence such as previous false complaints or transferred memories from previous assaults.

The SARC report also points out that new section 350 bars a court from granting leave to admit sexual history evidence at a sentencing hearing unless the offender either pleads guilty to or is found guilty of all sexual offences charged against them and that this may operate in such a way that an offender will be unable to argue that any harm suffered by the victim was due to unrelated sexual assaults. It points out that no other Australian jurisdiction has such a rule or draws such a distinction.

The Scrutiny of Acts and Regulations Committee refers to Parliament for its consideration a range of questions in relation to those matters. The issues raised by SARC deserve a response from the government during the course of the debate. Striking the right balance in sexual offence cases is always a very difficult matter. We know there is need for vigorous action to make clear that sexual activity against a person without their consent is strongly condemned and will be dealt with severely by the judicial system. On the other hand we also know that there can be cases where, for whatever reason, what was in fact consensual sexual activity is subsequently said to be non-consensual activity and someone is therefore put on trial for an offence where they can face a period of imprisonment. There are very important conflicting considerations and it is important that we do give careful attention to cases of this sort in order to strike the best possible balance that we can.

SARC also raises an issue in relation to an unrepresented accused person being barred from contradicting a protected witness's testimony. There are good reasons for having some restrictions in this area. SARC states that the new provision is much stricter then the common-law rule and that the High Court has cast doubt on whether the common-law rule should be applied to criminal defendants at all, at least without serious qualification. The committee states that it therefore considers that new section 357(5) may limit such defendants' charter right to a fair hearing. It is an issue that deserves response by the government.

Finally, SARC raises a point relating to possible retrospective penalties in relation to the new maximum fine provision. It states:

> The statement of compatibility remarks:
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> > The transitional provision in the bill ensures that the new maximum jurisdiction penalty does not impose a penalty that is greater than the penalty applying at the time the accused consented to, and the court granted, summary jurisdiction.

However, that is different to the Charter of Human Rights and Responsibilities Act 2006 which at section 27(2) provides:

> A penalty must not be imposed on any person for a criminal offence that is greater than the penalty that applied to the offence when it was committed.

SARC says it is concerned that the transitional provision does not address the situation where an indictable offence was committed before the commencement of the Criminal Procedure Act 2009 but the summary hearing was granted after that commencement.

That is a fair question for SARC to ask. The relevant provision is in the schedule to the bill at clause 110.83 which sets out specifications as to when the new maximum fine is to apply in relation to sentences imposed on or after the commencement of the principal provision in the act. It states:

> … irrespective of when the criminal proceeding commenced and irrespective of when the Magistrates' Court determined to grant a summary hearing.

However, it is not clear to me whether clause 110.83 is intended to apply at all to cases where the offence itself was committed prior to the commencement of the amendment. Clause 110.83 is completely silent on that point. It may be the intention of the government, or those who put the amendment together, was that it not even be in contemplation that the higher maximum penalty could apply to an offence committed prior to the commencement. Nonetheless this is an issue that should be put beyond doubt and I hope it will be addressed by the government during the course of the debate.

In conclusion, there are a range of provisions in this bill that cause the opposition to raise some concerns. As I said earlier, the opposition believes in principle that the consolidation of the law of criminal procedure is welcome, but it makes the point there is much, much more besides that the government should be doing and regrettably is failing to do. It should be tackling the waiting lists and delays in our courts; ensuring that the courts are properly equipped with information technology systems and other facilities that enable them to do their job efficiently rather than being subjected to the series of IT bungles such as the criminal justice enhancement program and others that they are suffering from; ensuring that there is proper support for the courts both administratively and legislatively for better management of their lists and better case management; and ensuring that crucial offices supported by the state such as Victoria Legal Aid and the Office of Public Prosecutions are not subject to the almost impossible workloads to which they are being subjected. While this legislation, subject to the matters that I have referred to, will help to some extent, there is much, much more besides that regrettably the current government is not tackling.

Ms GREEN (Yan Yean) — It is with great pleasure that I join the debate on the Criminal Procedure Amendment (Consequential and Transitional Provisions) Bill, which is another example of the Brumby Labor government taking action to modernise our criminal justice system. I very much commend the Attorney-General for his endeavours in this place. The modernisation of criminal procedure is a major initiative of the Brumby Labor government, and it positions Victoria as a national leader in criminal law reform.

These reforms reflect the government's ongoing commitment to help change the culture — across the criminal justice system and in the community generally — around attitudes to sexual assault. They will further streamline the criminal procedure and strengthen protections for complainants in sexual offence cases. Victims of sexual assault can experience incredible added stress and trauma as their matters go through the justice system, and giving evidence in court can be devastating, can have long-term effects and can add to the trauma of the original event. Alongside that, the right to a fair trial is a cornerstone of our legal system, and yet on balance the rights of victims must also be protected. In short, I think these reforms will help reduce the trauma for victims testifying in sexual assault cases.

In terms of detail, the bill modernises the language used in a range of acts dealing with matters connected to criminal procedure to achieve consistency with the plain English approach adopted by the Criminal Procedure Act 2009. The bill amends cross-references to acts or provisions which have been repealed and/or replaced by new provisions in the CPA. It harmonises Victorian law with respect to criminal procedure and ensures that it is clear and simple and reflects current practice and community expectations. The bill also provides transitional arrangements which set out when the provisions of the CPA will commence operation.

More specifically the bill will make the following changes. It will re-enact in the CPA sections of the Evidence Act 1958 that relate specifically to sexual offence cases, including those where the complainant is a child or cognitively impaired, and it will make necessary amendments to consolidate, clarify and improve these provisions. These amendments clarify the law with respect to the conduct of sexual offence

proceedings and in relation to the cross-examination of complainants in sexual offence proceedings. They clarify that a witness must not be cross-examined in relation to their sexual history or sexual activities without leave of the court in both summary and indictable matters. These amendments will also provide greater clarity in relation to the conduct of special hearings involving children or cognitively impaired complainants.

The bill will provide, under the CPA, that recorded evidence of an adult complainant in a sexual offence trial may be admitted as evidence in a subsequent hearing at the court's discretion. The aim of this reform is to reduce the stress and trauma experienced by a complainant in having to attend court and give evidence twice, while ensuring that the accused receives a fair trial or hearing. This is consistent with the policy objectives of the government with respect to supporting victims of crime and improving victims' experience of the criminal justice system.

The bill amends the Charter of Human Rights and Responsibilities to allow the Court of Appeal to determine charter issues directly from the County Court. It broadens the offence of perjury under the CPA by removing the technical requirement that the offence is only committed if the informant intended to use the statement by including it in a brief of evidence. It provides the Children's Court with a rule-making power in its criminal division under the Children, Youth and Families Act 2005. It includes a clear and comprehensive criminal appeals framework in that act that reflects the appeals framework in the CPA.

Further, the bill amends the Crimes (Mental Impairment and Unfitness to Be Tried) Act 1997 to achieve a consistent approach in relation to appeal periods in criminal and related proceedings. It amends the CPA to further strengthen provisions which abolish the principle of double jeopardy in relation to sentencing appeals, and it requires courts to impose the appropriate sentence on appeal when sentencing a person for a second time.

I am pleased to see that the opposition has indicated, through the member for Box Hill, that it will not be opposing this bill. I would like to see us more often getting active support in far-reaching reform such as this, rather than a position of simply not opposing the bill. That is a pretty pathetic response by the opposition — and pretty consistent. We know what the opposition's record was when in government. It did not move down the path of important reforms.

I am particularly pleased in what we have achieved in this reform. We have a reforming Attorney-General who is constantly striving to improve the procedures in our justice system, particularly with a commitment to looking after the victims of crime. I am pleased we reintroduced compensation and support for victims of crime which those opposite cruelly stripped away, in one of the many acts of destruction performed during the opposition's time in government.

In conclusion, I am very pleased to support the Criminal Procedure Amendment (Consequential and Transitional Provisions) Bill 2009. I wish it a speedy passage.

Mr CRISP (Mildura) — I rise to make a contribution to the debate on the Criminal Procedure Amendment (Consequential and Transitional Provisions) Bill 2009. The Nationals in coalition are not opposing this bill. The purpose of the bill is to make various amendments to the Criminal Procedure Act 2009 and to make amendments to other acts consequential to the CPA. The provisions of this bill will make consequential amendments to other acts as a result of the Criminal Procedure Act 2009, provide transitional arrangements for the commencement of that act, amend that act in relation to witnesses in sexual offence and family violence cases and make other miscellaneous amendments relating to criminal procedure.

There are a number of areas of concern which the member for Box Hill has raised. One is that the various amendments appear to be fix-ups for the previous Criminal Procedure Act 2009. Another is that additional amendments and corrections may still have to be made because matters may have been overlooked in preparing this legislation.

One area involves the modernisation of terminology, particularly with sexual offences which, when they involve children, represent the most heinous of crimes. Extreme pressure is imposed on families involved in this process. Many children and their carers, I would imagine, would very much struggle with these issues, so simpler language is very important as we try to find our way legally through these most difficult areas.

The second area is appeals. The second-reading speech refers to a new part 5.4 of division 5 of the Children, Youth and Families Act, which provides for the right of appeal from the criminal division of the Children's Court to the Supreme Court on a question of law. New section 430Q provides that if a person appeals to the Supreme Court from this division, a person abandons finally and conclusively their right to appeal to the

County Court or to the trial division of the Supreme Court. That proceeding is still complicated, but I believe that provision is intended to make a clear path so that people understand where they are with this law.

There has also been a look at broadening the offence of perjury. From the second-reading speech it appears that we are very much looking at the fact that the actual offence is only committed if an informant intended to use the statement by including that in the brief of evidence. That is how the law currently stands. This means that in many situations where a person includes false information in their statement they cannot be prosecuted, or the investigator does not know at the time of making the statement whether the statement will be included in a brief for summary prosecution or committal proceedings. Further, the offence does not apply in other situations such as where a statement is taken after the committal proceedings. For the purposes of the trial it is important that both the prosecution and the accused's statements are accurate. Those who accordingly provide false information in a statement should be guilty of the offence of perjury.

That is clarifying a particular part of the law. However, the question I ask concerns the police resources to investigate and pursue. In the past the courts have tested this evidence, and if it has been found to be faulty, the full force of the law has been brought down. If the judgement calls for the police to become involved, then they will go about pursuing the matter. I believe this provision will require considerable effort by the police because every statement that is made or every bit of evidence that is tendered, even if it is not used, will need to be examined and tested. I am concerned about the resources required to do this. I know it is important, but we have to make sure that we provide the appropriate resources to back this up.

The next one is the transitional powers and overlap period. There are some difficulties in the bill in relation to this overlap period, and hopefully they can be addressed.

The bill amends 137 other pieces of legislation, which cover many issues of importance to the electorate of Mildura, and I will touch on a number of those as we go through. In relation to the Electricity Act 2000 the concern is very much about smart meters, about their rollout and performance and whether they will deliver consumers with the information they need. We have documented this already in the house. If the retailer is going to receive information within a very small timing interval that affects a customer's account and the customer needs to pay extra to be aware of what is being paid, and if we end up with that being evidence in court, I can see that there will be difficulty if someone is being asked about what they did or did not know about their costs in relation to their electricity bill. That is a consequential concern I have.

As to the Rail Safety Act 2006, the area I am concerned about here is level crossing speeds and the impact of that on services to Mildura. I have only recently become aware that there are a significant number of level crossings where our trains have to slow down as they cross over those crossings and, although the reconstruction of the rail line to Mildura was for 18 tonne axle loadings at 80 kilometres an hour, it has come to my attention that it is necessary to slow down for those crossings and that is changing some of the travel times.

We cannot go past the Road Safety Act 1986 and the old saying that if you fix country roads, you save country lives. The Sunraysia Highway, particularly around Tempy, Speed and Turriff, is still narrow, and it features regularly in the Royal Automobile Club of Victoria road reports. Again, as we look at this, it is a short stretch of road that remains narrow and does not have the width it should, and with that amount of traffic there is a concern. We are very much again looking at how accidents occur, and you cannot escape the fact that this particular stretch of road has been on the list for a long time.

The Gas Industry Act 2001 is also being amended. Members will recall that Mildura has significant natural gas issues. Although the pipeline to Mildura has been exhausted, Mildura is lucky enough to have a natural gas supply. However, many country areas are waiting for the rollout of natural gas to their areas to assist both individuals and industry. With those words and those concerns, The Nationals in coalition are not opposing this bill.

Ms DUNCAN (Macedon) — It is always interesting to follow the member for Mildura in debate, although I got a little lost in relating the relevance of railway crossings to criminal procedure.

I rise in support of the Criminal Procedure Amendment (Consequential and Transitional Provisions) Bill 2009, which implements the changes made by the Criminal Procedure Act, which was passed in February of this year. This bill makes a number of consequential amendments necessary for the effective implementation of the Criminal Procedure Act. In fact, just to give some evidence of the complexities of these changes to the legislation, there are 137 Victorian acts that deal with matters connected to criminal procedure, including the Children, Youth and Families Act 2005, the Crimes Act

1958, the Public Prosecutions Act 1994 and the Magistrates' Court Act 1989.

The bill modernises the language by amending terminology used in a range of these acts. It updates cross-references to other acts or provisions which have been repealed and replaced and introduces detailed transitional arrangements to clarify when provisions of the Criminal Procedure Act commence operation. The bill also makes a number of policy changes that are consistent with the key principles of the Attorney-General's justice statements to modernise the justice system and promote consistency, transparency, fairness and certainty in the criminal law. I believe a feature of this government and this Attorney-General is their willingness to change criminal procedures and legal proceedings to make them more user friendly, to make them easier for people to understand and to make them less traumatic for people who have to experience court proceedings.

One of the reforms has been evidentiary rules and procedures in sexual offence cases, and we have heard a little bit about this earlier today. I want to spend some time talking about this. This bill inserts into the Criminal Procedure Act sections of the Evidence Act that relate specifically to sexual offence cases. Given the importance of special rules in sex offence cases — and we have seen these previously — and their relationship to criminal procedure, these sections are more appropriately located with other procedural provisions in the Criminal Procedure Act.

The sections in the Evidence Act 1958 have largely been drafted in response to a number of major reviews by the Victorian Law Reform Commission, and those recommendations have been implemented over a number of years. The sections are inconsistent in style and content, or they overlap and duplicate each other. The application of some sections — for example, special hearings — is unclear and would benefit from clarification. This bill overhauls the rules and procedures to make them clearer and easier to understand. The bill provides certainty in relation to processes in sexual offence cases by providing clearer time limits as well as clarifying each division, which categories a witness division applies to, and which stage of a criminal proceeding they also apply to.

Where there are a number of overlapping sections in the Evidence Act of 1958, the bill consolidates these into a single division that is consistent and easy to find. Under the Criminal Procedure Act there is a new division 7, which refers to recorded evidence of a complainant at trial. This bill introduces a new procedure which broadens the use of recorded evidence in subsequent trials. Currently a child or cognitively impaired complainant in the County Court can have their evidence recorded at a special hearing prior to the trial. This means that in most sexual offence cases a child or cognitively impaired complainant only needs to give evidence on one occasion, so if there is a new trial following an appeal, for example, the court can replay the recording of the complainant's evidence.

However, in some circumstances a complainant in a sexual offence case may be required to give evidence on a number of occasions — for example, an adult complainant in a rape trial may be required to give evidence a number of times where there is a mistrial or a new trial is ordered on appeal. Members would instinctively understand that it would be very traumatic and stressful to have to go through this a number of times. It can also lead to the discontinuation of a case, if a complainant decides not to continue to give evidence at subsequent trials, which is a tragic circumstance, but one that does happen. As we know some of these trials are also very protracted and go over several years.

Accordingly, the bill complements the special hearings provision by providing that the recorded evidence of a complainant — for example, an adult complainant — in a trial for a sexual offence can be used in subsequent trials. The bill provides that the prosecution must apply for this recorded evidence to be admitted and gives the court a discretion to determine whether to admit the recorded evidence or to require the complainant to give supplementary evidence or fresh evidence. This discretion is modelled on the approach used in New South Wales. The court must have regard to the interests of the accused receiving a fair trial in considering whether to admit this recorded evidence. This provides a balanced approach to those issues, reducing the risk of further stress and trauma to the complainant while ensuring that the accused receives a fair trial.

I understand the criminal bar does not support these changes. The right to a fair trial is a cornerstone of this legal system, but for too long the balance of fairness in the prosecution of sexual assault has been heavily weighted against complainants. It is important that the criminal justice system recognise the profound trauma of sexual assault and the way in which giving evidence in court may re-traumatise a complainant.

Over a number of years the government has introduced systemic measures to change the criminal justice system in ways that reduce the trauma and stress for complainants. This is another feature of this response to the needs of victims of sexual violence while ensuring that the trial processes remain fair to the accused. We

believe the impact of these changes will be minimal. On average there are some 31 retrials or mistrials a year in sexual offence cases. Not every case will rely on recorded evidence, as complainants may choose to give evidence again or the court may simply rule that it is not appropriate to rely on the record of evidence.

There are also appropriate safeguards in place to ensure that the accused enjoys the right to a fair trial. As I said earlier, the bill provides that the prosecution must apply for the recorded evidence of the complainant to be admitted and gives the court a discretion to determine whether to admit the recorded evidence or to require the complainant to give supplementary or fresh evidence. The court must have regard to the interests of the accused in receiving a fair trial. That is obviously the overarching principle in considering whether to admit the evidence. This provides a balanced approach to these issues, to reduce the risk of further stress and trauma to the complainant while ensuring that the accused receives a fair trial.

This bill before us this morning, the Criminal Procedure Amendment (Consequential and Transitional Provisions) Bill 2009, is further evidence of this government's view that our criminal justice system and our court proceedings generally need to be kept up to date. We know many of these bills are many, many decades old. The language is often obsolete and no-one truly understands it. The complexities of these amendments is evidence of the enormous complexities in the justice system. This government is about trying to reduce those to make the system more user-friendly — that is, make it more friendly for complainants while maintaining the rights of the accused to a fair trial. I commend the bill to the house.

Mr THOMPSON (Sandringham) — The Criminal Procedure Amendment (Consequential and Transitional Provisions) Bill 2009 is not opposed by the opposition. The purpose of the bill is to make various amendments to the Criminal Procedure Act 2009 and to make amendments to other acts consequential on the Criminal Procedure Act 2009. It also amends the act to provide for witnesses in sexual offence or family violence cases and to make other miscellaneous amendments relating to criminal procedure.

The main provisions of the bill include sundry additions to and modifications of the Criminal Procedure Act 2009, including of some provisions previously in the Evidence Act. It will allow previously recorded evidence by complainants in sexual offence matters to be used at any retrial subject to certain conditions and the court's discretion. A person will be liable for perjury for deliberate false statements in writing for the purposes of a criminal trial. The bill amends the Children, Youth and Families Act 2005 to apply Criminal Procedure Act-type procedures with modifications. It amends the Public Prosecutions Act 1994 to bring procedures and terms into line with the Criminal Procedure Act 2009, and it makes sundry consequential amendments to numerous other acts, which I have previously alluded to. From the list at the back of the bill it is apparent that a wide range of other acts are to be amended as part of the changes. There is some uncertainty as to whether there will be any issues or amendments that have been overlooked in relation to this particular bill.

Within the Sandringham electorate a recently completed courthouse, which is part of a $28 million development, is underutilised. It deals with a high number of motor traffic prosecutions. The number of people who are fined at the intersection of Bay Road and Nepean Highway continues to escalate. Some 750 complaints have been made individually to my office. More than 20 000 people have incurred fines in circumstances where a senior magistrate is on the record as stating that the time for the amber light is way too short. A former chief superintendent of traffic, David Axup, has remarked that something is wrong. The incidence of fines is of concern. If a longer time were allowed on the amber light, parallel with the reverse right-hand turn for vehicles travelling in the other direction, that may be advantageous.

However, traffic cases are not the only cases within the purview of the Moorabbin Justice Centre. Cases will be impacted under the procedure outlined in the bill before the house. A number of members in the chamber would be aware that over the past 12 months in the area governed by the City of Kingston there has been a massive increase of 22 per cent in crime, which is a colossal increase. Some of the people involved will have the convenience of geography and be able to go to the Moorabbin Justice Centre, which may increase its local utility and functionality.

There has also been a serious increase in the number of critical assaults and property offences in the cities of Bayside and Kingston, and this is a matter of ongoing concern. There has been a suggestion, known to members in the chamber, that some of the 120 additional police who were allocated for the CBD (central business district) may be able to assist with the issues in the City of Kingston area. I look forward to an elaboration of how this will be achieved on the ground, because people are concerned about safety in their local communities.

There are also concerns regarding violence in the city. People who have been assaulted in the city may be aware that if prosecutions are brought under the Criminal Procedure Amendment (Consequential Transitional Provisions) Bill, this legislation will govern some of those prosecutions. It is to be hoped there is an improvement in public safety in the CBD of Melbourne, particularly at night-time. Not enough is being done to enable people to have a sense of safety as they walk down the streets. The Victorian government has failed to give an assurance to Victorians that when they go out at night on the streets of the CBD they will be able to do so without the threat of violence. I know a number of people who have had significant apprehension for their personal safety and wellbeing when walking down Lonsdale Street at 11.30 at night. People on the streets are fuelled not only by alcohol but also by drugs. The process adopted recently of people being given diversion treatment rather than being prosecuted for possession of drugs and then going to an entertainment venue can be of concern in the sense of a passive tolerance rather than a zero-tolerance approach to non-compliance with the law to make our communities and streets safe. As a community we also need to consider the underlying factors that lead to the large numbers of people on the streets in the early hours of the morning who are at risk. Some people do not have a ready form of transport home and are at risk not only to themselves but also to other people.

While the bill before the house deals with criminal procedure and perhaps will be applied at the Moorabbin Justice Centre, which does not have a significant volume of cases going through it the last time I checked compared with other parts of Melbourne, and while there is an increase in neighbourhood crime in the areas that my electorate covers within the cities of Kingston and Bayside, it is important that an ongoing effort is made.

Members in this house would be aware that some 21 years ago the Labor Party promised that if it were elected it would build a new police station in Sandringham. Up until the last election that promise had not been kept and there was no new police station on that particular site. People need to understand that it is important in the political process that people fulfil all their political commitments, not just if they are about establishing Grocery Watch or FuelWatch, which were given prominent publicity in the lead-up to an election. In this particular case, the commitment to build a new Sandringham police station was a front-page story on the cusp of the election. The Labor Party was elected to office but it failed to fulfil its promise, albeit serving in government.

I am pleased to report to the house that good progress has been made over the past 21 years. The Labor Party has been held to account year after year. A new police station is being constructed on the site as was originally promised, due to the advocacy of community stakeholders who have not been prepared to be taken for a ride on this issue. Soon police will be working from a good new facility.

It was the Liberal Party that during an election campaign first promised there would be a new police station in Sandringham. For the residents of Kingston and Bayside who confront rising crime and reduced operational use of police vehicles to service those areas, there may be some scope through the good work of the opposition that the government can be held further to account until the election of the next Liberal government. A stronger approach will be taken to important law-and-order issues, especially to make the streets of Melbourne safer and to reduce the reliance on pieces of legislation like the one before the house being used because they will not be required as the streets will be safer and the level of violence in the streets will have been reduced. The people of Melbourne will be able to go about their lives in an orderly and peaceful way.

Ms RICHARDSON (Northcote) — It is always a pleasure to follow the member for Sandringham, who seems to forget the number of cuts that the Liberal government made to police numbers, which of course led to an increase in crime. He skirts over that bit of history, but it gives me great pleasure to remind him of that fact.

It also gives me great pleasure to speak on the Criminal Procedure Amendment (Consequential and Transitional Provisions) Bill 2009. Since coming to office Labor has made significant reforms to our justice system. We have had a very active and reforming Attorney-General, who has always worked in the interests of all Victorians. I am very pleased today to be able to speak in support of yet another one of his and Labor's measures. This time it is designed to bring into full effect another act that was passed earlier this year.

In February Labor moved the Criminal Procedure Act 2009 through the Parliament. That overhauled Victoria's criminal procedure laws by modernising the language used, rationalising and clarifying certain provisions, and improving the overall effectiveness of the justice system. In order for that bill to have its full effect, this Criminal Procedure Amendment (Consequential and Transitional Provisions) Bill needs to be passed through the Parliament to make a number of significant consequential amendments. The Children, Youth and Families Act, the Crimes Act, the Evidence

Act and the Magistrates' Court Act are all amended, along with 133 other acts.

