PARLIAMENT OF VICTORIA

PARLIAMENTARY DEBATES (HANSARD)

LEGISLATIVE ASSEMBLY

FIFTY-SIXTH PARLIAMENT

FIRST SESSION

Tuesday, 15 September 2009

(Extract from book 12)

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By authority of the Victorian Government Printer

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FIFTY-SIXTH PARLIAMENT — FIRST SESSION

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The Hon. R. J. HULLS

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Mr E. N. BAILLIEU

Deputy Leader of the Parliamentary Liberal Party and Deputy Leader of the Opposition:
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Mr P. J. RYAN

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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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TUESDAY, 15 SEPTEMBER 2009

Tuesday, 15 September 2009

The SPEAKER (Hon. Jenny Lindell) took the chair at 2.05 p.m. and read the prayer.

DISTINGUISHED VISITORS

The SPEAKER — Order! Before calling for questions I welcome to the gallery today a delegation led by the Right Honourable Joan Ryan, MP, from the United Kingdom Parliament. Welcome to the Victorian Parliament.

QUESTIONS WITHOUT NOTICE

Crime: incidence

Mr BAILLIEU (Leader of the Opposition) — My question is to the Premier. I refer to the government's announcement on 16 October 2007 which was responding to growing violence in bars and nightclubs and which promoted the introduction of a statewide ID computer database for clubs to log patrons' details, and I ask: given that this has still not been introduced, is it not a fact that the government never intended to implement this measure, that it was in fact nothing more than a media stunt and that violence has reached record levels in this state because the Brumby government is very big on self-promotion but soft on crime?

Honourable members interjecting.

The SPEAKER — Order! The members for Albert Park and Scoresby will not interject in that manner.

Mr BRUMBY (Premier) — I am happy to check — —

Honourable members interjecting.

Mr BRUMBY — As I said to the Leader of the Opposition, I am happy to check that. I certainly do not recall making any specific commitment in relation to that matter.

An honourable member interjected.

Mr BRUMBY — I am happy to check the record; I have told you that. What I do recall is that I did launch the Just Think campaign in Geelong earlier this year, which is a great campaign and is a great example of what can be achieved when government, community and local government work together. As part of that campaign they have introduced an ID system in Geelong. My recollection is that this is something which has been introduced in Geelong and something which we have supported in Geelong. I repeat to the Leader of the Opposition that I am happy to look at any of the other detail of what I said.

More generally on the issue of tackling violence and particularly alcohol-fuelled violence, we have put in place a raft of measures including — —

Honourable members interjecting.

The SPEAKER — Order! The Premier is not to be shouted down. I ask the members for Warrandyte and Hastings for some cooperation.

Mr BRUMBY — If we look at all the things we have done, from the Safe Streets Taskforce to the toughening up of liquor licensing — and I must say the opposition is running around saying, 'Do more, be tougher, more action', and at the same time the opposition is running around hotels and nightclubs trying to undo — —

Honourable members interjecting.

The SPEAKER — Order! I ask the Premier not to debate the question.

Mr BRUMBY — We make no apology for announcing tougher laws in relation to knives; tougher laws in relation to move-on powers; tougher laws in relation to being drunk and disorderly; all of the penalty infringement notices — the 24-hour banning notices that have been given to police; the 40 extra liquor licensing inspectors; the risk-based fee system; or the 120 extra police. We have all these things plus the campaigns in the community, including Just Think in Geelong. These initiatives and decisions are producing results in our city. Opposition members run around trying to compare Melbourne with New York; they run around trying to make these claims — —

Dr Napthine — On a point of order, Speaker, the Premier is again debating the question. I ask you to bring him back to answering the question about why he promised to deliver something to make us safer and failed to do so.

The SPEAKER — Order! I uphold the point of order.

Mr BRUMBY — As I have said, we have put in place a whole raft of measures. I have always said in relation to alcohol-fuelled violence that it will take 12 to 18 months to get on top of the issue.

Honourable members interjecting.

The SPEAKER — Order! I ask the opposition — —

Mr Andrews interjected.

The SPEAKER — Order! The Minister for Health! I ask members of the opposition for some cooperation. The Premier will not be shouted down.

Mr BRUMBY — Finally, can I say that I believe we are taking all of the measures and the actions which are necessary to get on top of this problem. As for the opposition, we have not heard a single policy proposal.

Economy: global financial crisis

Ms CAMPBELL (Pascoe Vale) — My question is for the Premier. 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 Premier outline to the house recent announcements, such as the one made this morning by Woolworths, that show how Victoria is addressing the global financial crisis?

Honourable members interjecting.

The SPEAKER — Order! I ask once again that the members for Warrandyte and Scoresby to not interject in the manner they are choosing to use. I ask the member for Polwarth for some cooperation as well.

Ms Marshall interjected.

The SPEAKER — Order! I warn the member for Forest Hill.

Mr BRUMBY (Premier) — I thank the member for Pascoe Vale for her question. Earlier today I was delighted, along with the Minister for Industry and Trade, to join Michael Luscombe, the chief executive officer (CEO) of Woolworths, to announce the — —

Ms Asher interjected.

The SPEAKER — Order! The Deputy Leader of the Opposition