Aside from the significant improvements that have been made in language use, the bill brings to fruition important reforms in relation to sexual offence cases. These are very important reforms because, as we all know, the stress of dealing with the criminal justice system can have a devastating consequence for the victims of sexual assault. Obviously doing all we can to lessen the stress on those victims is the right thing to do, but it also helps the justice system deal with those particularly horrific crimes. That is what the community wants, and it is certainly what the victims want. It is my hope that these reforms will significantly increase the number of successful prosecutions.

The key changes made by the bill include: improving, clarifying and consolidating sections of the Evidence Act that relate to the giving of evidence by witnesses in sexual offence and family violence cases and including them in the Criminal Procedure Act. Currently a victim's prior sexual history may not be brought before a court, and this provision in this instance clarifies that.

It also improves the response of the criminal justice system to victims of sexual offences by providing that the recorded evidence of an adult complainant in a trial may be used in subsequent trials where there is a mistrial or a new trial is required because of an appeal. This provision avoids the need for an adult victim to repeatedly provide evidence at subsequent trials. This is consistent with previous laws we introduced in 2006 that enable a child or someone who is cognitively impaired to be interviewed at a special hearing that is recorded for later use.

It also inserts a new appeals framework into the Children, Youth and Families Act to provide a clear and comprehensive basis for criminal appeals from the Children's Court. Finally, it removes the power to award costs against a child for appealing against a decision of the Children's Court in relation to a criminal charge. This will ensure that a child is not inappropriately discouraged from appealing in criminal matters. The bill has a range of other provisions, but given the short time left I will leave them to other speakers.

I conclude by saying these are very important changes to provisions that will further update our criminal justice system and most importantly provide the victims of crime with the support they need. I commend the bill to the house.

Mr FOLEY (Albert Park) — It gives me great pleasure to speak on the Criminal Procedure Amendment (Consequential and Transitional Provisions) Bill 2009. As we have heard, this is a very detailed piece of legislation making amendments to 137 acts. In the second-reading speech earlier this year the Attorney-General indicated that the modernisation of criminal legal procedures and criminal law in this state is a major priority of the government and that given the size of the task it would require a number of bills to be brought before the house.

This bill reflects that ongoing commitment. It ranges across a number of points in seeking to implement the modernisation of Victoria's criminal procedure. The comprehensive and far-reaching array of amendments requires a series of transitional arrangements, settings, consequential amendments and complicated operational arrangements to be brought to bear. The bill traverses a wide variety of issues, and I do not intend to touch on all of them as a number of speakers have already done so.

One of the areas in which the bill seeks to make some general technical amendments is in relation to the Charter of Human Rights and Responsibilities. Whilst not substantially changing or limiting the operation of the charter, these changes essentially mean that some arrangements will be put in place to allow questions concerning the operation of the Charter of Human Rights and Responsibilities, when tested in the criminal procedure area, to proceed directly from the County Court, if that is the appropriate level, to the Court of Appeal rather than firstly going before a single judge of the Supreme Court.

I take this opportunity to make some more general comments on the effectiveness and the leadership role of the Victorian Charter of Human Rights and Responsibilities in criminal procedure and increasingly as a standard-bearer in the growing push for the recognition of human rights in law, the administrative arrangements of government and across other jurisdictions. In this respect I take the opportunity to bring to the attention of the house that our national government's far-reaching and extensive consultation process, although not concluded, on what, if any, framework of human rights should apply at the federal level has certainly made it clear that it looks to the Victorian jurisdiction as the model on which it seeks to continue this debate at the national level. As recently as last week the commonwealth made it clear that it would proceed on the basis of seeking to establish a human rights framework in both law and the administrative arrangements of the commonwealth by modelling its

approach to human rights on the successful Victorian human rights charter.

That reflects the fact that the Victorian model is based on the approach of ensuring that what is best and appropriate in the legal and common-law arrangements we have in Victoria and our procedures at the civil, criminal and administrative levels dealing with the justice system have been based in its human rights approach on the emerging debate in comparable interstate and international jurisdictions, which points to the fact that our model works as effectively as any in the world.

It is very sad to learn, as we have learnt consistently in debates on a number of bills this week, that those opposite continue to oppose the notion of the application of the human rights charter to Victoria's administrative systems. As recently as yesterday the shadow Attorney-General again took the opportunity to denigrate the operation of the human rights charter. Those opposite, with their backward-looking approach to this issue, would be best served by recognising that the future of the administrative, legal and criminal arrangements relating to how citizens seek to engage with criminal procedure and the law more generally is based increasingly around the notion that communities expect their individual rights to be recognised in these approaches.

This is in many respects a model bill that reflects the continued commitment to the endless and ongoing task of modernising and keeping our legal system appropriate that was made in this place by the Attorney-General in his justice statements 1 and 2.

Debate adjourned on motion of Mr LANGDON (Ivanhoe).

Debate adjourned until later this day.

Sitting suspended 1.00 p.m. until 2.05 p.m.

Business interrupted pursuant to standing orders.

Mr Cameron — On a point of order, Speaker, I seek your guidance in relation to the appropriateness of the use of Parliament by the member for Hastings, who this morning made a personal attack on and allegations of corruption against the former Chief Commissioner of Police as well as some other police. I do that particularly in light of the comments yesterday and the Leader of the Opposition's inability to pull into line his rabid backbench.

The SPEAKER — Order! There is no point of order.

QUESTIONS WITHOUT NOTICE

Children: protection

Mr BAILLIEU (Leader of the Opposition) — My question is to the Premier. I refer to the first — —

Honourable members interjecting.

The SPEAKER — Order! The member for Mill Park will not interject in that manner.

Mr Hudson interjected.

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

Mr BAILLIEU — My question is to the Premier. I refer to the first of some 250 government reports tabled today, the Department of Human Services annual report and the fact that in 2003 chronic child protection staff shortages were identified and in March 2008 the Minister for Community Services spent $52 000 personally travelling to Europe to recruit child protection staff, and I ask: given that the government has known for six years that the child protection workforce is in crisis, why does this annual report show that there are fewer full-time equivalent child protection workers than there were in the previous year?

Mr BRUMBY (Premier) — I thank the Leader of the Opposition for his question. As I have said many times in the Parliament previously in relation to child protection, this is an issue which concerns all members of this place, and it is incumbent upon all governments at whatever time in their history to do what they can to ensure the best possible protection for children. It is no secret that we have had recruitment and retention issues in relation to child protection staff.

Honourable members interjecting.

The SPEAKER — Order! I suggest to members that the Premier will not be shouted down. I ask for some cooperation from the government benches.

Mr BRUMBY — A month or two ago, when I was asked another question on this issue — I think by the Leader of the Opposition — if my memory is correct I referred to an article in the *Age* by Carol Nader which looked at the day-to-day work of a child protection worker and at how difficult that work is when you go into someone's home and you make a judgement about whether or not you remove a child from their parents. As a consequence of the nature of that work it is often difficult to recruit and retain staff.

I have been in this place for many years, and I have heard many debates about this issue. We have announced an additional package of funding of $77.2 million. We are putting in place additional measures to support staff in their extremely difficult work. With the 200 additional staff and the new recruitment initiatives, I expect a stronger focus on team effort and a stronger focus on supporting new staff, and the particular initiatives in some regions — —

Honourable members interjecting.

The SPEAKER — Order! The members for Doncaster, Hastings and Warrandyte will cease interjecting in that manner.

Mr BRUMBY — I believe the package we have put in place, with the 200 additional staff and the additional measures we are taking, will address those issues and we will make progress even in some of the more difficult areas of the state where, because of their geographic remoteness — places like Gippsland — it has been difficult to fill those vacancies. I believe the plan we have in place will achieve that goal.

Questions interrupted.

DISTINGUISHED VISITORS

The SPEAKER — Order! I welcome some visitors to the gallery today. We have the Presiding Officer from the Scottish Parliament, Alex Fergusson, along with a delegation of members: Ted Brocklebank, Ross Finnie, Rhoda Grant and Sandra White. Welcome to Victoria and welcome to the Parliament of Victoria.

We also have a delegation of Queensland parliamentarians. We must be doing something right. They must have come to see our exemplary behaviour at question time! I welcome to Victoria and to the Victorian Parliament the Honourable Annastacia Palaszczuk, who is the Minister for Disability Services and Multicultural Affairs, Julie Attwood, the parliamentary secretary to the minister, Grace Grace, Vicky Darling, Curtis Pitt, Desley Scott and Carryn Sullivan, who are all from the Parliament of Queensland.

QUESTIONS WITHOUT NOTICE

Questions resumed.

Water: Victorian plan

Ms BEATTIE (Yuroke) — I ask my question in esteemed company. My question is to the Premier. I refer to the Brumby government's commitment to make Victoria the best place to live, work and raise a family, and I ask: can the Premier outline to the house how the government is securing water for families, businesses and farmers?

Mr BRUMBY (Premier) — I thank the member for Yuroke and welcome the delegation from Scotland. I thank them for bringing a bit of rain to our state.

We all welcomed the rainfall in recent weeks, but we should not forget just how difficult the last 12 years have been. Since 1997 catchment inflows across the state have decreased by something like 40 per cent. In 1997, after a couple of decades of above-average rainfall, we had storages that peaked at 95 per cent. As I speak today those storages are at 35.6 per cent. This is after 13 years of drought and the worst ever inflows that we have experienced as a state, which were in 2006.

In response to the honourable member for Yuroke, the government has a very clear and transparent water plan. We have a plan that is black and white; we have a plan that is there for everyone to see. We stand by our plan; it is a plan that will deliver water security for all Victorians, no matter where they live. It delivers to us a road map to get us off water restrictions in the future. When you look at our plan you see we are building Australia's largest desalination plant — 150 gigalitres, scaleable up to 200 gigalitres. We are upgrading Victoria's irrigation infrastructure, we are building a statewide water grid and we are leading Australia — we are leading the country — on water recycling and conservation.

I thank the member for Yuroke for her question, because the point of the story is that our plan is working. As the Minister for Water said earlier this week in the Parliament, we are seeing the benefits of our plan in place across the state already. As a result of the Wimmera–Mallee pipeline, what had been level 4 restrictions are now down to level 1. With storages still at just 11 per cent, it would not have happened without our Labor government initiative to fund the Wimmera–Mallee pipeline.

Honourable members interjecting.

The SPEAKER — Order! The member for Lowan! Government benches will come to order! The Premier will not be shouted down. I particularly mention the members for Benalla and Bass.

Mr BRUMBY — As I said, in the Wimmera–Mallee pipeline we are seeing already the benefits of that great project, six years ahead of schedule and delivering water security. Of course history will show that the feasibility study for that project was funded very early on in our term of government after years and years of rejection by the local community under the former Kennett government, with absolutely zero success under that government.

Of course there is the goldfields super-pipe going down to Ballarat. I remember that when we turned that on the White Swan Reservoir was at 7 per cent. There was just a little puddle in the reservoir. We turned on that pipe and built up the water supplies, and this week too Ballarat was able to reduce its water restrictions. It is off the back of that investment and the improved rainfall we have seen.

Mr Hulls interjected.

Mr BRUMBY — Yes, thank you — opposed by those opposite. When you look at the Melbourne storages, which this week are at 35.6 per cent, you see the result of initiatives like reconnecting Tarago and the investment we have made there — —

Honourable members interjecting.

Mr BRUMBY — You opposed that one too! Wimmera–Mallee, the super-pipe, Tarago, desal — —

Honourable members interjecting.

The SPEAKER — Order! The Minister for Consumer Affairs!

Mr BRUMBY — The biggest project that we have going forward is the 150-gigalitre desalination plant. What that means is that we have got a source of water which is non-rainfall dependent. That is just so important to changing our water mix going forward.

Dr Napthine interjected.

The SPEAKER — Order! I ask the member for South-West Coast to show some respect to the chamber and cease interjecting in that manner.

Honourable members interjecting.

The SPEAKER — Order! I do not need the advice of government members.

Mr BRUMBY — That is the biggest project going forward. It is a great project for a state and, again, a project which delivers the road map to get Melbourne and the state off water restrictions going forward. I want to make this point about a plan: when you have got a plan you can be clear and you can be up-front with all Victorians. When you have got a plan you can explain to stakeholders and to the media exactly what you are doing. When you have got a plan you cannot say one thing in Gippsland and another thing in Brighton, and you cannot say one thing along the Murray and another thing in Hawthorn.

Dr Napthine — On a point of order, Speaker, the standing orders require the Premier to be succinct and factual; he is being neither. I ask you to bring him back to being succinct in his response to this question.

The SPEAKER — Order! I uphold the point of order in the sense that the Premier, even given the number of interruptions to his answer, has been speaking for some time. I ask him to conclude his answer.

Honourable members interjecting.

The SPEAKER — Order! I ask for some cooperation from members of the opposition.

Mr BRUMBY — As I have made very clear, we have got a plan. It is fair to say that without a plan you have got chaos. What we have got in this place is a coalition of chaos in relation to water policy.

Honourable members interjecting.

The SPEAKER — Order! The Premier has concluded his answer.

Victorian Funds Management Corporation: executive salaries

Mr WELLS (Scoresby) — My question without notice is to the Premier. I refer the Premier to the second of some 250 government reports tabled today, the annual report of the Victorian Funds Management Corporation (VFMC), which shows that the value of funds under management has plunged by $10 billion and every single market benchmark for investments has not been met.

Honourable members interjecting.

The SPEAKER — Order! Government members will cease interjecting in that manner. I warn the member for Prahran and the member for Northcote.

Mr WELLS — I ask: can the Premier explain why, despite these facts, bonuses for VFMC executives have gone up by 57 per cent and executive pay has gone up by 42 per cent, now including the highest paid public

servant in Victoria, who has an annual salary of more than $1 million?

Mr BRUMBY (Premier) — I thank the honourable member for his question. Victorians would rightly expect that bonuses paid to executives, whether they are in the government sector or the private sector, are paid on the basis of good performance. Similarly they would look dimly on bonuses which are paid to executives when performance has been poor or below average. That is the view I take in relation to these matters.

In relation to the Victorian Funds Management Corporation report, we have set financial compensation limits for the VFMC and it is not clear that those limits have been observed. Those limits do not allow high-performance bonus payments unless outstanding investment returns are achieved. The investment returns of the VFMC last year do not warrant excessive performance bonus payments, and neither the Treasurer nor myself will condone a compensation scheme that rewards underperformance. I believe it would be particularly offensive for any large performance bonus to be approved if targets have not been met when the rest of the Victorian government and Victorian employers are showing restraint under the pressure of the global financial crisis.

Accordingly, the government has today requested the State Services Authority to review the governance arrangements in place for the approval of remuneration arrangements made last financial year and the compliance of remuneration arrangements with the compensation policy framework established by the government. The Treasurer has had a frank conversation with the chair of the VFMC.

Honourable members interjecting.

The SPEAKER — Order! I ask the Leader of the Opposition — —

Mr Baillieu interjected.

The SPEAKER — Order! I warn the Leader of the Opposition. The Chair will not be ignored in that fashion.

Mr BRUMBY — As I was saying, the Treasurer has had a frank conversation with the chair of the board, who is a new appointee and I believe a great asset to the organisation, who has said that he will work closely with the secretary of Treasury before, firstly, any further performance bonuses are paid; secondly, any changes to existing compensation arrangements are made for principal officers; and thirdly, any new executive compensation arrangements are entered into. The government will not pre-empt the findings of the review or breach confidentiality requirements, but I will say this: the State Services Authority usually provides advice to ministers on a confidential basis. However, given the seriousness with which we view this matter, the action that the government takes following this review will be very clearly done on a public basis.

Police: government initiatives

Mr CARLI (Brunswick) — My question is for the Minister for Police and Emergency Services. I refer to the government's commitment to make Victoria the best place to live, work and raise a family, and I ask: can the minister advise the house what measures the government is taking to support our police in keeping Victoria the safest state in Australia?

Mr CAMERON (Minister for Police and Emergency Services) — I thank the honourable member for Brunswick for the question. He joins with all honourable members on this side of the house and the vast majority of Victorians in showing respect for officers of Victoria Police, their authority and the office of chief commissioner.

We are very pleased as a government to have been able to provide Victoria Police with a record budget. What we have is more police on the front line than ever before. We know that that investment has been important. We have seen the great work of Victoria Police, and in the last eight years we have seen a reduction in the crime rate of 25 per cent — most of that during the time of then Chief Commissioner Christine Nixon.

I can advise the house of more good news as part of our record recruitment of police. Last Friday I went to a police graduation ceremony at Glen Waverley. I congratulate all the staff there on the work they do in preparing police, their encouragement and the way they go about training the new recruits, and I am sure I am joined by all honourable members on this side of the house in those congratulations. What we have seen as a result of that work is that since we have been in government, we have now had 5000 new recruits go through the academy. Those recruits not only replace those who have left but also increase the total number of police. There has been an increase of 1400 police in our first two terms. As you know, Speaker, during this term we want to increase police numbers by another 400 or 470. We totally reject the approach of others who would have the police force reduced by 800, as is known by their track records.

We also thank the police for their work and the role that they have in helping keep Victoria a safe place. We thank them also for their work to deal with the challenges of the future. The new chief commissioner, Simon Overland, has worked closely with the government to present a strong case. We have had discussions and, as you are aware, Speaker, we have announced a package of new powers that we want to put in place for police, including move-on powers for troublemakers, the issuing of infringement notices for those who are drunk or drunk and disorderly, new powers for dealing with weapons on a random basis, and also a new disorderly offence. I note there is only one side of this house that has endorsed this package for police, and that has been Labor.

We are proud of the police. We are proud of what they do, and we have full respect for officers of Victoria Police. That is why we have supported them with a record budget and record resources.

Rail: level crossings

Mr MULDER (Polwarth) — My question is to the Premier. I refer the Premier to the seventh of some 250 reports tabled by the government today, the annual report of the Department of Transport, which reveals that just 9 per cent of safety breaches identified in the Australian level crossing assessment model audits of level crossings have been resolved, leaving 19 397 safety breaches outstanding, and I ask: is it not a fact that at this rate it will take 16 years to resolve all the remaining deficiencies at level crossings?

Mr BRUMBY (Premier) — As the member for Polwarth would be aware, it would have taken well over 150 years under the funding profile of the former Kennett government — 150 years!

Let me go to the level crossing upgrade program to which the honourable member has referred. In 2005–06 we did 96 upgrades; in 2006–07, 57 upgrades; in 2007–08, a further 46 upgrades; and in 2008–09, a further 46 upgrades — 245 upgrades over four years. We can thank the Rudd government for its contribution to level crossing safety as well, and the economic stimulus package, with a contribution of around $30.3 million for that important work.

Let me put 245 upgrades over four years into perspective. Over a seven-year period which I can recall — let us call it 1992 to 1999 — there were 75 upgrades. There were 75 upgrades in seven years, and we have done 245 in four years. With 245 over four years and 75 over seven, we have got the runs on the board. In addition to that — —

An honourable member interjected.

Mr BRUMBY — You had your chance in the 1990s and you mucked it up. You did nothing!

The SPEAKER — Order! The Premier will not debate the question and will not use question time as an opportunity to attack the opposition.

Mr Batchelor interjected.

The SPEAKER — Order! The Chair does not need advice from the Leader of the House.

Mr BRUMBY — I am pleased to say that, in addition to that, the Victorian transport plan committed a further $440 million to a grade separation program which of course starts with Springvale Road. I was out there recently. That is another great project funded by our government in partnership with the federal government, a partnership which involves improving that interchange, which has 50 000 vehicles and 218 train movements every day. The 2009–10 state budget provided $60 million for that project and the commonwealth government has confirmed an $80 million commitment. That follows the success of a previous project — again a commonwealth-state funded project — on Middleborough Road in 2007. That is a great project.

I should say we also have in place a level crossing camera trial. We have successfully trialled enforcement camera technology at two locations. Legislation to enable the issuing of infringement notices to motorists breaching the road rules at enforcement camera sites I am pleased to say has passed the Parliament.

Finally, can I say in relation to the Australian level crossing assessment model (ALCAM), we have completed a two-year program of field surveys at every Victorian level crossing using ALCAM. Victoria was one of the first jurisdictions, as the honourable member is aware, to complete this process, and the results of these surveys help to inform our annual level crossing safety program. There has always been a very high number of level crossings in our state; it is in the nature of the development that has occurred in the state over more than 100 years. We are making inroads.

As I said, we have put in place additional budget funds and we have completed 245 upgrades over four years, and that is a much better rate of completion than occurred in the 1990s.

Children: early childhood services

Ms RICHARDSON (Northcote) — My question is to the Minister for Children and Early Childhood Development. I refer to Labor's commitment to make Victoria the best place to live, work and raise a family, and I ask how the Brumby Labor government is providing support to Victorian children and families during the biggest baby boom in a generation.

Ms MORAND (Minister for Children and Early Childhood Development) — I thank the member for Northcote for her question. We are very proud of our record investment in supporting children and their young families. The member knows very well, being the member for Northcote, that Victoria is experiencing the biggest baby boom in a generation. In 1999, 10 years ago, there were almost 59 000 births in Victoria; now there are more than 71 000, which proves that Victoria is the best place to live, work and raise a family. The Brumby government understands the importance of supporting parents and children, particularly through the early years, and it has significantly increased its investment in early years services, including in maternal and child health services.

In Victoria we have the best maternal and child health service in Australia, and indeed one of the best in the world. That is not just my opinion; that is the opinion of child health experts. Since 1999 we have doubled our investment in maternal and child health, and that has resulted in increased participation in the key age and stage visits. In fact 99 per cent of all newborns are now visited by a maternal and child health nurse. That is a record number of visits by a record number of nurses.

This high-quality support continues through all of the 10 key age and stage visits, and there has been a record participation of 580 000 visits to maternal and child health services. These services are really important for parents with young children, particularly in the child's very early years. It is a way of identifying problems with the health and wellbeing of the baby as early as possible, but is also very important for the parents, particularly the mother. Also very important to parents with young children is the maternal and child health telephone line. When we came into government the number of calls taken on this line was around 23 000; it is now taking 95 000 calls from parents, due to our increased investment.

The maternal and child health system is a great partnership with local government. The other great partnership we have with local government and the community sector is in the provision of kindergartens. We understand the importance of children attending a four-year-old kindergarten program in the year before school. Now more Victorian children than ever are attending a kindergarten program, and the government's support has massively increased. When we came into government the kindergarten fee subsidy for families holding a health-care card was $100. It is now $750, and that allows children of families with a health-care card to effectively participate in kindergarten for free. We have also introduced a subsidy for all three and four-year-old indigenous children.

Finally, this morning I was in Altona North with the local member, the member for Williamstown, and we had great pleasure in announcing the allocation of an additional 500 places for early childhood intervention. Together with the increase I announced today we now have a record number of places for children with special needs; we are helping them with special education, physiotherapy, speech therapy and all the things that are very important in supporting them in their early years and helping their transition to school. The government has responded very effectively to the baby boom. It has massively increased its investment in the early years services and it is still focusing on quality.

Bushfires: community preparedness

Mr RYAN (Leader of The Nationals) — My question is to the Premier. I refer to the eighth of some 250 government reports tabled today, and that is the annual report of the Department of Sustainability and Environment, which shows that the government last year completed only 5 of 60 promised bridge and crossing repairs or replacements to enable safe access for rapid bushfire response, and I ask: is it not a fact that in failing to complete over 90 per cent of these vital preparation works the government is leaving Victorian communities dangerously unprepared to meet the threat of bushfire?

Mr BRUMBY (Premier) — As I have made very clear to the house this week and previously, the effort going into fire preparation and fire safety for this year's fire season is the single largest effort the state has ever put in place. I mentioned in the Parliament yesterday that with the Minister for Police and Emergency Services and the Minister for Tourism and Major Events I was in the Otways, Anglesea and Aireys Inlet undertaking a number of activities there yesterday. The fact is that we have seen the biggest fuel reduction and fire preparation effort in the Otways that has been the case since records were kept — more than 30 years.

I believe all the steps we have put in place, whether it is the level of funding, whether it is the bringing forward of 700 firefighters to the Department of Sustainability and Environment, whether it is the additional equipment, whether it is the incident control centres, whether it is upgrading the internet and communications or whether it is the fire danger rating warnings, are designed to make our state as fire safe and as fire ready as possible.

Everyone in the state is in this together. It is not a single responsibility of any level of government; it is a joint responsibility of state government, of local government, of communities, of individuals and, I would have hoped, of every member of this Parliament. The one thing I hope we have been able to achieve through this Fire Action Week is a real focus on these activities. This morning I did an interview with Jon Faine on 774 ABC radio. He was, I think, out in the Dandenongs and there was a lot of discussion and a lot of debate. Not everybody agrees with everything that is said and everything that is done, but I have never heard so much debate, so much discussion and so much awareness about the forthcoming fire season.

It is good that there is that level of discussion, debate and understanding. If out of all of that we are better prepared than we have ever been before, which I believe we will be, hopefully we will get through this year's fire season with minimum loss of property and no loss of life.

Schools: Victorian plan

Ms THOMSON (Footscray) — My question is to the Minister for Education. I refer to the government's commitment to make Victoria the best place to live, work and raise and educate a family, and I ask: will the minister inform the house what progress has been made towards the Victorian schools plan commitment to rebuild, renovate or extend 500 government schools in four years?

Ms PIKE (Minister for Education) — I thank the member for Footscray for her question and for her strong interest in good education within her local community. At the last election the government announced that if it were to be returned it would embark on the biggest ever rebuilding program of our government school infrastructure in the history of the state. After three budgets the government is right on track to meet its target of the first 500 schools in that program under the Victorian schools plan. To date, over the first three budgets of this term of government, 375 schools have received funding. Projects are being rolled out, and as I said, the government is right on track to reach the 500 target.

There are a range of projects. There are major modernisations where schools are being completely rebuilt. There are regeneration programs where there are new configurations and where new infrastructure is being built to revitalise education in whole communities, such as Broadmeadows and Bendigo. There are brand-new schools in growth areas. We know of the 11 new schools under the Partnerships Victoria program. That is a fantastic program. Right around the state students are now enjoying state-of-the-art education facilities — 21st century facilities for 21st century learning. There are so many new facilities opening around the state that there are almost too many to attend. I know many local members enjoy going to their schools, discussing the new facilities with people in those schools and being part of the new developments.

This has been a huge investment by our government, but it has also been a mammoth effort by schools. I take this opportunity to put on record my appreciation for the very hard work that has been done by school principals, school leaders and school councils, in partnership with the regions and the Department of Education and Early Childhood Development. This is a huge task that is bearing great results.

On top of that investment, the Victorian government's partnership with the Rudd government has meant even further resources coming into the education system in our state. An additional 2900 projects are being rolled out around Victorian schools. You virtually cannot drive down any street past any school without seeing the signs up, the facilities being redeveloped, fences up and workers on site. Schools right around the state are seeing so much work being done. Just this morning the Premier and I were in Bunyip at a fantastic school with a great educational program where a new facility is going up. It is not just about the new facilities and the new schools that are being built, because when you add those things to our school improvement strategy, this is a fantastic time, a wonderful time for education in Victoria.

I add that 2700 jobs in the building industry are being created by this additional investment. The government is very proud of its vision and commitment. The government has put the resources in and is well on track to achieving its goals. It places Victoria in an exceptionally good position to benefit from the additional money from the Rudd government so that Victoria can continue to take its place as the best state in Australia for educating young people.

Liquor: licences

Mr O'BRIEN (Malvern) — My question is to the Minister for Consumer Affairs. I refer to the Department of Justice annual report — yet another of the 250 reports tabled today — concerning a risk-based liquor licence fee system. I refer the minister to his $20 million liquor licence fee hike, which will force a tiny mum-and-dad mixed grocer to pay exactly the same risk-based fee as a massive liquor supermarket. I ask: will the minister concede that his proposals will cost jobs and that he has got it wrong, and will he now scrap these ridiculous and unfair fees until he can introduce a genuine risk-based system?

Mr ROBINSON (Minister for Consumer Affairs) — I thank the member for Malvern for his question on this topical subject. The government makes no apologies for introducing a risk-based liquor licence fee system. We make absolutely no apologies. We believe a risk-based liquor licensing fee policy, as one of several measures we have been introducing and announcing in recent months, is in keeping with the community's expectations about how antisocial activity in relation to licensed premises should be tackled. Wherever I go across the state and whatever groups I speak to, there is universal support for that proposition.

In fact it is interesting to find out that more and more people are putting out material saying exactly what the government is saying. I came across some comments just today. There is a figure who is entering public life — aspiring to public life — who said that she stands for 'stronger law enforcement to curb alcohol-fuelled licence'. I wonder who it was, Speaker! I wonder who it was who said that. Let me advise the house and the member for Malvern that it was none other than Kelly O'Dwyer, who hopes to take over from the member for Malvern's mentor.

The SPEAKER — Order! I suggest to the Minister for Consumer Affairs that he cease debating the question and come back to addressing the question as asked.

Mr ROBINSON — Certainly, Speaker. I am happy to say to the member for Malvern that perhaps he has not understood some of what the government has been proposing in recent months.

Mr O'Brien interjected.

The SPEAKER — Order! The member for Malvern has asked his question and will not do so again in the form of an interjection.

Mr O'Brien interjected.

The SPEAKER — Order! I will explain to the member for Malvern once again that standing orders do not require the minister to answer a question.

Honourable members interjecting.

The SPEAKER — Order! And the standing orders of this house have been such for many, many years.

Mr ROBINSON — The centrepiece of the government's proposition in relation to liquor licensing fees is that the direct costs of administering and supervising that industry should be paid for by the industry. It is a very simple proposition. What has been happening in recent years is that the industry has been subsidised by taxpayers. It has not been covering the direct costs of administering that system.

The costs of administering the system going forward include funding for the new compliance unit. I thought the other side supported the compliance unit. Let me just outline to the house briefly that in about the last 10 weeks, since that compliance unit was established, the very good work of that unit has seen about 4000 inspections undertaken. We have seen over 1000 warning notices issued. Some 15 criminal investigations have commenced as a consequence of that unit's work over the last few weeks, complemented magnificently, can I say, by Victoria Police.

I agree with the Minister for Police and Emergency Services: we stand shoulder to shoulder with the new chief commissioner. He and his officers are doing a wonderful job. In 2008–09 Victoria Police, in relation to liquor-licensed premises across the state, issued 4170 infringement notices, a 40 per cent increase on the previous year. Victoria Police is doing magnificent work.

These things cost money, and the Victorian public says that the licensed industry should pay those costs. It should not be put on mums and dads. We have proposed a series of fees, and packaged liquor outlets as licensed premises must pay their contribution. The member would seem to be unaware that in the draft fees that were promulgated some time ago, and in the revised version of those fees, a hardship clause is evident.

Honourable members interjecting.

Mr ROBINSON — Just hold on! Small businesses with less than five full-time employees are able to apply for an exemption, a waiver or a reduction. That is a very reasonable proposition. It was there several weeks ago. I am sorry the member for Malvern did not read

the document and understand it was there. I am sorry, but in conclusion — —

The SPEAKER — Order! The minister should conclude his remarks.

Mr ROBINSON — In conclusion, the government does not resile from the introduction of risk-based liquor licensing fees, and the government stands by its commitment that the cost of administering the industry should be borne by the industry.

Health: government initiatives

Ms GRALEY (Narre Warren South) — My question is to the Minister for Health. I refer to the government's commitment to make Victoria the best place to live, work and raise a family, and I ask: can the minister update the house on any recent milestones in the government's efforts to rebuild our health system?

Mr ANDREWS (Minister for Health) — I thank the honourable member for Narre Warren South for her question and for her interest in health service provision in her growing local community. What our government has done in each and every year of its term in office is to give to our dedicated health professionals the resources that are needed to meet the health challenges that present today and also to lay the foundations to meet the challenges in the years to come. That is why every hospital has received a funding increase in every year. That is why across the board we have 130 per cent more recurrent funding throughout our health system than when we came to office. That is why we have invested not $500 million but $5.5 billion in the biggest health infrastructure program that this great state has ever seen. That is what we have done, and that is what we will continue to do.

What do those investments mean for local communities? There are a few milestones. I was asked about milestones by the honourable member, and an important one was celebrated just recently in her local community. That was the fifth birthday of the Casey Hospital, a hospital built by a Labor government to provide better health services to a growing part of our state. That new hospital, that fine facility in Berwick, is not just an important piece of physical infrastructure. What is important is the care and treatment that is provided within it.

I can inform the honourable member that 4750 babies have been ` in that brand-new hospital, built by a Labor government. Since it opened it has admitted over 105 000 patients and 160 000 patients have presented to the emergency department there. I should also mention that 21 000 episodes of elective surgery have been performed at the Casey Hospital. That gives you a clear sense in human terms of what that investment means: more patients treated more quickly close to home, close to family and in the community they have helped to build. That is the power of the investment of this government.

There are a couple of other important milestones that have passed recently, and it is important to acknowledge them. We, as a government, as I said before, have made sure that in each budget we have given health services the resources they need. One of the ways you do that is to give health services the funding they need to employ more staff — to employ more nurses and to employ more doctors. We have not recruited 1000 extra nurses. We have not recruited 5000 extra nurses. We have recruited 10 516 additional equivalent full-time nurses right across our public hospital system. It sure beats sacking them! What that means is that we have more nurses in local communities providing better care to a growing number of patients.

But as important as the nursing workforce is, it is but one part of a team. The medical workforce is also important, and that is why we have provided funding to put into our public hospital system 3150 additional hospital doctors. On any measure that is giving to our health services the resources that are needed, the skills that are needed and the practical support that is needed to treat more patients, to treat them faster and to deliver better outcomes for communities right across our state.

I was asked about milestones. There are a couple of milestones that are fast approaching, and it is important to highlight these, because they very much tell the story of the difference in approach between this government and others. I draw the house's attention to the fact that 28 October will be the 10th anniversary of Labor scotching, putting to an end, stopping in its tracks, the privatisation of the Austin Hospital. It took a Labor government to stop that.

There is another milestone that is important as well: 31 October will be the ninth anniversary of the failed privatisation of the Latrobe Regional Hospital. That abject failure meant that, at very considerable cost to Victorian taxpayers, the keys were effectively handed back to a Labor government to run that show and repair the untold damage to community confidence and health service provision in that part of regional Victoria.

Let me conclude simply by saying this: this side of the house — Labor — is as opposed today as it was then to privatisation of our public hospitals. Our position on

this is absolutely clear. The position of others — oracles — is less clear. We make no apology for our investment in health services. That is our record, and we will continue to ensure that every single health service has the resources it needs to treat the growing number of patients presenting for care.

GAMBLING REGULATION AMENDMENT (RACING CLUB VENUE OPERATOR LICENCES) BILL

Introduction and first reading

Received from Council.

Read first time on motion of Mr ROBINSON (Minister for Gaming).

STATUTE LAW AMENDMENT (EVIDENCE CONSEQUENTIAL PROVISIONS) BILL

Second reading

Debate resumed from earlier this day; motion of Mr HULLS (Attorney-General).

Mr HULLS (Attorney-General) — In summing up I thank all members for their contributions to debate on this very important bill. It is a vital part of the implementation of the uniform evidence law right across Australia and all the benefits which come with this greater consistency of laws across our borders.

As members of this house have indicated, the Statute Law Amendment (Evidence Consequential Provisions) Bill is a technical bill but it is also a very important bill. It is about national reform, and it also achieves a major commitment of the justice statement and furthers the work of this government to modernise the laws of Victoria in relation to our justice system.

Some issues were raised in relation to cross-examination. Where evidence to be admitted is from a previous proceeding, the provisions of both the 1958 Evidence Act and the Evidence Act 2008 will require that the defendant has had the opportunity to cross-examine the witness. It should also be noted that the benefits of section 65 and the broadened definition of 'unavailability' extend to the defence, as subsection (8) specifically lifts the hearsay rule for defendants. Obviously there are many provisions in Victoria designed to assist people to give evidence, such as the use of screens, remote video link and having a support person. These measures, of course, will be taken into account in relation to whether a person is genuinely unable to give evidence and whether that inability is able to be overcome.

The joint commissions in considering changes also considered the United Kingdom definition contained in section 116 of the UK legislation and specifically did not go down that path. The Victorian provisions respond to the recommendations of the joint commissions and therefore, by logical extension, are also not going down the path of the UK.

I believe this bill strikes the appropriate balance and is in line with national reform. I certainly commend the bill to the house.

Motion agreed to.

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

Third reading

The ACTING SPEAKER (**Mr Ingram**) — I advise the house that the Speaker is of the opinion that the third reading of this bill requires to be passed by a special majority. As there is no special majority of members of the house present, I ask the Clerk to ring the bells.

Bells rung.

Members having assembled in chamber:

Motion agreed to by special majority.

Read third time.

CRIMINAL PROCEDURE AMENDMENT (CONSEQUENTIAL AND TRANSITIONAL PROVISIONS) BILL

Second reading

Debate resumed from earlier this day; motion of Mr HULLS (Attorney-General).

Mr HULLS (Attorney-General) — I want to thank all members for their contribution to this very important bill. It is a technical but very important bill. It supports and implements the comprehensive and far-reaching legislative regime introduced by the Criminal Procedure Act. I wish this bill a speedy passage.

Motion agreed to.

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

Third reading

Motion agreed to by absolute majority.

Read third time.

SENTENCING AMENDMENT BILL

Second reading

Debate resumed from 14 October; motion of Mr HULLS (Attorney-General).

Mr NOONAN (Williamstown) — Whilst I rise to support the bill before the house, I have to put on record my disappointment that we are having to deal with the issue of race-related hate crimes in the Victorian Parliament today. I accept that hate crimes occur in every country and Victoria is not immune from these despicable acts, but what I cannot understand is the motivation for these types of crimes. Why would anyone want to harm another person because of their sexual preference, the colour of their skin or because they practise a particular religion? I simply cannot understand that.

In fact during the Hanson years I must admit I was probably in denial about racism in this country. I could not believe anyone would take Pauline Hanson seriously. I could not believe her racially motivated views would gain any traction. But they did, and I think Australia is the lesser for her time in public office. Historians may record differing views about former Victorian Premier Jeff Kennett's contribution to public life, but they cannot knock his leadership on multicultural issues. At the height of Kennett's reign, he took on Pauline Hanson, labelling her views on race as 'dangerous' and 'repugnant'. He was right.

Fortunately Hanson's One Nation Party never took hold in Victoria. Her views were simply not supported. They were not fair. Victoria is a proudly multicultural society. We are almost boastful about our cultural diversity. In fact the Parliament has produced a poster featuring the members of the current Parliament, the 56th Victorian Parliament, who were born overseas. For the record there are currently 21 members of the Victorian Parliament who were born overseas, including 11 in the Assembly, and 10 in the Council.

Multiculturalism is part of Victoria's identity, as it is part of our history. I refer to the gold rush. Migrants leaving Britain in 1852 bought more tickets to Melbourne than to any other destination in the world. At the height of the gold rush one in five men in Victoria was Chinese. Then there was the post-war migration program. Our Italian, Greek and Jewish communities, to name a few, have transformed the cultural and economic fabric of Victoria. More recently families from places including Vietnam, South-East Asia, Turkey, Macedonia, Iraq, Afghanistan and Africa have helped to make Victoria socially and economically stronger. Today we are a shining example and beacon of inspiration to the rest of the world, with over 40 per cent of Victorians having been born overseas or having at least one parent who was born in another country, and another 20 per cent of Victorians speaking a language other than English at home.

This cultural diversity is reflected in my electorate of Williamstown. Suburbs such as Altona North and Newport are home to a high proportion of residents who were born overseas. In Altona North, for example, 82 per cent of residents speak a language other than English, and about 55 per cent speak this language at home. These languages include Arabic, Italian, Greek and Vietnamese. This cultural diversity is evident in almost every aspect of our lives. Through architecture, restaurants, politics, commerce and industry, migrants have helped shape our state into the vibrant, prosperous, open and fair society that we all enjoy.

In July this year I joined thousands of Victorians on a walk through the streets of Melbourne to reaffirm to the world Victoria's support for multiculturalism and cultural diversity. I walked with my four-year-old son, Will. It was the first time he had participated in any public rally, and I am glad I took him. It was a great event that demonstrated that Victorians have the will and the resolve to fight for the values that have helped shape our state over the past one and a half centuries. The Harmony Walk also delivered a clear message to an ignorant minority that has managed to cast a shadow over the state in recent times. The actions of those ignorant few will not be accepted by our Victorian community, and this bill reflects that.

The purpose of this bill is to amend section 5 of the Sentencing Act, requiring courts to take motivations of hatred or prejudice into account in sentencing offenders. At present section 5 requires a court sentencing an offender to take into account matters such as the nature and gravity of the offence, the offender's culpability and the impact of the offence on victims. However, there is no explicit requirement that courts should take into account whether a crime has been motivated by hatred or prejudice, although it should be acknowledged that courts do, in practice, take

hatred into account and therefore these amendments in many ways reflect current sentencing practice.

As recommended by the Sentencing Advisory Council, this bill does not seek to define specific groups to which aggravating factors should apply. Rather, this area of the law will be left to the courts to develop on a case-by-case basis. This means that the law is inclusive of our whole community, recognising as a hate crime any offence that is motivated or influenced by hate on the basis of race, ethnicity, religion, gender, sexual orientation, age, language or disability.

Under this bill a victim of a hate crime does not necessarily need to belong to the particular group towards which the perpetrator is directing their prejudice. For example, a good Samaritan who is attacked whilst coming to the defence of a member of such a group could be considered a victim of a hate crime.

The amendment is not limited to crimes against the person. Hate-motivated damage to property, such as graffiti, will also be recognised. This is an important addition. In recent times we have seen swastikas smeared across synagogues and disgusting graffiti painted at an Islamic mosque. Rocks and eggs have been thrown at Hindu worshippers at a temple in Melbourne's south east. This type of behaviour is abhorrent and serves as a direct attack on the very values that almost every Victorian holds so dear. It is a shame that such a gutless few should soil our reputation internationally on this particular issue.

Having said that, I think we need to draw breath and put this problem into some perspective. I want to acknowledge journalist and writer Paul Austin from the Melbourne *Age*, who wrote a very good piece about this issue back in June. The piece, entitled 'Ugly times, yes, but let's not take the big stick to Victoria', was published on 4 June. I kept that piece for this very debate, because I think it is a valid contribution to the debate. It reminds us that Melbourne's political, social and media cultures are different and, as he put it, better than Sydney's.

Paul used some interesting examples to support his argument. He referenced our civic leaders, including such people as Steve Bracks, who is of Lebanese origin; our current Governor, David de Kretser, who was raised in Sri Lanka; and AFL (Australian Football League) head, Alex Demetriou, who is proud of his Greek heritage. Paul also drew comparisons between Sydney shock jock Alan Jones and Melbourne 3AW's Neil Mitchell, pointing to Jones's role in the lead-up to the Cronulla riots back in December 2005. Paul also rightly acknowledged that our Victorian political leaders had adopted a bipartisan approach on combating race issues in our state.

This bill should send the clearest of messages and reinforce the view of this Parliament that attacks against any persons for reasons such as race-based hate cannot and will not be tolerated. Let us hope that, just like Pauline Hanson, this issue also fades into obscurity.

Mrs SHARDEY (Caulfield) — I rise to speak on the Sentencing Amendment Bill and to offer it my very strong support. The purpose of this bill is to require that the motivation of hatred or prejudice against a group of people be considered in sentencing an offender. The provisions in the bill amend the Sentencing Act 1991 to include among the factors that a court must have regard to in sentencing an offender, whether the offender was motivated wholly or partly by hatred or prejudice against a group of people with common characteristics with which the victim was associated or with which the offender believed the victim was associated. The amendment in the bill applies to all sentences imposed on or after the commencement of the act, irrespective of whether the offence was committed before or after this amendment was passed.

I have a couple of issues to raise. When there is a pattern of offending against members of a particular group motivated by hatred or prejudice towards that group it causes enormous apprehension and distress to all group members who are at risk and thus needs and, I believe, deserves greater punishment, and this bill provides for that. Importantly, the Sentencing Advisory Council has considered this issue and recommends the approach adopted by this bill, namely to set out the broad principle while leaving the maximum discretion and flexibility to the courts. It should also be pointed out that the Sentencing Act 1991 already requires specific factors to be considered in sentencing where those factors are considered by the community to be particularly important — for example, the personal circumstances of any victim of an offence — so we recognise that already.

However, the coalition has offered its support in this Parliament for an initiative to provide for the justice system in sentencing an offender to take into account whether that offence was motivated by hatred or prejudice against a particular group. As the member for Caulfield I welcome this initiative as an additional weapon in fighting crimes resulting from anti-Semitic attacks in particular on members of the Jewish community and of course other groups within the community. This is an issue which I have discussed at length with my colleagues and with community leaders

and individuals who have been the subject of or subjected to violent anti-Semitic attacks within my electorate, and I offer my full support to its implementation.

While the concept makes clear the opportunity for the judiciary to take into account as a factor in sentencing a racial or religious motive, it will still be up to the sentencing judge to decide what additional penalty will be applied. It is not mandatory, but there is that opportunity.

I viewed with concern the fact that steps were not taken by the Brumby government to have the racial and religious tolerance legislation or the criminal law invoked or enforced following the violent attack in my electorate on Menachem Vorchheimer. It took nearly two years and a great deal of perseverance for any justice to be seen to be served in Menachem's case. I would have thought his case was one of the most unique cases that could be used to bring a focus to the importance of the implementation of the Racial and Religious Tolerance Act in this state, a piece of legislation which I supported and continue to support. I sincerely hope this additional legislation will deliver a very strong message to the community that crimes of violence based on racial hatred will not be tolerated, and that where they occur stronger penalties should be applied.

There are just a couple more issues I would like to raise. I have been alarmed that to date there is no hate crime unit set up, despite all the promises that had been made in the past and despite the continuation of racial attacks. My electorate of Caulfield in particular is not immune from these attacks. Because of its predominantly Jewish population there has been growing concern about the number of anti-Semitic incidents.

According to research conducted by Monash University in the most recent Jewish population survey, specifically there is a concentration of religious Jews in the area with the Caulfield postcode. This concentration is around 40 per cent, and overall nearly 15 per cent of Victorian Jews live in this part of my electorate. This means that there is a focus and a great deal of understanding about what needs to happen. Between September last year and September this year there were something like 72 separate incidents, including vandalism, egg throwing and verbal abuse. That people on their way to synagogue have had eggs thrown at them and have been shouted at in an anti-Semitic fashion is totally unacceptable, and I am appalled to hear of it happening frequently — almost every week. One incident brought to my attention involved an effigy of a Hasidic person which was stuffed with paper money, draped with an Israeli flag, had a wreath attached to it and was hung above the footpath under the railway bridge in Carlisle Street. I think this is appalling.

I would like the government to implement its promise to properly establish a hate crimes unit within Victoria Police. I understand there was meant to be a desk, but this has not continued to operate. I call on the minister to update the house on what is happening with regard to that unit, because I think it is well and truly needed.

A community security group also works across the Caulfield area. This group is a team of skilled and dedicated volunteers who are carefully selected and appropriately trained. The group works under the auspices of the Jewish Community Council of Victoria and exists to ensure the safety and security of the Jewish community in Victoria.

At almost every function I go to within my electorate there are security people at the gate and walking up and down the street to ensure the security and safety of the people attending the function. I must admit that prior to becoming the member for Caulfield I had not seen anything like this around Victoria. It is something that you think about very strongly, and is of concern that it is necessary. Every Jewish day school has security guards outside, as does every single synagogue.

Mr Kotsiras interjected.

Mrs SHARDEY — As has just been mentioned by my colleague, there are a lot of high fences and press-button security at the front of properties to ensure that people are checked before they come in. Most of the houses in my street, including mine, have very high fences.

I congratulate Dr Dvir Abramovich, the director of Jewish studies at Melbourne University. He is someone who speaks out very regularly in relation to race hate crimes, which he has described as the most pernicious expressions of prejudice. He has written about them that:

> Heartless and unprovoked, they inflict enormous psychological harm, inspire vulnerability in the victim and intimidate an entire class of people.

Hate crimes are an offence against all Australians and when they are not spoken out against and action is not taken they tear at the heart and fabric of our society. I am very optimistic that these amendments will go a long way towards increasing sentences for those convicted of offences motivated by hatred or prejudice.

This bill makes it very clear that such actions are unacceptable, by providing the sentencing courts with the power to punish offenders accordingly.

I strongly support this piece of legislation, but I also call on the government to make sure the legislation is implemented and used appropriately when such crimes are committed. The government owes that to the people to whom it has made that promise.

Ms MARSHALL (Forest Hill) — It is with great pleasure that I rise to speak on the Sentencing Amendment Bill 2009. Over the past few months the media has reported a spate of what are thought to be racially motivated violent assaults. It was a proud moment when on 29 May this year the Premier reiterated that any attack on an individual because of race, culture, gender or appearance is unacceptable, and committed this government to taking measures to build respect in our society and ensure that Victoria remains a multicultural society which celebrates diversity and encourages all groups to live together in harmony and equality.

Hate crimes inflict on victims incalculable physical and emotional damage. Crimes motivated by offensive, spiteful or vicious hatred towards particular groups not only harm individual victims but send a powerful message of intolerance and discrimination to all members of the groups to which the victims belong. Hate crimes can intimidate and disrupt entire communities and damage the civility that is essential to healthy democratic processes. In a democratic society, individuals cannot be required to approve of the beliefs and practices of others but must never commit criminal acts on account of them. Current law does not adequately recognise the harm to public order and individual safety that hate crimes cause. Our laws must provide clear recognition of the gravity of hate crimes and the compelling importance of preventing their recurrence.

Justifications for harsher punishments for hate crimes focus on the notion that hate crimes cause great individual and societal harm. When the core of a person's identity is attacked, the degradation and dehumanisation is especially severe, and additional emotional and physiological problems are likely to result. Then society can in turn suffer from the disempowerment of a group of people. It is also asserted that the chances for retaliatory crimes are greater when a hate crime has been committed.

Looking to our history goes some way towards providing answers as to how the views that we now have were formed. Australia' s approach to immigration from Federation until the latter part of the 20th century excluded non-European immigration. However, the White Australia policy, as it was commonly described, could not withstand the attitudinal changes after World War II and the growing acknowledgement of Australia' s responsibilities as a member of the international community. The attitude to migrant settlement up to that time was based on the expectation of assimilation — that is, that migrants should shed their cultures and languages and rapidly become indistinguishable from the host population.

From the mid-1960s until 1973, when the final vestiges of the White Australia policy were removed, policy-makers started to examine assumptions about assimilation. They recognised that large numbers of migrants, especially those whose first language was not English, experienced hardships as they settled in Australia and that they required more direct assistance. They also recognised the importance of ethnic organisations in helping with migrant settlement. In the early 1970s, in response to those needs, expenditure on migrant assistance and welfare rose sharply.

Australia's current migration program allows people from any country, regardless of their ethnicity, culture, religion or language and provided that they meet the criteria set out in law, to apply to migrate to Australia. According to the 2006 census, Australia's population was then around 20 million people, and of those reporting country of birth about 24 per cent were born overseas and 45 per cent were either born overseas or had at least one parent who was born overseas. Australians identify with some 250 ancestries and practise a range of religions. In addition to indigenous languages, about 200 other languages are spoken in Australia. After English, the most common languages spoken are Italian, Greek, Cantonese, Arabic and Mandarin.

The Brumby government views cultural diversity as a source of both social and economic wealth. Multiculturalism refers to the acceptance of multiple ethnic cultures and, for practical reasons and/or the sake of diversity, can be applied to the demographic make-up of a specific place. Many countries have official policies of multiculturalism aimed at promoting social cohesion by recognising distinct groups within a society and allowing those groups to celebrate and maintain their cultures and cultural identities.

Equality is a cornerstone of human rights protection. As such, discrimination in all its forms is a violation of human rights. Discrimination can take the form of violence generated by prejudice and hatred founded upon a person's race, ethnicity, religious belief, sexual

orientation, gender, disability or other such factors. Egalitarianism, derived from the French word 'égal', meaning equal, has two distinct definitions in modern English. It is defined either as a political doctrine that holds that all people should be treated as equals and have the same political, economic, social and civil rights, or as a social philosophy advocating the removal of economic inequalities among people.

Throughout history, people had been divided into an upper class and a working class. The rise of a middle class led philosophers to question the assumption that class divisions were natural and necessary. Egalitarianism asserts that all people are of equal value and should be treated the same irrespective of their birth. Equality before the law or under the law is the principle on which each individual is subject to the same laws, with no individual or group having special legal privileges.

Social equality is a social state of affairs in which all people within a specific society or isolated group have the same status in a certain respect. At the very least, social equality includes equal rights under the law, such as security, voting rights, freedom of speech and assembly, and the extent of property rights. It also includes access to education, health care and other social securities, as well as equal opportunities and obligations. It involves the whole of society.

The amendments made by this bill to the Sentencing Act 1991 will send a clear message that attacks against any Victorian based on race, religion, gender, sexual orientation, disability or age will not be tolerated. The Labor government has always put equal rights front and centre. The introduction of the Racial and Religious Tolerance Act 2001 is testament to this. The Sentencing Amendment Bill, however, takes this further, as the amendment to section 5(2) of the Sentencing Act applies to all crimes and provides for a wider spectrum than the Racial and Religious Tolerance Act to include gender, sexual orientation, disability and age vilification offences.

Community groups in my area have welcomed this bill and what it represents. One executive member, who is the president of a community-based organisation, remarked that members of the organisation welcome the provision that will allow judges, when sentencing, to take into account whether the crime was motivated by hatred or prejudice. This person said that attacks on individuals because of their age, race, gender, disability, religion or ethnicity should not be tolerated in our community and that these changes will help show that they are not tolerated.

This bill is part of the Brumby government's plan to ensure that the people of Forest Hill and across Victoria continue to enjoy our communities and feel safe. The Australian Bureau of Statistics has cited Victoria as the safest state in Australia, with the 2008–09 figures revealing that the statewide crime rate has decreased by 25.5 per cent since 2001. Since Labor came to government, crime in Forest Hill has decreased by 35.5 per cent. This government will continue to provide the leadership and initiatives needed to help create a stronger and safer Victoria.

Local police officers should be congratulated on their efforts to decrease violent crime in Forest Hill. The 2008–09 Victoria Police crime statistics show the rate at which crimes in the following offence categories in Whitehorse have declined over the past year: serious violent crimes such as homicide and rape have decreased by 75.2 per cent and 13.7 per cent respectively; residential burglaries and motor vehicle thefts have decreased by 9.9 per cent and 20 per cent respectively; and crimes of assault against a person have decreased by 9 per cent. These statistics show that government funding has helped local police to commit resources to continuing their excellent work in keeping our local streets safer. The government recently announced a $47 million boost to put 120 more police on the beat and gave police additional powers to search for weapons, move people on from trouble spots and fine people on the spot for disorderly conduct.

This is a government that cares about community safety and the rights of individuals to feel safe and walk the streets without fear. This bill addresses community concern about racial and other motivations in offending by providing explicit legislative recognition so that, in sentencing, the judiciary will have regard to whether offences are motivated by hate for or prejudice against a particular group of people with common characteristics. It is another example of what this government is doing to keep the people of Forest Hill and all Victorians safe. I commend the bill to the house.

Mr KOTSIRAS (Bulleen) — It is a pleasure to speak briefly on the Sentencing Amendment Bill. I have to say from the outset that I strongly support the bill, and I strongly support any legislation that ensures the safety of Victorians on our streets. I have been a strong advocate of our cultural diversity for many years. As members would know, I was an adviser to a former Premier when he was Minister for Multicultural Affairs between 1992 and 1999. I firmly believe that our cultural diversity is one of our greatest strengths.

As we all know, Victoria is the multicultural capital of Australia. All communities tend to live in peace and

harmony. As the honourable member who spoke before me said, over 200 languages are spoken and over 120 different religions are practised in this state. We have a population that understands the different cultures of the world, and that is an asset we should utilise. Our cultural diversity is inherently ambivalent, and hence can be used destructively as well as constructively. The way it is used depends on us, because on its own multiculturalism simply means 'many cultures'. On its own it is meaningless. It is how we use the term and how we engage with the people who make up our community. It is up to us to ensure that we continue to enjoy the advantages and the merits of living in a cosmopolitan society, a society that respects all people. The challenge for us is to use our differences as a uniting force to assist us to live peacefully with our neighbours and to give newly arrived migrants and refugees wishing to live in regional Victoria the opportunity to do so.

In my electorate of Bulleen 10 per cent of residents come from a Greek background, 10 per cent from an Italian background and 10 per cent from a Chinese background, so 30 per cent of my electorate is made up of those three different communities. They work well together, and they live well together in peace and harmony. The Sentencing Amendment Bill 2009 attempts to build on the work we have done to ensure that people are able to live together peacefully.

The bill provides for a court, when sentencing an offender, to take into account any motivation of hatred or prejudice against a group of people. However, it does not go anywhere near being enough to deal with the ever increasing levels of violence on our streets. I believe in justice for all and in the equality of all before the law. However, I also believe that Victorians should be able to walk the streets and live their lives without fear of violence or other crime, regardless of their race, religion or background. There should be a zero tolerance approach to violent crime, there should be sufficient police on the streets to uphold the law and there should be strong and effective sentencing.

As I said, we need tougher and more effective penalties to protect Victorians. While this bill goes a small way, and I strongly support it, we need to do more. During the last election campaign in 2006 I saw for the first time police on the beat in Bulleen Plaza, but since 2006 I have not seen a single police officer in the plaza. I am not saying they were there because of the election, but if police appear on the streets, it deters people from committing a crime. While the legislation is welcome, I urge the minister to ensure that there are more visible police on the streets so that people are not physically or verbally abused and so they can continue to live in peace and harmony and maintain the cultural advantage that other nations around the world envy.

Ms RICHARDSON (Northcote) — I share the concerns of the member for Bulleen about having more police on the beat. As we heard in question time today, we have a record number of police on the beat. It is the highest number in Victoria's history, and that is thanks to the minister and to the Labor government.

I am very pleased to speak on the Sentencing Amendment Bill, which amends the Sentencing Act 1991. It will require courts to take into account motivations of hatred or prejudice in sentencing offenders. The amendment reflects current sentencing practices, but it will promote recognition of those practices. Section 5(2) of the Sentencing Act will be amended to include an additional factor that will allow a court to determine whether an offence is wholly or partly motivated by hatred or prejudice against a group of people with common characteristics and with which a victim is associated, or with which an offender believed a victim was associated.

Of course the bill reflects community concern over race or hate-motivated crime in Victoria. In Victoria we are blessed to enjoy a rich multicultural society, and Victorians are rightly proud of their community and rightly expect a strident response to any hate or prejudice-based crime. In recent times we have all been appalled by racially motivated violent attacks on Indian students. In my electorate of Northcote we have a high number of Indian students. When I have talked to them about recent events they have repeatedly expressed to me the overwhelming support they receive from an overwhelming number of Victorians. However, like me they have welcomed the Premier's strong statements and our government's actions to promote equality, multiculturalism and our fundamental opposition to hate or prejudice-based crime.

I know there are many speakers who wish to speak on this very important bill, so I will keep my comments brief. Given the bill is entirely in keeping with our values and entirely in keeping with the community's expectations, I wish it a very speedy passage through the house.

Mr MORRIS (Mornington) — The Sentencing Amendment Bill 2009 is really pretty clear-cut legislation. It requires a court to consider whether an offender is motivated by hatred or by prejudice against a group of people who share certain common characteristics or which the perpetrator thinks the victim might be associated with.

In his press release of 2 June, the Attorney-General said:

> The Brumby government believes all Victorians are entitled to feel safe in their community …

I could not agree more with that. His comment illustrates clearly the difference between the government and the opposition on this matter. The opposition is prepared to act to end the violence which has become rampant on our streets, but I am not quite so sure the government is on the same page.

The reality is that violence is out of control across the state. Last Friday night in Mornington a young father was glassed. There was no provocation; he was simply attacked. The attack severed an artery in his temple, fractured an eye socket and fractured a cheekbone. He required more than 100 stitches, and he sustained injuries that he will carry for the rest of his life. Had the paramedics not been quite so prompt, it would have been a murder investigation rather than an assault investigation — there was 5 to 10 minutes in it. That is not an isolated incident.

I agree that is not the subject of the bill, but I am simply making the point that there are a lot of other things that could have been in the bill as well as the subject we are discussing. The incident I referred to is not an isolated incident, and despite the Attorney-General's belief, which as I said I certainly share, sadly most Victorians do not feel safe in this state.

My point in relation to the bill is that unless people understand that there will be serious consequences if they misbehave, then nothing much will change. We have a robust legislative framework, but sadly it is not enforced as frequently as it should be. Regardless of all of that, the subject before us is not only important from a violence point of view but it is critically important from the point of view of the message that we as a Parliament want to send to the community, and that we want to send in particular to people who are engaging in the unacceptable activities that are the subject of the bill.

I have had, as I am sure many members have had, many communications regarding the bill which have suggested a variety of alternatives. They extend from suggestions that the legislation is entirely benign and accordingly unnecessary, to suggestions that there are in fact unforeseen and unintended — but the subtext is really intended but denied — consequences.

From my perspective the discussion is about whether the matters to which a court must have regard — that is the matters identified in section 5(2) of the principal act, which include the nature and gravity of the offence, the offender's culpability, the impact of the offence on the victim and so on — are inconsistent with what is proposed in this bill and whether those matters should be extended. The question that has been put to me is, are they inconsistent? My answer to that is, no, they are not. The legislation has been drafted to be relatively broad; it does use the term 'group', but I think necessarily so.

The impetus for this legislation comes from a series of attacks on younger Indians, many of them studying in Melbourne. However, the origins of the legislation do not really matter. The motivation of the attacks on people of Indian origin — and there were 1447 attacks of this kind between 2007 and 2008 — could have been racial or it could have been because, as some people have suggested, the victims were soft targets; however, that suggestion is almost as offensive as the assault. The reason for an attack is irrelevant; whatever the reason may be, the targeting of a particular group of individuals is totally unacceptable behaviour.

Free speech is a precious right. We guard it jealously. It is critical in the maintenance of a free society. However, it is not acceptable in a civil society to use abusive or offensive language simply because you have a different point of view. If you need to resort to that form of argument, you probably have a dubious argument to start with and clearly your case is lacking. Equally it is unacceptable to use violence to settle an argument. It is unacceptable and abhorrent when disagreement turns into violence. It is even more abhorrent when violence is used in an attempt to intimidate or scare a group of people simply because of outright hatred. Such behaviour is certainly not acceptable to me, and I do not believe it is acceptable to the people of Victoria. For those reasons, the bill has my full support.

Mr LUPTON (Prahran) — I rise to support the Sentencing Amendment Bill 2009 and to place on the record how proud I am to be a member of a government that is introducing this legislation.

The background to this legislation covers a considerable period of time. A number of us, as members of the government, have been working with different community groups in Victoria on the best ways in which to deal with crimes that are motivated by hatred or prejudice. In our multicultural state of Victoria we are very proud of the diversity of our community, but it is important in that context to ensure that people who are members of groups and people who are identifiable by their characteristics are given due protection of the law and that attacks that are based on

victims' association with groups and that are motivated either wholly or in part by hatred or prejudice attract an aggravating sentence factor which results in higher penalties.

Earlier this year the government referred this matter to the Sentencing Advisory Council, which is chaired by that eminent professor, Arie Freiberg, the dean of law at Monash University. He and his colleagues on the Sentencing Advisory Council delivered a report to the government which recommended that a new subsection be included in the Sentencing Act which would have the effect of providing a new sentencing factor which courts must take into account when sentencing people found guilty of crimes of violence.

The council recommended that section 5(2) of the Sentencing Act be amended to provide that, in sentencing an offender, a court must have regard to whether the offence was motivated wholly or partially by hatred for or prejudice against a group of people with common characteristics with which the victim was associated or with which the offender believed the victim was associated.

The Sentencing Advisory Council reviewed practices and laws in a variety of jurisdictions and was particularly concerned to make sure that in a multicultural society those types of crimes were regarded as being more serious and aggravating. In the report of the Sentencing Advisory Council there is in fact a quotation from the well-known authority *Sentencing — State and Federal Law in Victoria* by Richard Fox and Arie Freiberg. I note that Arie Freiberg, that author, is the same Arie Freiberg who heads the Sentencing Advisory Council. It shows that over the decades that Professor Freiberg has devoted to law and policy in Victoria, he has become a principal authority on these sorts of matters. The report of the Sentencing Advisory Council quotes from *Sentencing — State and Federal Law in Victoria* as follows:

> … in a multicultural society, the deliberate selection of any minority group for attack in order to undermine their sense of security and confidence in their lawful place in the community is a matter that aggravates the gravity of any crime committed with this motive.

I wholeheartedly endorse that approach.

I want to emphasise two particular aspects of this change. The recommendation of the Sentencing Advisory Council and the government's introduction of the aggravating factor into this legislation means it must be considered by a sentencing court. It is mandatory that the court takes this into account. That will have a very significant effect not only in the way that courts sentence offenders but on the way that crimes are investigated and the way in which evidence is put before courts.

It will highlight if there is in fact a hatred or prejudice motivation involved in criminal activity. That is an important thing for us to do, because it means that we are better able to wipe it out.

The second part that I want to emphasise is that the motivation of hatred or prejudice does not need to be the whole motivation; it could be only a partial motivation. It is important that that be the case, because often crimes are committed with a variety of motivations. So long as hatred or prejudice is one of a number of motivations, that should be enough to attract the aggravating sentence factor, and because of this legislation it will be enough. It does not matter whether the motivation of hatred or prejudice was only a minor factor in the person's thinking when they committed the crime; that will attract the higher sentence as a result.

Accordingly, groups in the community, including those that are significantly represented in my electoral district of Prahran — the Jewish community, the gay and lesbian community — and any community group that is identifiable and whose members feel there may be some issues about their personal security and safety, can take great confidence from this legislation and from the great and significant improvements that this government has made to policing in this state, with greater resources and with the highest number of police ever in the history of our state in place, that we are taking these matters of personal safety and community safety very seriously. This legislation is an important adjunct to that, and I commend it wholeheartedly.

Mr BURGESS (Hastings) — It is a pleasure to rise to speak on the Sentencing Amendment Bill 2009. The purpose of the bill is to require that the motivation of hatred or prejudice against a group of people be considered in sentencing an offender.

The bill amends the Sentencing Act 1991 to include among the factors a court must have regard to in sentencing an offender whether the offence was motivated wholly or partly by hatred or prejudice against a group of people with common characteristics with which the victim was associated or believed to be associated. It applies the amendment to all sentences imposed on or after the commencement of the amendment, irrespective of whether the offence was committed before or after the amendment.

There are many considerations to be taken into account when deciding whether to support this legislation. For example, when there is a pattern of offending against members of a particular group motivated by hatred or prejudice towards that group, that causes apprehension and distress to all group members who are at risk and thus those offenders need and deserve greater punishment.

The fact that group hatred or prejudice is involved in an offence does not alter the court's discretion as to the weight, if any, the court ends up giving to that factor. It does not mean, for example, that someone who bashes a member of a rival bikie gang must receive a harsher punishment than they would for inflicting similar injuries on an innocent member of the public. The Sentencing Advisory Council has considered the issue and recommended the approach adopted by the bill — namely, to set out the broad principle while leaving the maximum discretion and flexibility to the courts.

The Sentencing Act 1991 already requires specific factors to be considered in sentencing where those factors are considered by the community to be particularly important; for example, the personal circumstances of any victim of the offence. On the other hand, however, courts already can and do take motives of group hatred or prejudice into account in sentencing when appropriate. Whether Parliament should be hardwiring an increasing list of specific factors into sentencing legislation is another aspect that this house really should be considering in detail.

The amendment applies to an offence motivated by hatred or prejudice towards any group, regardless of whether or not that group is commonly subject to offences motivated by hatred or prejudice. It could apply, for example, to offences based on the victim's membership of a rival bikie gang, who the victim works for, the football team they support or the victim having a past criminal conviction.

The fact that the legislation applies retrospectively shows that the government knew that the bill does not really change existing law. Otherwise the bill would arguably breach section 27(2) of the Charter of Human Rights and Responsibilities Act 2006, which provides that:

> A penalty must not be imposed on any person for a criminal offence that is greater than the penalty that applied to the offence when it was committed.

However, members must note the contradictory point that the bill's statement of compatibility argues that section 27(2) applies only to maximum penalties.

The question must be asked whether disputes about whether an offence was motivated by group hatred or prejudice will inhibit offenders from pleading guilty and thus result in longer court delays, and also whether there will be serious practical difficulties for courts in working out what the true motivation of an offender was. On the positive side of that, courts are in the best position to be considering such issues as they currently do that in a number of other ways through the sentencing process.

Whether the bill should specifically identify and protect groups particularly at risk is an uncertain aspect. The Law Institute of Victoria considers that the bill's drafting runs the risk of this sentencing factor applying on an all-or-nothing basis.

In closing, I would sound one note of warning: governments should avoid legislating for the sake of legislation. History is full of such conduct, and such attempts have often produced unexpected and unwanted results.

Mr LIM (Clayton) — I rise to support this bill because I believe that violence is repugnant. For those of us who value living in a civilised society — in particular in Melbourne, which has the reputation of being the most livable city in the world — to have all these incidents of racially motivated violence is just unacceptable and should be condemned in the strongest terms possible. As decision-makers and policy-makers we need to try to understand the underlying causes, be they social dispossession, alienation, substance abuse, antisocial personality disorder or just mere opportunism associated with theft from a vulnerable victim.

Our first responsibility is to protect all members of the community through punishment and deterrence of offenders. When violence is in some way motivated by racial and religious hatred I find such conduct truly horrific.

I had the opportunity to meet with the Indian student delegation that came to Parliament to meet some of our members of Parliament. I feel the trauma that they have been through and feel very strongly about what they are feeling and have been suffering. The fact of the matter is that the Indian community — —

Business interrupted pursuant to standing orders.

The DEPUTY SPEAKER — Order! The time set down for consideration of items on the government business program has expired.

Motion agreed to.

Third reading

Motion agreed to.

Read third time.

UNIVERSITY OF MELBOURNE BILL, MONASH UNIVERSITY BILL, LA TROBE UNIVERSITY BILL and DEAKIN UNIVERSITY BILL

Second reading

Debate resumed from 14 October; motion of Ms ALLAN (Minister for Skills and Workforce Participation).

The DEPUTY SPEAKER — Order! The question is:

That these bills be now read a second time, that the circulated government amendment to the La Trobe University Bill 2009 be agreed to and that these bills be now read a third time.

Dr Napthine — On a point of order, Deputy Speaker, even though it is a cognate debate, I thought the procedure of the house was that each of the bills would be voted on separately, particularly as there is an amendment to one of the bills.

The DEPUTY SPEAKER — Order! I am advised that we have put the question previously on cognate bills in this way and we are required to put the questions in a succinct manner, and that is why they have been done this way.

Question agreed to.

Read second time.

Circulated amendment

Circulated government amendment to La Trobe University Bill as follows agreed to:

Clause 11, page 14, after line 12 insert —

"( ) Of the members who are persons appointed by the Governor in Council under section 12(1) and persons appointed by the Council under section 13(1)—

(a) 2 persons must be persons who have experience and interests in the Bendigo region;

(b) one must be a person who has experience and interests in the Albury-Wodonga region.".

Third reading

Read third time.

LAND (REVOCATION OF RESERVATIONS AND OTHER MATTERS) BILL

Second reading

Debate resumed from 13 October; motion of Mr BATCHELOR (Minister for Community Development).

Motion agreed to.

Read second time.

Third reading

Motion agreed to.

Read third time.

CEMETERIES AND CREMATORIA AMENDMENT BILL

Council's amendment

Message from Council relating to following amendment considered:

Clause 21, page 28. after line 30 insert —

"(6) The Minister must cause the following information to be included in the annual report of operations for the Department of Health under Part 7 of the **Financial Management Act 1994** for each financial year —

(a) the total amount paid as levy in that financial year;

(b) the total amount appropriated from the Consolidated Fund for the purposes of this Act for that financial year;

(c) a summary of the matters on which money appropriated from the Consolidated Fund for the purposes of this Act was expended in that financial year and of the amounts expended for those matters.".

Mr ANDREWS (Minister for Health) — I move:

That the amendment be agreed to.

In so doing, I provide some brief commentary. This amendment essentially writes into the act the commitment that I as Minister for Health have given around the publication in the annual report of Department of Health of expenditures following

appropriations to deal with a levy that is created under the act once we have passed the bill today. The government was keen to be able to fund and provide financial support to large and small cemetery trusts by way of governance, training, equipment grants and a range of other worthy causes. In order to do that, it was important to have a facility within the new legislative framework that we put in place whereby a levy could be charged.

There has been a broad cross-section of support from the cemeteries and crematoria sector for this levy and its stated purposes, as outlined in the second-reading speech — that is, the purpose for which those moneys would be used after being collected. Cemeteries large and small are very keen to see that money levied and to see the expenditure, as we have outlined, flow throughout the system.

Some concern was expressed, not so much from the sector but from others, that we needed to make sure there was an accountability framework in place. I had given detailed commitments, and it was my intention to honour them. It was not so much a matter about the current government or me as the current minister not honouring those commitments, but in order to put these matters beyond doubt in the long term, members in the other place were of the view that an amendment should be moved.

This is a common-sense amendment. I have no hesitation in supporting it, and I ask all honourable members to support it as an addition to an already robust new framework, to make sure that our cemeteries and crematoria sector is on the best possible footing not only to provide dignified care, support and the best possible environment to support families at their most vulnerable but also to ensure that we as a Victorian community properly honour and celebrate the contribution of our forebears. On that basis, this amendment is worthy of support and I commend it to all honourable members.

Mrs SHARDEY (Caulfield) — I rise to support this very worthwhile amendment which relates to the reporting of the amount of levy which will be obtained from class A cemeteries as a result of the legislation, the total amount appropriated from the Consolidated Fund for the purposes of the act, and a summary of the matters on which money appropriated from the Consolidated Fund for the purposes of the act will be expended. This relates to a levy incorporated into the legislation for the collection of between 3 per cent and 5 per cent of the gross earnings of class A cemetery trusts. It was said in the second-reading speech that this money will be used for the support of class B trusts by class A trusts in relation to training programs and the particular needs of those trusts.

The issue opposition members raised at the time was that although the bill allowed for the collection of a levy of between 3 per cent and 5 per cent there was no hypothecation of this money, that it was just going into consolidated revenue and there was no means by which the government could be held accountable for the expenditure of that money. I think I raised at the time the fact that we wanted to be sure that not only this government but future governments would ensure that this money goes back to the sector.

Mr Andrews interjected.

Mrs SHARDEY — The minister is saying he had hoped I would have been confident, but I understand there was quite a lot of discussion at the back of the other place when this was all being discussed. Maybe the minister was not so supportive of the move at that time, but now he is and I am grateful for that.

Maybe the minister at some time will make absolutely clear — I have asked him before — what the 3 per cent to 5 per cent levy is to be based on. If it is to be based on gross earnings — —

Mr Andrews interjected.

Mrs SHARDEY — The minister is telling me he has written to me. I will believe him, but the issue I raised was whether the levy will be based on gross earnings, gross profit or gross revenue. Now I can be confident, having been assured by the minister, that it will be based on gross earnings, and that clarifies the issue.

It was with great pleasure that I learnt that this amendment was put before the upper house, and it was with even more pleasure that I learnt that the government agreed to it. With those few words, I offer the support of the opposition for this amendment.

Mr CRISP (Mildura) — I rise to make a contribution on the Cemeteries and Crematoria Amendment Bill. I support the amendment by the Legislative Council. The Mildura Cemetery Trust is included in this legislation as a class A cemetery, and there are concerns that as this is a very small trust the impost of this levy will be considerable. I had a conversation with two trustees, Max Thorburn and Judi Harris, at a recent local guide function, and they expressed concerns over how they would transition and manage this trust and how they would financially afford the levy and pay the trustees the additional amount.

I know a list of documents was to be tabled today, and the Mildura Cemetery Trust was listed as a report to be tabled. I note that under the Financial Management Act 1994 section 46 sets out the tabling requirements. Section 46(2) states that if the trust is under $5 million, the annual report does not have to be tabled but merely listed. That leaves us with a problem. Section 46(2)(b) enables me to write to the Speaker to request that the minister table this report so that we can see the impact of this amendment and the bill on the city and residents of Mildura, and I will do that.

Motion agreed to.

ELECTRICITY INDUSTRY AMENDMENT (CRITICAL INFRASTRUCTURE) BILL

Statement of compatibility

Mr BATCHELOR (Minister for Energy and Resources) tabled following statement in accordance with Charter of Human Rights and Responsibilities Act:

In accordance with section 28 of the Charter of Human Rights and Responsibilities, I make this statement of compatibility with respect to the Electricity Industry Amendment (Critical Infrastructure) Bill 2009 (bill).

In my opinion, the bill, as introduced to the Legislative Assembly, is compatible with the human rights protected by the charter. I base my opinion on the reasons outlined in this statement.

Overview of bill

The bill will amend the Electricity Industry Act 2000 (act) to create new offences relating to critical electricity infrastructure. The bill inserts new definitions of 'critical electricity infrastructure' to mean a critical generation facility or a related coal mine, or a substation, terminal station or distribution system or transmission system switchyard. Clause 5 of the bill will insert a new part 4 in the act, creating new offences. New section 79 will make it an offence for a person to be present on land or premises or in an enclosure containing critical electricity infrastructure, knowing that he or she does not have authority to be present. New section 80 will make it an offence to interfere with critical infrastructure plant, equipment or vehicles if unauthorised to do so. The offences are not merely for the protection of private interests but for protection of the electricity supply.

Human rights issues

The bill does not raise any human rights issues because it simply creates new criminal offences and makes associated technical amendments.

Conclusion

I consider that the bill is compatible with the charter because it does not raise any human rights issues.

Peter Batchelor, MP
Minister for Energy and Resources

Second reading

Mr BATCHELOR (Minister for Energy and Resources) — I move:

That this bill be now read a second time.

Victoria has been a national leader on climate change. It was the first state to set a renewable energy target; it is investing in renewable energy and low emission technologies; and it has introduced a household energy efficiency scheme.

The Brumby government is committed to ensuring affordable, sustainable energy for Victoria's future. Through the climate change green paper, it is seeking input into how Victoria can reduce greenhouse gas emissions, adjust to climate change and make the shift to a carbon-constrained future.

Victoria faces particular challenges, given our current reliance on brown coal to generate electricity, in ensuring our energy supplies remain secure and reliable as they become less carbon intensive.

In recent times, the Latrobe Valley power stations have become a major focus of some protest groups. The actions of some protesters, however, in breaking into power stations and in some instances chaining themselves to equipment such as coal risers, have the potential to disrupt production and threaten supply to the National Electricity Market.

This bill introduces new provisions that are specifically designed to protect protesters, protect workers and protect our power supplies, while not impeding the right of all Victorians to protest peacefully.

Intruders into critical infrastructure sites are putting their lives at risk. Power stations, electricity switchyards and other critical infrastructure sites are not public places. They are industrial sites with significant inherent dangers, and access must be restricted for safety reasons. Simply being in these areas can be very dangerous and lead to serious injury and possible death. If intruders interfere with equipment, they can also injure others — power station workers, police and other emergency response personnel.

Such intruders may also jeopardise the state's energy supplies. We do not want our public transport, our schools and our hospitals to lose power due to the unlawful actions of intruders on critical infrastructure sites. The temporary loss of power can lead to economic losses of many millions of dollars not just in

Victoria but potentially along the entire eastern seaboard if a cascading event were to occur.

This bill will therefore insert a new part 4 into the Electricity Industry Act 2000 to make provision for protecting critical electricity infrastructure. The new part is modelled on provisions already to be found in energy specific legislation in other jurisdictions.

Clause 4 of the bill introduces definitions of 'critical electricity infrastructure' and 'critical generation facility'. Generators with capacity of 1000 kVA or greater are covered, together with associated coal mines and water storage facilities. Substations, terminal stations and switchyards are also included.

New section 79 prohibits a person knowingly being on a critical electricity infrastructure site without authority. The maximum penalty will be 120 penalty units or imprisonment for one year.

New section 80 prohibits interference with critical equipment, plant or vehicles where the person is not authorised and is reckless as to whether his or her actions may disrupt the generation, transmission or distribution of electricity. The maximum penalty will be 240 penalty units or imprisonment for two years.

The aim of the new part 4 is to reflect the serious consequences to the state and to individual Victorians that can flow from disruption of power supplies and the danger to life and limb that can arise from unauthorised entry onto power stations and other critical infrastructure. Importantly, there is nothing in this bill that restricts peaceful protests or lawful activity in public places.

The Brumby government welcomes robust community debate on climate change. It is equally determined to ensure secure and reliable power supply to Victorian households and businesses during the transition to a low carbon economy.

I commend the bill to the house.

Debate adjourned on motion of Mr CLARK (Box Hill).

Debate adjourned until Thursday, 29 October.

STATE TAXATION ACTS FURTHER AMENDMENT BILL

Statement of compatibility

Mr BATCHELOR (Minister for Community Development) tabled following statement in accordance with Charter of Human Rights and Responsibilities Act:

In accordance with section 28 of the Charter of Human Rights and Responsibilities, I make this statement of compatibility with respect to the State Taxation Acts Further Amendment Bill 2009.

In my opinion, the State Taxation Acts Further Amendment Bill 2009 as introduced to the Legislative Assembly is compatible with the human rights protected by the charter. I base my opinion on the reasons outlined in this statement.

Overview of bill

The purpose of the State Taxation Acts Further Amendment Bill 2009 is to amend the Land Tax Act 2005 (the Land Tax Act), the Taxation Administration Act 1997 (the Taxation Administration Act), the Payroll Tax Act 2007 (the Payroll Tax Act), the First Home Owner Grant Act 2000 (the FHOG act) and repeal the Taxation (Reciprocal Powers) Act 1987 (the reciprocal powers act).

In particular the bill amends the Land Tax Act and will:

require taxpayers to notify the State Revenue Office if there is an error or omission in their land tax assessment;

clarify certain matters that have arisen from the replacement of the Land Tax Act 1958 with the Land Tax Act;

confirm who should pay land tax in circumstances of nil consideration, i.e., a gift and unregistered transfers, and confirm a tax refund where unoccupied land is subsequently used as a principal place of residence and no other principal place of residence exemption had been claimed;

clarify that those who lease or use Crown land should not, generally speaking, enjoy the benefit of the Crown's exemption. This will not include retail premises leases under the Retail Premises Act 2003;

limit the availability of the principal place of residence concession where there is substantial business activity; and

confirm that there are separate assessments for implied and constructive trusts where trustees hold different land for different beneficial owners and in their own right and that a failure to notify that land is held on trust is a tax default.

The bill also subsumes the reciprocal powers act into the TAA and, consequently, repeals the reciprocal powers act. It amends the TAA to confirm that the commissioner of state revenue can serve court processes for the recovery of tax by post and allow information collected under the TAA to be used for the purposes of administering the FHOG act and the

Unclaimed Money Act 2008 (UCM act). It also amends the TAA to impose a penalty where a taxpayer fails to notify the commissioner of certain matters in accordance with the LTA.

The bill introduces a cap of $750 000 on the value of homes that qualify for the first home owner grant but excludes primary production land purchased as a first home buyer's principal place of residence from that cap.

The Payroll Tax Act is amended to establish whether wages are taxable in Victoria, including where services are performed in more than one Australian jurisdiction.

Human rights issues

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

Freedom of expression

Section 15(2) of the charter protects the right to freedom of expression. This is the freedom to seek, receive and impart information and ideas of all kinds, whether within or outside of Victoria, and in any variety of forms. Freedom of expression is also the freedom from being compelled to say certain things or provide certain information.

Clause 14 of the bill limits the right to freedom of expression as it compels persons liable for land tax to notify the commissioner of any errors or omissions in their land tax assessment within 60 days of the issue of their assessment. This is, however, a reasonable limitation for the reasons set out below.

Right to privacy

The right to privacy is protected by section 13 of the charter. In accordance with this right, a person must not have his or her privacy, family, home or correspondence unlawfully or arbitrarily interfered with. This means that a person's privacy may not be interfered with where it is not permitted by law, or where it is neither certain nor appropriately circumscribed. Likewise, a person's privacy may not be interfered with in an unreasonable manner or in a way which fails to accord with the provisions, aims, and objectives of the charter.

To the extent that clause 14 of the bill requires a person to advise the commissioner of any error or omission in their land tax assessment such as an individual's eligibility for a concession, this provision engages the right to privacy. This clause does not, however, limit the right to privacy under the charter. This clause is necessary to keep the commissioner advised of any changes in the tax liability of a person, which enables the commissioner to issue timely and correct tax assessments, maintain equity between taxpayers and protect the public revenue. As such, the disclosures required by this clause are neither unlawful nor arbitrary.

Clauses 29 and 36 of the bill amend the TAA to permit the disclosure of information obtained under or in relation to a taxation law in a number of identified circumstances. In each instance disclosure may engage the right to privacy, but does not limit that right because the disclosures permitted are not unlawful or arbitrary.

Clause 36(a) permits the disclosure of information for the purposes of administering the UCM act and the FHOG act. This includes the ability to use such information in legal proceedings under either of these acts and is designed to help protect public revenue through the administration or enforcement of those acts. As such, although this clause engages, it does not limit the right to privacy because disclosure in the circumstances is not unlawful or arbitrary.

Clause 36(b) permits the disclosure to the Public Records Authority Victoria (PROV), Victoria's archival authority with responsibility for managing and keeping public records. The State Revenue Office is already bound to transfer public records to PROV under the Public Records Act 1973 for the benefit of the Victorian government and public. As such, disclosure in these circumstances is neither arbitrary nor unlawful.

Clause 29(2) permits the disclosure of information to the Australian Taxation Office (ATO). The ATO is the commonwealth's principal revenue collection agency and is responsible for the administration of federal taxes, excises and superannuation. Enabling disclosure to the ATO is designed to assist in the management of the commonwealth revenue system and protect the public revenue. Disclosure for these purposes is not arbitrary.

Clause 29(2) permits disclosure to the Australian Securities and Investments Commission (ASIC), which is Australia's corporate, markets and financial regulator. ASIC is responsible for maintaining the fairness and transparency of the Australian financial system and the entities in it, and promoting investor and consumer confidence. These responsibilities include monitoring compliance with the law and, where necessary, prosecuting serious corporate crime. As such, enabling disclosure to ASIC would not be arbitrary as it would help ASIC investigate unlawful activities and apply any appropriate penalty or sanction.

Clause 29(2) permits disclosure to the Australian Crime Commission (ACC) which works with Australian law enforcement agencies to investigate nationally significant crime. Disclosures to the ACC will not be arbitrary as they will be made where the information would help the ACC with its investigation of serious criminal activities.

Clause 29(1) permits the disclosure of information to another state or territory revenue office where it is in connection with the administration or execution of a recognised law. A disclosure in these instances is not arbitrary as it will be for the purposes of protecting the public revenue through the administration or enforcement of recognised laws.

These disclosures are not unlawful because they will be permitted by law and limited to a purpose related to the responsibilities of each of the authorised recipients, as discussed above. For these same reasons, the disclosures are also not arbitrary. Notably, the secondary disclosure of any information disclosed under this clause will be strictly limited to the instances permitted under existing provisions in the Taxation Administration Act 1997.

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

Freedom of expression

The right to freedom of expression under section 15 of the charter may be limited by the operation of clause 14 of the bill.

(a) What is the nature of the right being limited?

The freedom of expression is a right of fundamental importance in our society and is an essential foundation of a democratic society. It encompasses the right not to be compelled to express all kinds of information, in any kind of form, including in documents.

(b) What is the importance of the purpose of the limitation?

To the extent that clause 14 requires a person to advise the commissioner of any changes in land ownership, this may limit the right to freedom of expression.

The purpose of requiring a person to provide information on any change in the nature of their land ownership is to ensure that the correct amount of land tax has been assessed and will be assessed in the future. Accordingly, the limitation plays an important role in maintaining equity between taxpayers and protecting public revenue.

(c) What is the nature and extent of the limitation?

Clause 14 only requires that a person provide the commissioner with the necessary information to ensure that the person is correctly assessed for land tax for each year that they are liable.

(d) What is the relationship between the limitation and the purpose?

The limitation is directly related to the purpose, which is to ensure that each person is correctly assessed for land tax, and, where relevant, to confirm a person's eligibility for any exemption or concession.

(e) Are there any less restrictive means available to achieve its purpose?

It is possible to obtain information on changes in land ownership, but this would require consultation with many different agencies and may still fail to accurately reflect the land ownership changes. As such, there are no other means reasonably available to achieve the purpose.

(f) Conclusion

The limitation is reasonable and necessary so that the commissioner can effectively administer land tax and ensure that any concession or exemption is granted only to eligible persons.

Conclusion

I consider that the bill is compatible with the Charter of Human Rights and Responsibilities because even though it does limit a human right this limitation is reasonable.

Tim Holding, MP
Minister for Finance, WorkCover and the Transport Accident Commission.

Second reading

Mr BATCHELOR (Minister for Community Development) — I move:

That this bill be now read a second time.

The bill amends the First Home Owner Grant Act 2000, the Land Tax Act 2005, the Payroll Tax Act 2007, the Taxation Administration Act 1997 and subsumes the Taxation (Reciprocal Powers) Act 1987 into the Taxation Administration Act 1997.

The significant change to the First Home Owner Grant Act 2000 introduces a cap of $750 000 on the value of homes that qualify for the first home owner grant from 1 January 2010. A cap was first announced on 5 May 2009, in this government's budget for 2009–10. It formed part of a package of measures targeting first home owners, with a particular focus on economic stimulation in light of the financial downturn. Its introduction had to be deferred because of the intergovernmental agreement (IGA) on federal financial relations and the extension of the federal government's first home owner boost payments. When the boost payments finish on 31 December 2009, the cap can commence. Members present may recall that when the cap was introduced to the Parliament it was announced as $600 000. Due to the deferral caused by the continuation of the federal boost in order to accommodate the IGA commitment of the cap being no less than 1.4 times the median house price the cap has been raised to $750 000.

The chamber may recall that this government decided to cap the first home owner grant in order to target the first home owner bonus and provide greater assistance to those who need it most. The cap complies with this government's obligations under the IGA.

Importantly, farming properties bought by those eligible for the first home owner grant will be excluded from the cap. This is wholly equitable because the value of the primary production land may place the value of the entire property over the cap amount, thereby placing purchasers of farms at a disadvantage in already difficult times.

This bill enacts a package of measures in relation to the Land Tax Act 2005. These include measures relating to the land tax trust provisions introduced in 2006. The government believes the policy behind those provisions is sound but a review conducted by the State Revenue Office has identified a need to streamline certain administrative matters. As a result, amendments are introduced to ensure that:

(a) the failure of a trustee to notify the commissioner of state revenue of trust land constitutes a tax default;

(b) there are separate assessments for implied and constructive trusts where trustees hold different land for different beneficial owners and in their own right. This will confirm the policy position and should be welcomed; and

(c) the principal place of residence concession for trust land is not available where that land is used for a substantial business activity. This is an important clarification which removes an unjustified expansion of the principal place of residence exemption.

Similarly, the bill clarifies the exemption available for Crown land. The government's longstanding policy has been that Crown land is exempt from land tax but where Crown land is leased the exemption does not extend to the lessee. This amendment accurately reflects that policy intent and will ensure that lessees and licensees of Crown land who acquire their interest from a statutory authority rather than directly from the Crown can no longer inadvertently benefit from the exemption. It does not impact upon land actually vested in a statutory authority. It is not proposed that retail leases under the Retail Leases Act 2003 be captured, however, as this may lead to conflicting policy objectives. As you may be aware, the Retail Leases Act 2003 contains a specific provision prohibiting lessors from passing on land tax to retail tenants. Under the proposed changes, some retail tenants may become 'deemed owners' of land and be assessed for tax in their own right. This would be an unintended consequence and so has been addressed.

As members would be aware, land tax is not a self-assessing tax. Assessments are issued to land owners based, primarily, on information contained in the notice of acquisition, which must be lodged by any person acquiring land. Once that notice is lodged, there is no requirement on a land owner to inform the State Revenue Office of any change in circumstances which may impact their land tax liability — for example, a change in the use of land. Similarly, there is no requirement on a taxpayer to inform the State Revenue Office of any error or omission in the assessment and, generally, they only do so when it is to their advantage. As such, this bill amends the Land Tax Act 2005 to require taxpayers to inform the State Revenue Office of any such error or omission and ensures a failure to do so constitutes a tax default which attracts penalties consistent with other tax defaults. This should in part address the concerns of various parties, including the opposition, about the issue of incorrect assessments and, as such, should be wholeheartedly supported.

As part of its ordinary activities, the State Revenue Office has identified two other changes to the Land Tax Act 2005 which will improve the administration of the land tax system. Firstly, there is confirmation of who should pay land tax where land is transferred without valuable consideration but the transfer remains unregistered, and secondly, there is clarification that a refund is available where unoccupied land is subsequently used as a principal place of residence and no other principal place of residence exemption had been claimed.

The Brumby government has continued with its efforts to harmonise payroll tax administration across Australia. The amendment to the Payroll Tax Act 2007 is a retrospective uniform amendment adopted by all jurisdictions. The changes are intended to bring greater certainty to the tax liability for various components of wages for itinerant employees and to eliminate potential double taxation. These nexus provisions are of fundamental importance — they establish in which jurisdiction payroll tax must be paid where employees operate in more than one jurisdiction in a month. They should be warmly welcomed as they will not increase taxation or impose additional burdens but lead to easier administration for multijurisdictional employers. The amendments demonstrate the ability of the jurisdictions to agree upon and enact sensible, national reform.

This bill updates Victoria's reciprocal powers regime. The Taxation (Reciprocal Powers) Act 1987 provides the administrative framework by which other jurisdictions are able to enter Victoria and conduct investigations into their tax laws. It also allows Victoria to disclose Victorian taxpayer information to other jurisdictions for the purpose of administering their taxation laws. The other states and territories have legislation that grants Victoria reciprocal rights and powers. The Taxation (Reciprocal Powers) Act 1987 is over 20 years old and no longer represents best practice. As such, it has been the subject of an extensive review, consistent with this government's commitment to modernising and streamlining the Victorian statute book.

Consequently, the bill repeals the Taxation (Reciprocal Powers) Act 1987 and subsumes its powers and responsibilities into the Taxation Administration Act 1997, which provides for the general administration and enforcement of Victoria's taxation laws. Additionally, the bill will modernise these powers, reduce overlap and inconsistencies with other legislation and make the powers more transparent. It takes account of the advent of privacy legislation and the charter of human rights.

In practice, these changes will not significantly alter the operation of the current cross-border investigation and/or information sharing schemes. Similar amendments have already been enacted by all of the other jurisdictions.

Finally, there are two amendments to the Taxation Administration Act 1997 not associated with the subsumption of the reciprocal powers regime.

Firstly, the Unclaimed Money Act 2008 and the First Home Owner Grant Act 2000 contain specific provisions that permit the commissioner of state revenue to use information collected under these acts for the purposes of the taxation laws administered by the Taxation Administration Act 1997. The bill clarifies that the Taxation Administration Act 1997 has similar power to allow information collected under the taxation laws to be used for the purposes of administering the First Home Owner Grant Act 2000 and the Unclaimed Money Act 2008.

Secondly, the bill confirms that the commissioner of state revenue has the ability to serve court processes in recovery matters upon a defendant by post to align these provisions with other services provisions. This was the stated position under the old Stamps Act 1958, Pay-roll Tax Act 1971 and the Land Tax Act 1958; however, the transition of administrative functions to the Taxation Administration Act 1997 has meant the power was not as clear as it could be.

I commend the bill to the house.

Debate adjourned on motion of Dr NAPTHINE (South-West Coast).

Debate adjourned until Thursday, 29 October.

FAIR WORK (COMMONWEALTH POWERS) AMENDMENT BILL

Statement of compatibility

Mr HULLS (Attorney-General) tabled following statement in accordance with Charter of Human Rights and Responsibilities Act:

In accordance with section 28 of the Charter of Human Rights and Responsibilities (charter), I make this statement of compatibility with respect to the Fair Work (Commonwealth Powers) Amendment Bill 2009.

In my opinion, the Fair Work (Commonwealth Powers) Amendment Bill 2009 (the bill), as introduced to the Legislative Assembly, is compatible with human rights protected by the charter. I base my opinion on the reasons outlined in this statement.

Overview of the bill

The purposes of the bill are to amend the Fair Work (Commonwealth Powers) Act 2009 to reflect various amendments to the Fair Work Act 2009 (cth), and to make related amendments to various other acts.

Victoria's referral of certain matters relating to workplace relations to the commonwealth Parliament was given effect to by the 'referral framework' in division 2A of parts 1–3 of the Fair Work Act 2009 (cth) from 1 July 2009. As a result, the fair work laws now apply to all Victorian employers and their employees, subject to the public sector exclusions from the referred matters.

Other states are likely to make referrals to the commonwealth commencing in 2010. At present, the commonwealth referral framework is specific to Victoria. Consequently, it is necessary for the commonwealth to amend the referral framework to accommodate the referrals of other states and, accordingly, it is necessary to amend the Victorian referral to reflect changes to the referral framework made by the commonwealth.

Additionally, it is also necessary to make some further amendments for consistency with referrals from other states and to address some technical issues.

The bill will also make consequential amendments to other Victorian acts.

Human rights issues

The bill does not raise any human rights issues as the amendments made by the bill are technical in nature and are predominantly for the purpose of giving effect to amendments made to the referral framework, as well as clarifying provisions and resolving drafting issues in the current Fair Work (Commonwealth Powers) Act 2009.

Conclusion

I consider that the bill is compatible with the charter because it does not raise any human rights issues.

Rob Hulls, MP
Attorney-General

Second reading

Mr HULLS (Attorney-General) — I move:

That this bill be now read a second time.

When this government was first elected in 1999, we gave a commitment to do what was necessary to ensure that all Victorians have the benefit and protection of federal workplace relations laws that are fair and balanced. Victoria's referral of workplace relations matters under the Fair Work (Commonwealth Powers) Act 2009 fulfilled that promise.

South Australia and Tasmania intend to join Victoria in making workplace relations referrals. This government flagged, when the new Victorian referral was made, that referrals from other states may result in some

refinements of Victoria's referral. The Fair Work (Commonwealth Powers) Amendment Bill makes those refinements.

What refinements are made by the bill?

The bill before the house today adjusts Victoria's referral to reflect changes to be made to the referral framework in the commonwealth's Fair Work Act. These changes will accommodate the referrals from South Australia and Tasmania and address some minor technical matters.

Our referral must be amended to reflect these changes and to enable the commonwealth to present uniform referral arrangements to all states.

The bill will also make clear that certain phrases used in the referral's amendment reference are to have the same meaning as in the Fair Work Act. This reflects the original intention and is expected to be adopted in referrals from other states.

The bill also amends the referral to reflect a change to be made to the commonwealth's referral framework that will allow a state to terminate its amendment reference in certain limited circumstances, whilst its other references continue to be given effect under the commonwealth act. In addition, the bill will amend the referral's termination provisions for consistency with the requirement under the intergovernmental agreement for a national workplace relations system for the private sector, that referring states give six months notice to the commonwealth of intention to terminate a referral. Again, these arrangements are expected to be adopted in referrals from other states.

Whilst finetuning of the referral is necessary to reflect the changes to be made to the commonwealth's referral framework and for consistency with referrals from other states, it will have no immediate impact on the operation of the referral from the point of view of Victorian workers or employers.

Consequential amendments

In addition to finetuning aspects of the referral, the bill will also update references to federal workplace relations laws and industrial instruments in various state acts. These are technical amendments which will not alter the present schemes of these acts.

Conclusion

In introducing Victoria's new referral in June of this year, this government observed that it was in the interests of all Victorian workers and employers that the state participate in a national workplace relations system based on the fair work laws.

In introducing this bill I take the opportunity to welcome the decisions of South Australia and Tasmania to join Victoria as full participants in the national system.

I commend the bill to the house.

Debate adjourned on motion of Dr NAPTHINE (South-West Coast).

Debate adjourned until Thursday, 29 October.

JUSTICE LEGISLATION MISCELLANEOUS AMENDMENTS BILL

Statement of compatibility

Mr CAMERON (Minister for Police and Emergency Services) tabled following statement in accordance with Charter of Human Rights and Responsibilities Act:

In accordance with section 28 of the Charter of Human Rights and Responsibilities, I make this statement of compatibility with respect to the Justice Legislation Miscellaneous Amendments Bill 2009.

In my opinion, the Justice Legislation Miscellaneous Amendments Bill 2009, as introduced to the Legislative Assembly, is compatible with the human rights protected by the charter. I base my opinion on the reasons outlined in this statement.

Overview of bill

The bill amends:

the Crimes Act 1958 in relation to the recording, provision and misuse of records of interview;

the Criminal Procedure Act 2009 to remove a technical limitation on the use of the new interlocutory appeals process where the appeal concerns a decision made before a trial commences;

the Major Crime (Investigative Powers) Act 2004 (Major Crime Act) and Major Crime Legislation Amendment Act 2009 (Major Crime Amendment Act) in relation to the coercive questioning regime;

the Sheriff Act 2009 to clarify certain provisions, improve the execution of warrants and extend offences that can be committed against the sheriff;

the Telecommunications (Interception) (State Provisions) Act 1988 to ensure consistency with the Telecommunications (Interception and Access) Act 1979 (cth); and

the Infringements Act 2006 to improve the functioning and responsiveness of the infringements system.

Crimes Act 1958 — digital evidence capture

1. Human rights issues

The digital evidence capture project upgrades Victoria Police's recording equipment from an audio-only analogue format to a digital audiovisual DVD. This equipment is used to record interviews with suspects in relation to indictable matters. Because the equipment now creates a digital format, there is a concern that it will be easier to disseminate the record by any means, including uploading a copy to an internet website, sending via email or making further copies of the DVD. The ease with which digital formats can be used and manipulated increases the risk of interviews being disseminated and the confidentiality of the investigative process being compromised.

Clause 4 of the bill inserts new section 464JA into the Crimes Act 1958. This section regulates the use of police audio and audiovisual records of interviews. Section 464JA(2) prohibits a person from knowingly possessing a recording unless they are a suspect, a legal representative of the suspect or are otherwise authorised to possess the recording in the performance of their duties. Section 464JA(3) prohibits a person from playing a recording to another person unless the recording is played for the purposes set out in the bill. Section 464JA(4) prohibits a person from supplying or offering to supply a recording to another person other than a suspect, legal practitioner or authorised person performing their duties. Sections 464JA(5), (6) and (7) prohibit a person other than an authorised person from copying, erasing, tampering, modifying or publishing a recording. Criminal penalties of up to one or two years maximum imprisonment apply to any person contravening these provisions.

Section 15 — freedom of expression

A person has the right under section 15 of the charter to freedom of expression, which includes the freedom to seek, receive and impart information and ideas of all kinds. Special duties and responsibilities are attached to the right to freedom of expression and the right may be subject to lawful restrictions reasonably necessary to respect the rights and reputation of other persons; or for the protection of national security, public order, public health or public morality.

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

As these provisions restrict a person's freedom to seek, receive and impart records of interview, the right to freedom of expression is engaged. However, to the extent that the right is engaged, it is clear that these provisions would fall within the permissible limitations set out in s 15(3) for the protection of the rights and reputation of other persons and for the protection of public order. Restricting the proliferation of these records is reasonably necessary to protect the privacy of persons connected with police interviews, such as the identity of victims and witnesses which may be revealed during the course of an interview, as well as the identities of the interviewee and police investigators themselves. As the records of interview now incorporate a visual medium, it is much easier for a person's identity to be revealed than on the older audio-only analogue recordings. There is also the possibility that trials may be jeopardised if jurors are exposed to material published on the internet, especially if such records have been manipulated or doctored using digital editing software. Accordingly, I consider that these provisions are reasonably necessary for the protection of public order by preventing the corruption of investigative and judicial processes that may occur through the uncontrolled proliferation of records of interviews.

Telecommunications (Interception) (State Provisions) Act 1988

1. Human rights issues

Part 5 of the bill amends the definition of 'restricted record' in the Telecommunications (Interception) (State Provisions) Act 1988 (Interception Act) to mean 'a record other than a copy, that was obtained by an interception … of a communication passing over a telecommunications system'. This will have the effect that certain obligations under the Interception Act will not apply to copies, namely to:

> keep an intercepted record in a secure place where it is not accessible to persons other than persons who are entitled to deal with it (sections 9(1) and 9E(1)); and
>
> destroy it when it is no longer likely to be required for a permitted purpose (sections 9(2) and 9E(2)).

This amendment potentially engages the right of a person not to have his or her privacy or correspondence unlawfully or arbitrarily interfered with.

Section 13 — right to privacy

A person has the right under section 13(a) of the charter not to have his or her privacy, family, home or correspondence unlawfully or arbitrarily interfered with. In the context of telecommunication interception, this right requires a person's privacy to be protected in respect of their communications and for individuals in Victoria.

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

Telecommunications interception legislation has a direct impact on the personal privacy of individuals in Victoria. Section 13 of the charter requires that a person's communications (as a form of correspondence) are adequately safeguarded from unlawful or arbitrary interference and that their privacy be protected in respect of their communications. The primary objective of the commonwealth and Victorian interception legislation is to protect the privacy of individuals who use the Australian telecommunications system by making it an offence to intercept communications passing over that system. It also seeks to balance the privacy rights of individuals with legitimate law enforcement and security objectives.

The purposes of the amendment are to remove the existing onerous record-keeping regime and to ensure that the act is consistent with the Telecommunications (Interception and Access) Act 1979 (cth) (commonwealth interception act), which was amended by the Telecommunications (Interception) Legislation Amendment Bill 2000 (cth) to exclude copies from the definition of 'restricted record'.

While limiting the definition of restricted record has the effect of reducing the safeguards on the use, disclosure or handling of communication or personal information collected in an intercepted communication, the impact of the amendments on the right to privacy need to be considered in light of all the protections that currently apply to this scheme. The failure to have additional protection afforded to copies of 'restricted

records' does not automatically mean that the right to privacy is being arbitrarily interfered with.

It must be acknowledged that the record-keeping regime and other obligations that applied to restricted records are now over 20 years old. In that time, the technology involved in the holding, storing, copying and backing-up of restricted records has evolved significantly to the extent that the record-keeping process that was envisioned in 1988 can no longer be practically applied to the administrative demands of the present day and is in fact inhibiting the effective use of intercepted information. There have also been significant developments in the area of privacy protection, with legislation such as the Information Privacy Act 2000 now in effect which did not exist when these restrictions on records were originally contemplated.

It should be noted that both Victoria Police and the Office of Police Integrity, as collectors of communications records, are bound by the Victorian Information Privacy Act 2000, which obliges the police and other state public sector organisations to only collect personal information by fair and lawful means and in a manner that is not unreasonably intrusive. Section 127A(1) of the Victorian Police Regulation Act 1958, which was amended in 2007, prescribes criminal penalties for members of police personnel who commit unauthorised use, access or disclosure of information and documents that come into their knowledge or possession.

It should also be noted that a copy of a restricted record would still be subject to the safeguards and protections present in the commonwealth interception act. Section 63 prohibits a person from communicating, making use of, making a record of or giving in evidence in a proceeding any information obtained through a telephone intercept. Subsection (2) applies the same restrictions to interception warrant information. Any person found contravening this section is guilty of an offence and faces possible imprisonment.

It must be concluded that while the new amendment to the definition of restricted record will reduce the safeguards surrounding the use and storage of intercepted information, the remaining protections that exist in this scheme combined with the general privacy protection provided by other legislation is satisfactory in ensuring that an individual's right to privacy will not be arbitrarily interfered with through the operation of this bill.

Infringements Act 2006

1. Human rights issues

Clauses 44(5), 45 and 48 amend the Infringements Act 2006 to provide that an infringement warrant may be stayed upon the making of a payment order but that the warrant will become enforceable again upon a person defaulting under the payment order. At present, infringement warrants are cancelled upon the making of a payment order and a fresh warrant must therefore be issued upon each default, attracting the associated fee on each occasion. The purpose of these amendments is to avoid the escalation of such fees.

Under the act, an infringement warrant authorises a range of enforcement measures, including entry to property occupied by the person named in the warrant, search and seizure of personal property, the sale of such property, and (if sufficient personal property cannot be found or is reasonably believed not to be available), arrest of the person named in the warrant. By providing for an infringement warrant authorising these measures to automatically become enforceable again, clauses 44(5), 45 and 48 potentially engage the charter rights to liberty in section 21, freedom of movement in section 12, right to privacy in section 13 and the property rights in section 20.

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

Section 21 — right to liberty and section 12 — freedom of movement

Section 21 of the charter provides that every person has the right to liberty and security and must not be deprived of his or her liberty except on grounds, and in accordance with procedures, established by law. Section 21 also provides that a person must not be subject to arbitrary arrest or detention. Section 12 of the charter provides that every person lawfully within Victoria has the right to move freely within Victoria.

Clauses 44(5), 45 and 48 engage section 21, and by necessary implication section 12, because they provide for infringement warrants, which authorise the arrest of a person named in the warrant, to automatically become enforceable again upon default under a payment order. In my opinion, these provisions are compatible with section 21 (and represent a reasonable and proportionate limitation on section 12) because the authorisation is specifically provided for and confined by law.

The clauses clearly identify when an infringement warrant will become enforceable again and, taken with the relevant provisions of the Infringements Act 2006, the circumstances in which an individual may as a result be lawfully subject to arrest by way of enforcement of the unpaid infringement sum. In particular, it is clear that a person will not be liable to arrest unless they default under the payment order. Under the applicable non-statutory processes, individuals receive a series of notifications that they are not in compliance with the payment order followed by notification that they are in default. In addition, under the Infringement Act 2006 the power of arrest may not be used unless a prescribed seven-day notice warning of available enforcement mechanisms is served, and the power of arrest is restricted to an enforcement measure of last resort where insufficient personal property is found and the person executing the warrant reasonably believes that there is not sufficient personal property on which to levy the amounts named in the order.

Specifically, the measures in clauses 44(5), 45 and 48 enable a proportionate approach to enforcement by avoiding the accrual of multiple fees and the consequent recovery of disproportionate sums in fees from defaulters.

Section 13 — right to privacy

Clauses 44(5), 45 and 48 may engage the right to privacy to the extent that they provide for an infringement warrant, which authorises the entry, search and seizure of property at premises occupied by a person named in the warrant, to automatically become enforceable again upon default under a payment order.

In my opinion, however, the right to privacy is not breached. The measures and the circumstances in which they are authorised are clearly provided for and confined by law, and the enforcement mechanism in question represents a

reasonable and proportionate means of enforcing the fines incurred by an individual who has defaulted under a payment order. Under the applicable non-statutory processes, individuals receive a series of notifications that they are not in compliance with the payment order followed by notification that they are in default. Moreover, pursuant to the Infringement Act 2006 personal property may only be removed from the residential or business property of a natural person if a prescribed seven-day notice warning of available enforcement mechanisms is served. The measures in clauses 44(5), 45 and 48 specifically seek to enable a proportionate approach to enforcement by avoiding the accrual of multiple fees and the consequent recovery of disproportionate sums from defaulters.

Section 20 — right to property

Section 20 provides that a person must not be deprived of his or her property other than in accordance with law.

Clauses 44(5), 45 and 48 may engage this right because these provisions provide for a warrant authorising the seizure or sale of property to automatically become enforceable again. In my opinion, however, the right is not limited because the deprivation is provided for by law of sufficient clarity and is not arbitrary, representing a reasonable and proportionate mechanism for enforcing fines due under a payment order which a person has defaulted on.

Accordingly, I consider that the amendments to the Infringements Act 2006 are compatible with the charter. Clauses 44(5), 45 and 48 may engage with, but do not limit, rights conferred by sections 13, 20 and 21 of the charter. Any limitation placed on section 12 of the charter is reasonable and proportionate.

Conclusion

I consider that the bill is compatible with the charter because, to the extent that some provisions may limit human rights, those limitations are reasonable and demonstrably justified in a free and democratic society.

Bob Cameron, MP
Minister for Police and Emergency Services

Second reading

Mr CAMERON (Minister for Police and Emergency Services) — I move:

That this bill be now read a second time.

The Justice Legislation Miscellaneous Amendments Bill 2009 will make improvements to the operation of justice legislation in six discrete areas.

The Crimes Act 1958 amendments will provide appropriate legislative support for the new digital audiovisual technology that Victoria Police has recently rolled out for use in recording interviews with suspects in indictable matters. Amendments to legislation relating to criminal procedure, major crime, the sheriff and telecommunications interceptions are largely minor and technical improvements to the respective schemes.

Finally, amendments to the infringements system will improve the operation and responsiveness of that system.

Amendments to the Crimes Act 1958

The bill will establish appropriate legislative support for the digital evidence capture project. This project has upgraded Victoria Police's analogue audio-only recording equipment to digital audiovisual recording equipment to facilitate the recording of interviews with suspects in indictable matters. It essentially replaces outdated audio cassette tapes with DVDs. This project has been developed jointly by Victoria Police, the Office of Public Prosecutions and the courts to ensure common technology platforms.

Deployment of the new units began during February 2009 and has recently been completed.

The new equipment is capable of creating three full audiovisual copies of an interview in digital format that is recorded to blank DVDs. It also enables the third DVD to be an audio-only copy of the record of the interview. The bill requires police to provide the interviewee with the audio-only recording within seven days of it being made, however, if that person is subsequently charged with an offence, directly following the interview or on a subsequent date, they will be provided with a full audiovisual recording. This must occur within seven days of the charge being laid. In addition, where police create a written transcript of an interview, they must supply a copy within seven days of it being made.

The bill creates a number of summary offences related to knowingly possessing a recording; playing a recording to another; supplying a recording to another; copying a recording; knowingly or recklessly erasing, tampering or modifying a recording; and publishing a recording.

The offences in relation to playing and publishing a recording target the inappropriate dissemination of an audiovisual recording. 'Publish' is deliberately defined very broadly to capture the multitude of ways in which videorecordings can be made available to others. The definition is intended to capture new and emerging technologies as well as existing methods of distributing recordings.

The offences are necessary, as records of interview often contain a great deal of sensitive information about the circumstances of an alleged offence and the identity and details of persons, including police investigators, suspects, victims and third parties. Clearly, in relation to some offences, there will be graphic or disturbing

information that should not be freely disseminated to others who are unconnected with the criminal justice processes. The bill seeks to preserve the integrity of the process and to protect against personal details and possibly graphic details of offences being made public unnecessarily.

To provide protection for the legitimate uses of a recording in the context of the criminal justice system or complaints made about processes in that system, the bill provides a definition of 'authorised person'.

Authorised persons include the Chief Commissioner of Police, the Ombudsman, the director, police integrity, and other appropriate persons. They are, largely, persons who have a direct involvement in the criminal justice system or in relation to complaints about a person's treatment within that system. An accused person and their legal representative will be entitled to access and use a recording for purposes connected with their involvement in the criminal justice system.

The offences will not restrict necessary administrative tasks being undertaken in relation to the creation and distribution of a recording for legitimate purposes. Additionally, a recording may be used for training or testing purposes. However, this is only authorised where all legal proceedings relating to the recording being used have been concluded and steps have been taken to de-identify the suspect and third parties.

Importantly, the bill will not limit an accused person's access to evidence in a criminal proceeding against them and does not change any of the requirements in relation to the preparation and provision of a brief of evidence.

The bill also provides for any necessary directions to be made by a court in relation to the supply, copying, broadcasting, playing and erasing of a recording. Further, a court direction can be sought by a person interviewed (or their legal representative) or by an authorised person to access and use a recording, even following the completion of criminal proceedings. This may be necessary for subsequent or related proceedings or where complaints are subsequently pursued.

Police will be required to maintain a copy of a recording for a minimum period of seven years. This will ensure that a copy of a recording is always available after criminal proceedings have been resolved if it becomes subsequently necessary to examine the circumstances of an interview. At the expiration of seven years, subject to a further direction of a court (if any), police will determine the ongoing retention of a recording or its disposal.

Importantly, police will continue to be subject to the retention and disposal processes required in relation to public records as well as other organisational requirements that determine the maintenance and disposal of corporate records.

The digital evidence capture provisions will modernise the Victorian legislation regarding records of interview and are modelled on existing legislation which has worked effectively in Western Australia.

Amendments to the Criminal Procedure Act 2009

The bill makes a minor amendment to the Criminal Procedure Act 2009 to remove the word 'trial' from the description of 'trial judge' in the definition of an 'interlocutory decision'. This will make it clear that interlocutory appeals are available in relation to decisions made by a judge before a trial commences. The amendment will give effect to the government's intention and the understanding of the Attorney-General's advisory group regarding interlocutory appeals.

Amendments to major crime legislation

The bill makes a number of quite technical amendments to the Major Crime (Investigative Powers) Act 2004 and the Major Crime Legislation Amendment Act 2009 to further improve the coercive questioning scheme that may be applied in relation to serious and organised criminal offending. The amendments will not make any substantive change to the coercive questioning scheme but do represent minor yet important improvements.

The bill will ensure that the relevant provisions of the Major Crime (Investigative Powers) Act 2004 will apply to persons who are already in custody and who are brought before the chief examiner for an examination by way of an order of the Supreme Court or of the chief examiner. Such provisions will apply to a person in custody who is ordered to attend for an examination in the same manner as those provisions currently apply to a person who is at liberty and who is required to attend for an examination under a summons.

For the purposes of a corporation or a financial institution that is required to produce documents under a summons, the bill will relax the preliminary requirements that the chief examiner must comply with before the witness produces a document or thing.

The representative of a corporation or financial institution will continue to be informed about the application of legal professional privilege and confidentiality, the right to legal representation and the

right to complain to the special investigations monitor. Only those matters not relevant to these organisations will be excluded from the requirements and this change will not affect the continued full application of the requirements where a representative of such an organisation is summoned to give evidence.

One final technical amendment to the major crime legislation will rearrange the sequence of actions under provisions enabling the chief commissioner, the chief examiner or an interested witness to make submissions to a court in criminal proceedings where the court is considering whether to release evidence which has been given to the chief examiner under a coercive powers order. This will ensure that the legislative process accurately reflects practice.

Amendments to the Sheriff Act 2009

The bill makes a number of minor technical amendments to the Sheriff Act 2009 to:

clarify the powers of entry for civil warrants;

clarify the operation of the provisions dealing with the simultaneous execution of multiple warrants; and

ensure that the offences contained in part 5 of the act include offences committed against appropriately trained justice employees.

The bill also makes a number of minor grammatical amendments to the Sheriff Act 2009, and repeals certain provisions in other acts that contain incorrect references to the sheriff and deputy sheriff.

Amendments to the Telecommunication (Interception) (State Provisions) Act 1988

The bill makes a range of technical amendments to the state act which governs telecommunications interceptions, essentially to bring Victoria's provisions into line with the Telecommunications (Interception and Access) Act 1979 of the commonwealth. The commonwealth act has been the subject of various sets of amendments over recent years. As a consequence, there are now certain discrepancies between the two acts and it is appropriate to rectify these to remove confusion and eliminate unnecessary duplication.

The bill includes telecommunications interception amendments that will eliminate superfluous record-keeping requirements, align the definition of 'restricted record' with the commonwealth definition, ensure that ministerial reporting lines reflect legislation administration arrangements and clarify that, for the purposes of the state act, the term 'warrant' refers only to telecommunications interception warrants and not to stored communications warrants, which are solely regulated under the commonwealth act.

The bill also rectifies some obsolete and inaccurate cross-references in the state act that have developed over time as a result of changes to the commonwealth act.

Amendments to the Infringements Act 2006

The bill contains a number of measures designed to improve the functioning and responsiveness of the infringements system.

The bill amends the Infringements Act 2006 to enable a defendant who has previously applied (unsuccessfully) for revocation of an enforcement order to reapply. A defendant will be able to make a second application as of right, but will require leave of the Magistrates Court to make a third or subsequent application. The purpose of this provision is provide some flexibility in the operation of the revocation process, to take account of circumstances in which a defendant was unable to make a complete or timely application in the first instance.

The bill creates a mechanism for a prisoner to call in warrants to imprison for non-payment of court-imposed fines. It also provides for outstanding warrants relating to infringements and court-imposed fines to be processed together, and enables an order for a term of imprisonment in lieu of payment of an outstanding warrant to commence on the date on which the prisoner signed the form requesting that such an order be made.

The bill also enables an infringement warrant to be stayed while a defendant is complying with an order to pay outstanding fines, and to become enforceable again if the defendant defaults. This will increase the efficiency of fines administration and reduce the costs associated with managing these orders.

The bill also amends the Infringements Act 2006 to enable certain sanctions available for enforcement of outstanding infringement warrants — orders for attachments of earnings, attachments of debt and charges over real estate — to become fully operational.

I commend the bill to the house.

Debate adjourned on motion of Mr McINTOSH (Kew).

Debate adjourned until Thursday, 29 October.

HEALTH PRACTITIONER REGULATION NATIONAL LAW (VICTORIA) BILL

Statement of compatibility

Mr ANDREWS (Minister for Health) tabled following statement in accordance with Charter of Human Rights and Responsibilities Act:

In accordance with section 28 of the Charter of Human Rights and Responsibilities, I make this statement of compatibility with respect to the Health Practitioner Regulation (National Law (Victoria)) Bill 2009.

In my opinion, the Health Practitioner Regulation (National Law (Victoria)) Bill 2009, as introduced in the Legislative Assembly, is compatible with the human rights protected by the charter. I base my opinion on the reasons outlined in this statement.

Overview of bill

It is necessary to provide some background information to place this bill in its context.

In 2008 the Council of Australian Governments signed an intergovernmental agreement for the establishment of a new national scheme for the accreditation and registration of health practitioners.

The national scheme is designed to create a modernised national regulatory system for health practitioners and deliver improvements to the quality and safety of Australia's health services.

The process agreed to bring about the national scheme involves the passage of a Health Practitioner Regulation National Law 2009 ('the national law') in the Queensland Parliament. The national law contains the substantive provisions of the national scheme, including the essential powers and functions of the national boards with respect to registration of health practitioners and complaints handling.

This bill applies the national law as a law of Victoria. It contains two parts and is very brief. Part 1 contains preliminary provisions. Part 2 adopts the national law as a law of Victoria. It also defines certain terms in the national law for the purposes of the adoption of that law in this state.

Human rights issues

The national law engages a limited number of rights which are protected by the charter. (Unless otherwise stated, all clause numbers referred to in this statement are clauses of the national law).

Section 13: privacy and reputation

Section 13(a) of the charter recognises a person's right not to have his or her privacy, family, home or correspondence unlawfully or arbitrarily interfered with.

The right to privacy encompasses a right to information privacy. The requirement that any interference with a person's privacy must not be 'unlawful' imports a requirement that the scope of any legislative provision that allows an interference with privacy must specify the precise circumstances in which interference may be permitted. The requirement that an interference with privacy must not be arbitrary requires that any interference with a person's privacy must be reasonable in the circumstances and should be in accordance with the provisions, aims and objectives of the charter.

The rights protected in section 13(a) of the charter are engaged in the following six broad areas.

Collection, use and disclosure of personal information

An individual's application for registration as a health practitioner, renewal of registration as a health practitioner or endorsement as a health practitioner can only be thoroughly assessed if the national boards have access to a wide range of information about these individuals. The national law therefore gives the national boards the power to collect a broad range of information which will enable them to verify an applicant's identity and qualifications and also assess the person's suitability to be a health practitioner (clauses 77, 78, 81, 99, 100, 107, 109 and 110). Without these powers, the national boards would be unable to realise the key objective of the national law — to protect the public, by ensuring that only suitably trained and qualified health practitioners who practise in a competent and ethical manner, are registered.

The national law requires the registration of students undertaking an 'approved program of study' (clauses 86–93, 229, 230). Under the national law, a national board has discretion as to when to register students, based on the potential for public risk. Education providers must provide the national boards with details of impairment or where a student has been charged, convicted or found guilty of an offence that is punishable by 12 months imprisonment or more (clause 178). The national board is required to provide notice to the education provider when the student is registered. The purpose of this is to enable the education provider to notify the student that he or she has been registered (clause 89). The register of students kept by the national boards is not a public register. National boards need this information to enable them to protect the public, by ensuring that students enrolled in an approved program of study are suitable to undertake clinical training.

Criminal history checks

The national law contains several provisions which permit a national board to have regard to an applicant's criminal history (clauses 5, 55, 74, 77, 79, 109, 135 and 231). Criminal history is defined (in clause 5) to mean:

(a) every conviction of the person for an offence, in a participating jurisdiction or elsewhere, and whether before or after the commencement of this law;

(b) every plea of guilty or finding of guilt by a court of the person for an offence, in a participating jurisdiction or elsewhere, and whether before or after the commencement of this law and whether or not a conviction is recorded for the offence;

(c) every charge made against the person for an offence, in a participating jurisdiction or elsewhere, and whether before or after the commencement of this law.

The national law requires a person to disclose their criminal history when applying for registration as a health practitioner

(clause 77). A national board is required to check this information before deciding the application for registration (clause 79). A national board may refuse a person's application for registration (general and non-practising registration) on the basis of relevant criminal history. The board must form an opinion that on the basis of that information, the person is not appropriate to practise the profession, or that it would not be in the public interest for the person to practise the profession (clauses 55, 74).

Applications for renewal of registration must contain details of any change in the applicant's criminal history that has occurred (clause 109).

In addition, the national law grants a national board a power to obtain a written report about a registrant's criminal history, at any time (clause 135). This information, along with details about when a criminal history check was carried out and the nature of the check, must be kept in a record on each registrant by a national board (clause 231).

The requirement of an applicant to disclose their criminal history, and its subsequent treatment by a national board, engages the right to privacy. Criminal history is defined broadly to include charges and acquittals. The criminal history check may disclose information that is arguably not relevant to registering in a health profession.

However, a criminal history check is the only available objective mechanism to identify the existence of both charges and findings of guilt that are relevant to determining the risk an applicant may pose to members of the public. The very nature of the role of a health practitioner and their unsupervised access to the public, means that it is important for a Board to refer to a wide range of information. For example, an applicant's criminal history may disclose numerous charges for indecent exposure to a member of the public. Although no conviction resulted, this information could give a national board cause to make further inquiries or to seek further information from an applicant, in determining the person's suitability to practise. The expectation is that in the vast majority of cases, non-conviction information would not be taken into account when determining an application for registration. The ability to access this information will, however, guard against the rare likelihood that this information may prevent a registration being granted to a person whose registration would not be in the public interest.

An important safeguard on a person's right to privacy in the national law is the relevance test. A national board may only refuse registration on the basis of criminal history that is relevant to an individual practising the profession (clauses 55, 74). Registration standards will be developed by national boards that include information on how an individual's criminal history may be relevant to the practice of the profession (clause 38(1)(b)). In addition, where a national board is considering refusing an application for registration it must give the applicant notice inclusive of reasons and invite the applicant to make a written or verbal submission (clause 81).

National boards will be required to handle information about applicants' criminal history in accordance with the requirements set out in the Privacy Act (commonwealth). Moreover, clause 216 of the national law will make it a criminal offence for a person performing functions under the national law to disclose information about an individual's criminal record except in the circumstances specified by the national law (see division 2 of part 10).

The right to privacy protects against unlawful and arbitrary interferences with privacy. The criminal history provisions do not amount to such an interference. The provisions serve a legitimate aim, namely to determine whether an applicant may pose a risk to a member of the public. The provisions are not unlawful. Moreover, the inclusion of a relevance test means that only information that has a bearing on a health practitioner's ability to safely deliver health services to the public will be taken into account when registering a health practitioner under the national law thus creating a nexus between the purpose of obtaining criminal history information and its use. A national board's decision to refuse registration is reviewable by the VCAT (clause 199). The provisions are therefore not an arbitrary interference with an applicant's right to privacy.

Mandatory notifications

Clauses 140–143 provide for mandatory notifications by health practitioners in certain circumstances.

A registered health practitioner must make a notification to the national agency in two circumstances. First, if the practitioner forms a reasonable belief that another registered health practitioner has behaved in a way that constitutes 'notifiable conduct'. 'Notifiable conduct' means that the practitioner has practised while intoxicated by alcohol or drugs, engaged in sexual misconduct in connection with the practice, placed the public at risk of substantial harm in the practitioner's practice or placed the public at risk of harm because the practitioner has practised in a way that constitutes a significant departure from professional standards.

Second, a notification must be made if the practitioner forms a reasonable belief that a student has an impairment that, in the course of the student undertaking clinical training, places the public at a substantial risk of harm.

These provisions engage the right to privacy as a notification may disclose information about a health practitioner's alcohol or drug use, or sexual conduct in connection with their practice. The right to privacy protects against unlawful and arbitrary interferences with privacy. The mandatory notification provisions do not amount to such an interference. They are not unlawful and they are appropriately circumscribed to require only notifications that reveal information that has a bearing on a health practitioner's ability to safely deliver health services to the public.

Health assessments

A national board may require a registered health practitioner or student to undergo a health assessment if the board reasonably believes that the practitioner or student has, or may have, an 'impairment' for the purposes of the act (clauses 5, 168–177). A health assessment may consist of a medical, physical, psychiatric or psychological examination or test of the person. The power to require a person to undergo a medical assessment would interfere with a person's right to bodily integrity and therefore engages the right to privacy.

The requirement that the national board must form a belief on reasonable grounds that the person has a physical or mental impairment that detrimentally affects or is likely to detrimentally affect the person's ability to practise or study

recognises that not all health problems will warrant an assessment.

The health assessment provisions do not limit the right to privacy because they are neither unlawful nor arbitrary. Rather, they are necessary in order to assess whether a practitioner has an impairment which could prevent a person from safely practising or studying.

Public registers

Division 3 of part 10 sets out the requirements that will govern the keeping of public registers of health practitioners. The division has been carefully crafted in order to strike an appropriate balance between the right of health practitioners to information privacy and enabling the public to verify that a particular individual is an appropriately registered health practitioner. Each national board will be required, in conjunction with the national agency, to keep a public national register of health practitioners currently registered by that board and a public national register of practitioners who were registered by the board but whose registration has been cancelled by an adjudication body (clause 222). National boards for a health profession for which specialist recognition operates must keep similar registers for specialist health practitioners (clause 223). The information that must be included in such a register is specified in clause 225, and includes the suburb and postcode of the practitioner's principal place of address, the type of registration the practitioner holds and information about any conditions that have been imposed on the practitioner's registration. These registers will be available at the national agency for inspection, free of charge, by members of the public and will also be published on the agency's website (clause 228).

Clause 226 sets out a number of mechanisms that will ensure that the public registers do not unreasonably limit the right of health practitioners to information privacy. Recognising that publishing information about a practitioner could place some individuals at risk because of their personal circumstances, a national board may decide not to record information about a practitioner in a register if a practitioner requests that the information not be published and the board reasonably believes that the inclusion of the information in the register would present a serious risk to the health or safety of the practitioner (clause 222(3)). A national board may also decide not to include information about a condition or undertaking relating to a practitioner's impairment if it is necessary to protect the practitioner's privacy and there is no overriding public interest for the conditions or the details of the undertaking to be published. Similarly, the national board may decide to remove information that discloses a registered health practitioner has been reprimanded if it considers that is no longer necessary or appropriate for the information to be recorded on the register.

Division 3 of part 10 does not limit a person's right to privacy because it does not authorise an interference that is unlawful or arbitrary. This is because any interference serves the legitimate purpose of protecting the public and the clauses adequately specify the circumstances in which these interferences may occur.

Entry powers

Clause 4 of schedule 6 provides that an inspector may enter a place, either with consent of the occupier, or pursuant to a warrant, or if the place is a public place, while the place is open to the public.

A place may be a private home, for example, where a practitioner practises his or her profession from a home/office. In this scenario, the entry into that place may engage the right not to have one's home unlawfully or arbitrarily interfered with.

The right has not been limited by the national law since the law provides clear boundaries around when and how entry may be made. Entry may only be made either pursuant to a warrant or with consent (schedule 6, clause 4). A warrant may only be issued if the magistrate is satisfied there are reasonable grounds for suspecting there is a particular thing or activity that may provide evidence of an offence at the place (schedule 6, clause 6).

Section 15: freedom of expression

The health practitioner regulation national law engages the right to freedom of expression in two areas: restrictions on advertising and mandatory notifications.

Advertising restrictions

Clause 133 provides a limited restriction on a person from advertising a regulated health service or a business providing a regulated health service. The clause prohibits a person (or business) from advertising a regulated health service in a particular manner that may be harmful to the public. The clause attaches a financial penalty for a person or body corporate who breaches the restriction.

The charter protects a right to impart information and ideas of all kinds, whether within or outside Victoria and whether orally, in writing, in print, by way of art or in another medium chosen by him or her (section 15(2)). The charter also provides (section 15(3)(b)) that special duties and responsibilities are attached to the right to freedom of expression and the right may be subject to lawful restrictions reasonably necessary for the protection of (inter alia) public health.

The limited restriction on commercial advertising in clause 133 is a restriction reasonably necessary for the protection of public health. The purpose of this provision is to protect the public from accessing health services through advertising that is misleading or deceptive or in some other way detrimental to public health. This is considered necessary given the public health risks associated with some forms of health service. It is noted that a similar provision currently exists in section 94 of the Health Professions Registration Act 2005.

Mandatory notifications

Clauses 140–143 provide for mandatory notifications by health practitioners in certain circumstances and have been discussed above.

As well as engaging the right to privacy, these clauses will have the effect of compelling expression in certain circumstances. However, to the extent that these clauses may limit the right to freedom of expression, the clauses are reasonably necessary for the protection of public health (see section 15(3)(b) of the charter). They provide a means of protecting the health of the public by ensuring that serious conduct by health professionals, that may place the public and

public health at risk, are reported to the appropriate authorities to avoid events reoccurring.

Section 20: property

Clauses 11, 12, 14 and 15 of schedule 5 to the national law could be considered to engage the right not to be deprived of property other than in accordance with law.

These clauses provide for seizure and forfeiture of property in certain circumstances. The clauses enable an investigator to seize and secure evidence from a public place (clauses 11 and 12 of schedule 5) and provide for a seized thing to be forfeited to the national agency in certain circumstances (clause 14 of schedule 5). The bill provides that a seized thing may be destroyed or disposed of, in some cases (clause 15 of schedule 5).

These provisions are necessary to prevent items being hidden or destroyed which may frustrate an investigation into serious misconduct occurring.

It is noted that items may only be seized by an investigator if he or she reasonably believes that the item is relevant evidence to an investigation being carried out (clause 11 of schedule 5). An inspector may only enter a place either with consent or pursuant to a warrant, or if the place is a public place, entry must be made when it is open to the public (clause 4 of schedule 5).

It is also noted that the forfeiture provisions (clauses 14 and 15 of schedule 5) apply in limited circumstances where the investigator cannot find its owner after reasonable inquiries or cannot return the item to the owner after making reasonable efforts. The bill requires regard to be paid to the nature, condition and value of the thing in deciding the reasonableness of the inquiries to be made.

The bill requires any item not forfeited to be returned to the owner and the bill establishes the appropriate time for doing so (clause 16 of schedule 5).

As the engagement with property rights is neither unlawful nor arbitrary, these clauses do not limit the right protected by section 20 of the charter.

Conclusion

I consider that the bill is compatible with the charter.

Hon. Daniel Andrews, MP
Minister for Health

Second reading

Mr ANDREWS (Minister for Health) — I move:

That this bill be now read a second time.

This bill seeks to implement the Health Practitioner Regulation National Law Bill 2009 (or the national law). The national law sets out the regulatory framework for the new National Registration and Accreditation Scheme for the Health Professions ('the national scheme').

The national law implements the commitment made by the Council of Australian Governments (COAG) on signing the intergovernmental agreement (IGA) on 26 March 2008 to establish the national scheme by 1 July 2010.

The national scheme is a significant milestone in the reform of the Australian health care system. It creates a single national registration and accreditation system for ten health professions. These include: chiropractors; dentists (including dental hygienists, dental prosthetists and dental therapists); medical practitioners; nurses and midwives; optometrists; osteopaths; pharmacists; physiotherapists; podiatrists; and psychologists.

The four professions of Aboriginal and Torres Strait Islander health practitioners, Chinese medicine practitioners, medical radiation practitioners and occupational therapists will also join the scheme from 1 July 2012.

The cornerstone of the national law is protection of the public. It provides a framework for the regulation of health practitioners in relation to registration, accreditation, complaints and conduct, health and performance, and privacy and information sharing. It builds on the best elements of existing regulatory models, such as the Victorian Health Professions Registration Act 2005 ('the HPR act') and other health practitioner legislation throughout Australia.

The national law follows an extensive consultation process that saw high-level engagement from regulatory bodies, practitioners and the public. Over 550 submissions were received from professions, regulatory bodies and the general public. The Australian Health Workforce Ministerial Council ('the ministerial council') considered all responses in building the legislation to create a national law that will deliver real improvements to the quality and safety of Australia's health-care system.

These considerations have included the following policy issues.

Public interest consideration

Health ministers have confirmed their commitment to a high level of public interest consideration within the national scheme. New provisions relating to mandatory reporting, student registration, criminal history and identity checks, strong community representation on national boards and an easier process for the public to make complaints all support this commitment.

To provide an additional level of protection, health ministers have agreed that the national law should

extend and better define the role of state and territory health complaints bodies in relation to the preliminary assessment of complaints received from the public. Under these arrangements, national boards and health complaints bodies will not only have to inform each other of any complaints received that are relevant to the other, but must also consult each other on the handling of complaints. They must reach agreement on whether a complaint should be taken further by the national board. If agreement cannot be reached the more serious view of the matter will prevail and the national board will carry the complaint forward on that basis. Therefore, our Office of the Health Services Commissioner will have a crucial role to play with the national boards in the preliminary stage of the investigative process.

This approach builds on arrangements already in place in Victoria under the HPR act, and this approach has been endorsed nationally. Our practitioner registration boards work closely with the Office of the Health Services Commissioner to determine whether a notification is best dealt with by the Office of the Health Services Commissioner or by the relevant board.

Agreement was made to strengthen and formalise the role of community members in state and territory boards. The national law now requires that there is the same ratio of community members on state and territory boards as on national boards.

Under the national law, serious complaints — those relating to matters that could amount to professional misconduct — will continue to be dealt with by VCAT in Victoria. The national boards, on the other hand, will deal with matters that relate to unsatisfactory professional performance and unprofessional conduct as well as matters that are regarded as health issues. This continues the approach that was implemented in Victoria from 1 July 2007 when the HPR act was introduced to ensure that the most serious matters are heard in an independent tribunal.

To summarise a couple of the key features of the national law:

Mandatory reporting

There will be a requirement that practitioners and employers (such as hospitals) report a registrant who is placing the public at risk of harm. Reportable conduct will include conduct that places the public at substantial risk of harm either through a physical or mental impairment affecting practice or a departure from accepted professional standards. Practitioners who are practising while under the influence of drugs or alcohol, or who have engaged in sexual misconduct during practice must also be reported.

The legislative provisions relating to mandatory reporting include exemptions to protect people from situations where a practitioner would not be expected to report, for example in a legal privileged situation. These provisions in the national law provide for an unprecedented level of public safeguards.

Criminal history and identity checks

Mandatory criminal history and identity checks will apply to all health professionals registering for the first time in Australia. All other registrants will be required to make an annual declaration on criminal history matters when they renew their registration and these declarations will be audited on a random basis by an independent source.

Independent accreditation functions

The accreditation functions of the national boards will be independent of governments. Accreditation standards will either be developed by an independent accrediting body or by the accreditation committee of the national board (for the relevant health profession).

The final decision on whether the accreditation standards, courses and training programs are approved for the purposes of registration is the responsibility of the national boards. The national law clearly sets out the relationship between an accrediting body and a national board to ensure that this relationship works in a fair and effective way.

The ministerial council, however, will have powers to appoint the external accrediting body for a profession when that profession first joins the national scheme. It will also have the capacity to act where, for instance, it believes that changes to an accreditation standard will have a significantly negative effect on the recruitment or supply of health practitioners. In exercising these powers however, the ministerial council must first consider the potential impact of its decisions on the quality and safety of health care.

Student registration

National boards will be required to register students in the health professions, with this requirement effective at the beginning of 2011. The national boards will decide at what point during their programs of study students will be registered, depending on the level of risk to the public.

Students will be registered, in the main, by a deeming process based on lists of students supplied to national boards by education providers. Students already registered under state or territory legislation before the commencement of the scheme will be deemed to be registered from 1 July 2010 to ensure continuity of registration. The national scheme will also enable national boards to act on student impairment matters or where there is a conviction of a serious nature which may impact on public safety.

Transitional arrangements for privately practising midwives

The national law contains a transitional clause for privately practising midwives who attend homebirths. This grants them an exemption from the requirement to hold appropriate professional indemnity insurance in order to be registered under the national scheme. Ministers have already communicated that their intention is that this transition period should last for no longer than two years following the commencement of the national scheme. This is to allow urgent work to be done to identify a solution to the issue of privately practising midwives being unable to access appropriate insurance cover. To increase the safeguards in this transition period, health ministers have agreed that relevant midwives will also be required to:

1. provide full disclosure and informed consent that they do not have professional indemnity insurance;

2. report each homebirth; and

3. participate in a quality and safety framework which will be developed after consultation led by Victoria.

Health programs for practitioners

The national law gives the national boards the power to fund health programs for health practitioners. Health programs of this kind have been a successful service offered by the Nurses Board of Victoria and the Medical Practitioners Board of Victoria for some time, and the legislation provides for the national boards to continue these programs under the national scheme. Our experience to date in Victoria shows that these types of programs are essential to the ongoing good health and working ability of the health workforce.

Extension to include other professions

On 1 July 2012 the remaining two health professions regulated in Victoria, Chinese medicine practitioners and medical radiation practitioners, will transition into the national scheme. In addition, on that date, Aboriginal and Torres Strait Islander health practitioners and occupational therapists will be regulated under the national scheme.

Victoria is the only jurisdiction where Chinese medicine practitioners are regulated and it is anticipated that the Victorian experience will be used as the basis for the emerging national model. It is particularly satisfying that in agreeing to regulate Chinese medicine, the other states have acknowledged the approach first identified as a need in this state through the review of Chinese medicine that was started in 1995 and led to regulation coming into force in Victoria from 1 January 2002.

The Victorian government is fully committed to the implementation of the national scheme for health professionals. The national law contains measures designed to protect both the public and practitioners and to facilitate greater workforce flexibility and mobility. It is a contemporary regulatory framework to support standards of excellence in the delivery of services in the Victorian health-care system.

I commend the bill to the house.

Debate adjourned on motion of Mrs SHARDEY (Caulfield).

Debate adjourned until Thursday, 29 October.

Remaining business postponed on motion of Mr WYNNE (Minister for Housing).

ADJOURNMENT

The DEPUTY SPEAKER — Order! The question is:

That the house do now adjourn.

Motor vehicles: registration

Dr NAPTHINE (South-West Coast) — The issue I raise is for the Minister for Roads and Ports, and the action I seek is that the minister withdraw bulletin 23 issued to motor car traders by VicRoads and re-examine the process required of incorporated bodies, with or without an Australian company number (ACN), to register vehicles, with a clear view to reducing and not increasing the red tape involved. Bulletin 23 was issued to all motor car traders by VicRoads on 8 October 2009, and it says in part:

An incorporated company with an ACN must provide either a certificate of registration of a company, certificate of

> incorporation, or other public document … that shows its ACN. A printout from the ASIC —

Australian Securities and Investments Commission —

> website alone is not sufficient as proof of identity.

The minister needs to examine why the traditional method of providing an ASIC printout is no longer seen as adequate to facilitate registration of vehicles for these bodies. It is quite amazing that the bulletin goes on further to say:

> Incorporated bodies without ACNs are incorporated through an act of Parliament or corporations law. They may include organisations such as hospitals, local councils, or trade unions.
>
> These organisations must provide either a copy of the act under which they are incorporated, or a public document … that references the relevant section of the act.

They have to do this in order to get their vehicles registered. What VicRoads is asking is that when a hospital in Warrnambool registers a vehicle, the motor car trader has to provide to VicRoads a copy of the act under which the hospital is registered to prove the hospital is a registered hospital, and that must also apply to TAFEs, trade unions and local councils. It is absolutely ludicrous — red tape gone over the top. In both situations the real question for the registration of vehicles by incorporated bodies with or without ACNs is why motor car traders cannot simply use the VicRoads client ID which already exists within VicRoads for all of these companies, bodies and organisations, most of which are regular purchasers of new vehicles.

The government should be making it easier for motor car traders to facilitate business and reduce business costs, not bogging down motor car traders in absolutely unnecessary bureaucratic red tape. When motor car traders are told by VicRoads that they must supply a copy of an act of Parliament for every hospital, local council or organisation like a TAFE in order to register a vehicle with those organisations, it is absolutely ludicrous. Bulletin 23 should be withdrawn.

Insurance Australia Group: Kerry Panels

Mr NARDELLA (Melton) — My adjournment matter is for the Minister for Small Business, and the action I seek is that he refer the issue of a business dispute between Kerry Panels and Insurance Australia Group (IAG) to the small business commissioner so it can be resolved quickly and expeditiously. In 2005 panel beating work undertaken by Kerry Panels was not up to the industry standard required of any panel shop. The proprietor of Kerry Panels is Mr Gerry Raleigh, a prominent Victorian Automobile Chamber of Commerce member and advocate and champion for small independent motor vehicle repairers.

In normal circumstances if work was referred back to Kerry Panels, the business would have had up to three opportunities to fix its mistake. Panel shops owned or badged by insurance companies like the Royal Automobile Club of Victoria or CGU Insurance would be given three, or sometimes more, opportunities to rectify problems. This is the normal, everyday practice. When Mr Raleigh's problems surfaced it appears that the normal custom and practice was discarded. Mr Raleigh offered to buy back the vehicle, but that was rejected by IAG through its failure to respond to Mr Raleigh's mailed and faxed letters offering to do so.

Instead of resolving the matter IAG hired two independent engineers, two independent assessors and a legal firm to block any resolution to the matter. Kerry Panels is the only small body repairer singled out for this financial punishment for Mr Raleigh's strong advocacy for the little man in business. Kerry Panels is in a unique and extraordinary situation. Instead of IAG settling this case expeditiously, it has cost Kerry Panels over $100 000 to defend its position. This is a case of malice and a concerted effort by a big insurance company to do as much financial damage as possible to a small independent company.

At no stage has IAG offered Kerry Panels the opportunity to rectify its work or to buy the vehicle. This is unheard of in the industry and is not the way IAG operates with other smash repairers. Not only has it cost Kerry Panels $100 000 to defend its position but it is costing it around $70 000 per year in repair work. This is harsh and oppressive conduct by IAG, which is a large company.

I ask that the minister refer this matter to the small business commissioner to see what action can be taken to sort this out, whether it be through mediation, conciliation or some other process, so that Kerry Panels, Gerry Raleigh and his employees can get back to doing the work they are very good at doing. We are all human and make mistakes. This instance occurred in 2005, and Kerry Panels should not have been continually punished since then for that mistake.

Calder Highway, Ravenswood: safety

Mr WALSH (Swan Hill) — The action I seek is from the Minister for Roads and Ports and it concerns the hazardous intersection of the Calder Highway and the Calder Alternative Highway at Ravenswood. This is an intersection between one of the state's major

freeways and the Calder Alternative Highway, which bypasses Bendigo and which carries the majority of the traffic from north-west Victoria to Melbourne. It is a difficult intersection, particularly for drivers of large vehicles such as buses and trucks entering the freeway as they go to Melbourne. Traffic approaching from the Calder Alternative Highway has to stop before crossing the northbound lanes of the Calder Highway and then stop again on an uphill incline before turning right into the southbound lane of the freeway to Melbourne. An uphill right-hand turn from a complete stop and then moving across the dual-lane freeway to the left lane is a very difficult process, particularly for big trucks.

I have previously written to the Minister for Roads and Ports about this intersection following concerns raised with me by transport operators in my electorate. The minister's response at that time indicated that VicRoads saw no reason to alter the intersection. Since I received that response there has been another tragic accident at the intersection with one fatality and serious injury. This latest accident highlights the need for a change to this intersection.

I ask the minister to immediately instigate a review of the intersection with the aim of using funds from the safer road infrastructure program to create a safer intersection. Traffic flows on this section of the Calder will continue to increase, particularly if we return to some more normal seasonal conditions in northern Victoria. It is a major route for a substantial amount of the grain that comes to southern Victoria and for a lot of the horticultural produce that comes out of northern Victoria, not only to the market in Melbourne but also for export.

Rooming houses: registration

Mr FOLEY (Albert Park) — The matter I wish to raise is for the attention of the Minister for Housing, who fortuitously is at the table. The action I seek from him is that the government act on the recommendations made recently by the government's rooming house task force. This would involve moving against those operators of intentionally substandard unregistered rooming houses who prey on some of the most vulnerable members of our community, particularly those seeking to cope with homelessness.

In asking for this action I note that the Premier announced this task force following reports about the growing number of unregistered rooming houses. We are seeing a new type of rooming house emerge in response to tightening private rentals which makes housing inaccessible for low-income private renters. These new types of rooming house operators generally choose not to register with local government and are increasingly found in private suburban houses. They then sublease rooms to those at the margins of the housing market who are coping with homelessness. In some cases the model has extended to commercial or industrial premises. Together they comprise a model of unregistered rooming houses responding to a failed market in affordable private low-rental housing.

Sadly many of these premises have proven to be not only of an unacceptable physical standard but they exploit those most at risk in society, particularly those who present with a range of issues, from mental illness and drug and alcohol issues through to those new to the Australian housing market which include an increasing number of families of which a disproportionate number are represented by single women, many of them seeking to escape abusive relationships.

Some common features of rooming house residents are their low incomes, insecure housing arrangements, tenuous links to the rest of society and general exclusion from the mainstream housing market. One can add to this mix those who have simply suffered the bad luck that life sometimes delivers to us all. Rooming house residents deserve a fair go just like the rest of the community.

Nowhere has this been highlighted more than by the coroner's investigation into the deaths of Christopher Giorgi and Leigh Sinclair in a tragic fire in Brunswick in 2006. The coroner made a range of recommendations around compliance, enforcement and regulation of the private rooming house sector, the need for new powers to apply to regulators and the registration of operators. Other recommendations made were on minimum standards, fire safety and the operation of the Residential Tenancies Act.

That these recommendations fit with the work of the government's task force is welcomed. Any government action needs to ensure that the onus of responsibility is placed on the private operators to bring together and improve the standards for administrative simplicity for the sector. The government also needs to build an active enforcement culture, seek more access to affordable private rental and seek increases in the supply of social housing more generally. Nothing can restore the lives of Christopher Giorgi and Leigh Sinclair, but at least a legacy of their untimely deaths could be greater access to affordable secure housing for all.

Glenferrie Road, Kooyong: traffic management

Mr O'BRIEN (Malvern) — I wish to raise a matter for the attention of the Minister for Public Transport, and the action I seek is the renovation of tram and train lines on Glenferrie Road in Kooyong near Kooyong station in my electorate. The route for the no. 16 tram intersects with the Glen Waverley rail line on Glenferrie Road, Kooyong. Kooyong station is much used by local residents, by students who attend a number of local schools and by spectators travelling to watch the terrific tennis tournaments held at Kooyong Lawn Tennis Club. The no. 16 tram down Glenferrie Road is similarly popular.

However, where the tramlines meet the train there is a problem. The train entering Kooyong station from the west and exiting the station from the east is forced to travel at a slow speed as it crosses Glenferrie Road. When I say slow, I mean ridiculously slow. Slow as in snails are thought to have told the train to 'get on with it'. Slow as in maritime union officials are thought to have complained about the train's work rate. I mean slow! This causes the boom gates to remain down for an inordinate time, causing major congestion on Glenferrie Road and major delays for road and tram commuters. Of course this problem is exacerbated during peak hours, when there are more trains crossing the road but also more cars and trams on the road to be delayed.

The better response to this ongoing problem is to grade separate the railway crossing. I have previously raised the need for grade separations in my electorate, including on Glenferrie Road. However, the minister has so far refused that very reasonable request. While maintaining my campaign for the sensible long-term solution of grade separation, my constituents and others using Glenferrie Road need action now. In the absence of the preferred option of grade separation, I therefore ask the minister to arrange for the necessary works to be carried out on the interface between the tram and train lines to enable trains to cross Glenferrie Road at a reasonable speed.

A number of constituents have contacted my office on this matter. One said that they had raised the matter with VicRoads and it was confirmed by VicRoads that problems with the interface between the train and tramlines is the reason the trains are forced to travel so slowly when crossing Glenferrie Road.

As a regular user of Glenferrie Road and a regular traveller on the Glen Waverley line, I can confirm from personal experience the frustration that train passengers and road users experience as a result of this problem at Kooyong. Fixing the problem to enable the Glen Waverley line trains to travel across Glenferrie Road at a reasonable speed would do wonders for the congestion and delay on local roads. Reducing congestion presents environmental benefits through reduced idling time, as well as economic benefits.

In the absence of grade separation, I urge the minister to take the necessary action to fix the tram and train interface on Glenferrie Road, and to do so as a priority.

Francis Street and Somerville Road, Yarraville: truck curfew

Mr NOONAN (Williamstown) — I wish to raise a matter for the Minister for Roads and Ports. The action I seek is for the minister to provide an assurance to local residents in the Yarraville area that the truck curfew enforcement work being undertaken by VicRoads along Francis Street and Somerville Road will be maintained at adequate levels on an ongoing basis. This request for action follows an email from Peter Knight from the Maribyrnong Truck Action Group which I received on 29 September. Mr Knight wrote to me to clarify whether the funding available to VicRoads to assist in enforcing the truck curfews along Francis Street and Somerville Road would be sustained beyond December of this year.

The state Labor government introduced a night and weekend truck curfew on Francis Street and Somerville Road in Yarraville in April 2002. These curfews apply from 8.00 p.m. to 6.00 a.m. Monday to Saturday and from 1.00 p.m. on Saturday to 6.00 a.m. on Monday. Truck operators and drivers with legitimate local access requirements are exempt from the curfew restrictions. The exemptions have been and continue to be necessary because there are many local businesses on Francis Street and Somerville Road and in surrounding areas that rely on trucks for deliveries and pickups. The curfew arrangements have been well supported by VicRoads, the Victorian Transport Association and the Transport Workers Union. In fact the VTA and the TWU have distributed widely information about the curfews over the past eight years or so. VicRoads has also installed over 30 signs advising drivers about the curfew as well as promoting the benefits of using alternate routes.

These curfew arrangements have been effective in reducing the number of trucks on Francis Street and Somerville Road. VicRoads has been conducting weekday counts on both of these roads since the introduction of the curfews in 2002. While total daily traffic volumes have increased in the Melbourne metropolitan area, truck traffic on the various sections

of Francis Street still remain lower than the 2002 levels during the curfew hours. Truck movements along Somerville Road during curfew hours also remain relatively steady compared to 2002.

VicRoads is to be commended for its work in actively patrolling these curfews. As I understand it, in the last financial year alone it has dedicated more than 600 hours to curfew patrols on Francis Street and Somerville Road. Since 2007 more than 360 infringement notices have been issued to drivers for breaking the curfew in this area. This work is supported and appreciated by the local community. It is not resisted by the trucking operators either. In fact I have spoken with the VTA and the TWU about this and both agree that only trucks with a genuine local origin or destination within the designated curfew zone should be there during those times. Clearly the enforcement of the curfews by VicRoads makes a difference, so I seek some assurances from the minister that this work will be maintained at adequate levels on an ongoing basis.

Box Hill Hospital: redevelopment

Ms WOOLDRIDGE (Doncaster) — My matter tonight is for the Minister for Health. The action I seek is for him to make good his long overdue promise to redevelop Box Hill Hospital, as waiting times in the emergency department and for elective surgery at this ageing facility worsen. The release of the *Your Hospitals* report yesterday confirms that Box Hill Hospital is buckling under pressure and has failed to meet seven out of the government's nine benchmarks.

Let us have a look at the hospital's performance. Box Hill Hospital is on bypass over 4 per cent of the time, meaning that for 1 hour every day patients cannot access their closest hospital and are moved on elsewhere. While urgent cases are seen immediately, there has been a significant decrease in the proportion of patients being seen in the required time frame in the emergency department. These include patients with severe pain, severe breathing difficulties or major fractures. Over one-third of patients are left on trolleys in the emergency department unable to get a bed within the 8-hour target, and 2791 patients are waiting for elective surgery, which is a 10 per cent increase on the number of patients waiting last year. Doncaster constituents continue to report waits in the emergency department and for elective surgery that are far longer than they should be.

These indicators are not just numbers. They relate to real people who are distressed, as are their families, as often their lives are put on hold while they wait for treatment. Box Hill is a hospital under stress. Our doctors, nurses and ancillary workers do a wonderful job in very trying circumstances. They need better facilities, but over and over the Brumby government has failed to deliver. It promised funds for redevelopment back in 2006 as part of its election commitments. Every year we have waited for the government to deliver but we have been disappointed.

Earlier this year the Brumby government failed to heed a petition from over 1000 residents calling for the full funding of the redevelopment. The government held out hope of attracting federal funding as a way of getting the rebuild under way, but that hope was dashed several weeks ago when the Premier missed out on attracting money from his federal mates. It is now up to this government to provide the funds. All we have been promised is an announcement before the end of the year. Doncaster residents want more than an announcement. We do not want another promise of rebuilding with only a small down payment and the rest on the never-never, or a drip feed of funds with numerous re-announcements, which the government is so renowned for.

We want Box Hill Hospital to be rebuilt and we want it to be rebuilt now. We need new facilities, we need timely access to care in emergency departments and timely access to elective surgery. The government must do better in its delivery of health care for the people of Doncaster, Manningham and the eastern suburbs as a whole.

Foster care: Daar Aasya project

Ms BEATTIE (Yuroke) — I rise to make an urgent request to the Minister for Community Services. I request that the minister facilitates a meeting between her advisers and the people from the Daar Aasya project, which is a project to facilitate foster care between Muslim and non-Muslim people. More than 100 Muslim children across Victoria need foster care every year. That is approximately two children a week who need foster care for all the same reasons that children of any other group need foster care. However, they have important cultural issues that need to be attended to. Information sessions are held about the Daar Aasya project, and so far about 4000 members of the community have attended with seven families starting to take children into their care. When children are fostered by families they may have different cultural needs and perhaps they may have different dietary needs, and people need to be sensitive to that. People from the Daar Aasya project want to meet with the minister to put all those things before her and her advisers to see how they can be helped in the future.

Daar Aasya is a Mercy Mission project in partnership with Anglicare. It also has the support of Orana Family Services, both of which are great organisations. The project is working well. Many people are aware of the problem and are starting to do something about it. The Lysterfield mosque's Imam Majidih Essa has discussed taking children into foster care although he and his wife already have four children. They want to provide the proper love and care that all children deserve no matter what background they are from. The urgent action I seek is for the Minister for Community Services to facilitate a meeting between the department and her advisers and people from the Daar Aasya project to see what she can do to help with this great work.

Boating: recreational zones

Mr MORRIS (Mornington) — The matter I raise this afternoon is for the Minister for Environment and Climate Change. Despite being only weeks away from the start of the beach season the review of recreational boating zones for Port Phillip and Western Port is not yet complete. The action I seek from the minister is that he ensures that the review of the boating zone framework is completed and that both boat owners and beach users are made aware of the outcomes prior to the Christmas break.

The review of recreational boating zones has been a long-running process, and that is not a criticism. It is recognition of complexity. Information published on the Parks Victoria website indicates that comments on the final recommendations were invited until 5 December 2008. There are a number of interests here of course. Parks Victoria has responsibility for most of the foreshore areas, many of them managed under delegation. It also has a responsibility in that it acts as the local port manager for both Port Phillip and Western Port.

The review had to be undertaken jointly with Marine Safety Victoria, which is responsible for recreational boating. Nevertheless, I would have thought that 10 months is a more than reasonable time to complete the review and to start to get the message out there about what has been decided. On Wednesday of last week a spokesman for Parks Victoria was reported in the Mornington *Mail* as saying that changes are coming but he could not say when.

We are getting to the point where even if there is immediate action, it is unlikely that the message will be put out as promptly as it should be. In my electorate I have four no-boating zones — two in Mount Martha and two in Mornington. In all other areas there is a speed limit of 5 knots.

If people do not know where the no-boating zones are and where the access zones are, it leads to conflict between boat users and swimmers, and that potentially leads to aggravation. There are significant safety aspects as well. Even a boat moving at 5 knots can do a fair amount of damage to a swimmer if they do not see it coming. There is a real potential for conflict, but if people know the rules and if people know where they should be, then that potential is reduced. It is time — more than time — to complete the review. It is now time for action. I urge the minister to ensure that the zones are put in place prior to the summer season.

Brookland Greens estate, Cranbourne: landfill gas

Mr PERERA (Cranbourne) — I raise a matter for the attention of the Minister for Environment and Climate Change. The Ombudsman today released his report into the movement of methane gas from the former Cranbourne landfill on Stevensons Road into the Brookland Greens residential estate.

I welcome the report on behalf of the residents of Brookland Greens, who have been through a very difficult experience. I call upon the Minister for Environment and Climate Change to take action to adopt the recommendations made by the Ombudsman in relation to his portfolio.

The government understood that the residents of Brookland Greens deserved an independent assessment of how this situation occurred; that is why the government provided $700 000 in funding to the Ombudsman. I am pleased that the remediation works on the site are progressing, with the $11 million underground wall separating the landfill from the estate now complete; new gas bores have been installed and leachate extraction has been improved. The council will now upgrade the landfill cap and increase the gas extraction. These actions are all part of stopping the movement of gas and ensuring life gets back to normal for residents.

I was very pleased to note that the Ombudsman found that the assistance provided by the Victorian government to affected residents was both 'timely and reasonable'. This assistance included providing the Environment Protection Authority (EPA) with $3 million to assist the City of Casey to install in-home monitoring equipment and undertake household modification works; establishing emergency grants to help households; ensuring residents were able to access free legal advice; and establishing a community contact centre on the estate as a one-stop shop for the

community to access information and support. The centre operated from November 2008 to October 2009.

The minister has today outlined the ways in which the government has already acted to strengthen the legal standards for landfill design, construction and operation. The government has also strengthened the Environment Protection Authority's capacity to deal with landfill owners and operators who do not comply with requirements. While these actions to strengthen the EPA are important, it is also important that all members of our community comply with environmental law, whether they are businesspeople, individuals or members of local government.

As the owners and operators of the site the City of Casey and the City of Frankston had a clear obligation to manage the site safely and effectively. I note the Ombudsman's findings that the City of Casey 'failed to have regard to environmental protection' and that 'the landfill was not managed and operated effectively'. The Ombudsman also found that the City of Casey and the Frankston City Council 'failed to take action to address the issue'. This was despite the EPA issuing a number of regulatory notices and fines to try to improve management of the landfill.

I am pleased the residents of Brookland Greens estate can now have clarity about how this situation occurred.

Responses

Mr WYNNE (Minister for Housing) — I thank the member for Albert Park for raising this extremely important issue for the attention of the house. As he indicated, the findings of the coroner in relation to the tragic fire at a rooming house on Sydney Road, Brunswick, which will be released on 29 September, really formalise what we already know about the quite deplorable conditions in unregistered rooming houses across the state. Prior to the release of the coroner's recommendations the government had already acknowledged the severity of the problem and the need for further action to be taken. That is why we established the rooming house task force, which I am pleased to say was chaired so ably by the member for Albert Park.

Honourable members interjecting.

The DEPUTY SPEAKER — Order! The Minister for Housing will continue without assistance from the member for Albert Park.

Mr WYNNE — The rooming house standards task force conducted extensive research and consultation with the sector to produce a very sound report, which has been submitted to me and the Minister for Consumer Affairs because there is in fact, as people would know, an intersect between my responsibilities as Minister for Housing and the regulatory framework which is the responsibility of the Minister for Consumer Affairs.

The task force made 32 recommendations relating to supply, standards, compliance, enforcement and regulation. The coroner also made 18 recommendations in relation to regulation, compliance and enforcement. In fact, there are crossovers and obvious synergies between the report of the coroner and indeed the task force report. The government is currently formulating a response to both sets of recommendations, and I expect it will be making an announcement and public release of the report in the near future.

I thank the member for Albert Park for his leadership and commitment to this issue. As many members would know, the member for Albert Park represents an area that has a very large number of rooming houses. In particular the area around St Kilda has traditionally had some very large rooming houses, including the Gatwick in Fitzroy Street, which is very well known, and there are a number of smaller rooming houses dotted around the St Kilda part of his electorate, so he is very familiar with the issues that attend to those rooming houses.

I would also like to thank the members of the task force which was drawn from a wide group of people: the Tenants Union of Victoria; the Council to Homeless Persons; the Victorian Council of Social Service; the Municipal Association of Victoria, because local government has a very key role to play in terms of the regulation of rooming houses; the Registered Accommodation Association of Victoria; St Kilda Rooming House Issues Group; Yarra Community Housing, which is one of our housing associations and the biggest not-for-profit provider of rooming houses in the state; the Community Housing Federation of Victoria; and most importantly also the Real Estate Institute of Victoria, which played a very helpful role, as I understand from the member for Albert Park, in the deliberations of his task force. All those stakeholders provided incredibly important inputs into the process.

It is important that we consult the housing sector and other relevant stakeholders to ensure that our response finds a balance between improving the regulation of community-run and private rooming houses to ensure there is an adequate supply of transitional and crisis accommodation for those in most need. We are very conscious of the need to have a very balanced response.

As many members know, Victoria is also embarking on a new homeless strategy as well, so the work of the rooming house task force very nicely fits into the broader conversation that the government is having with the housing sector more generally about the development of a new 10-year strategy for homelessness going forward.

I thank the member for Albert Park. The government is actively considering the recommendations that he has made and those made in the coroner's report, and in the near future the government will be releasing the report and its response to it.

The member for South-West Coast raised a matter for the Minister for Roads and Ports in relation to seeking a withdrawal of bulletin 23 to motor car traders — which went out on 8 October this year, I think. It is suggested by the member for South-West Coast that the bulletin places an unfair regulatory burden upon people seeking to register their vehicles.

The member for Melton raised a matter for the Minister for Small Business seeking the intervention of the small business commissioner in a dispute between an organisation called Kerry Panels and the Insurance Australia Group. I will make sure that the minister is aware of that request.

The member for Swan Hill raised a matter for the Minister for Roads and Ports seeking his intervention in what he regards as a dangerous situation at the intersection of the Calder Highway and the Calder Alternative Highway at Ravenswood. The advice of the member for Swan Hill is that heavy trucks turning in that area are having difficulty negotiating that intersection, and he is seeking some funding from the Safer Roads program to review and address that situation.

The member for Malvern raised a matter for the Minister for Public Transport seeking the minister's support for the resolution of the interface problem between — —

Mr O'Brien — To fix the problems where the tram lines cross the train line at Kooyong.

The DEPUTY SPEAKER — Order! My notes indicate the renovation of train and tram lines in Glenferrie Road, Kooyong, particularly in relation to the number 16 tram route, and I think that will do.

Mr WYNNE — The member for Malvern raised a matter. He wants the issues arising where the number 16 tram route intersects with the train line at Kooyong station resolved. Thank you very much, Deputy Speaker, for your interest.

The member for Williamstown raised a matter for the attention of the Minister for Roads and Ports — do you want to have a go at this, too, Deputy Speaker? — seeking a continuation of the truck curfew enforcement program at Francis Street in Footscray — —

Mr Noonan — Yarraville.

Mr WYNNE — Yarraville, I beg your pardon.

The DEPUTY SPEAKER — Order! And Somerville Road.

Mr WYNNE — Deputy Speaker, no-one could accuse you of being a pedant, could they?

The member for Doncaster raised a matter for the attention of the Minister for Health supporting the redevelopment of the Box Hill Hospital — and I believe that to be accurate, Deputy Speaker.

The member for Yuroke raised a matter for the attention for the Minister for Community Services seeking a meeting between the minister and her advisers with the Daar Aasya project in relation to foster care issues with the Muslim community.

Ms Wooldridge — With her advisers.

Mr WYNNE — And the minister as well.

The member for Mornington raised for the Minister for Environment and Climate Change an important matter for people who are interested in recreational boats, including me, seeking support for the implementation of the new boating framework on Port Phillip and Western Port bays and particularly in relation to the no-boating zones.

Finally, the member for Cranbourne raised a matter for the Minister for Environment and Climate Change, seeking advice from the minister in relation to the adoption of the recommendations of the Ombudsman that are specifically related to the Minister for Environment and Climate Change's portfolio. Thank you, Deputy Speaker.

The DEPUTY SPEAKER — Order! You are most welcome, Minister. The house now stands adjourned.

House adjourned 5.34 p.m. until Tuesday, 10 November.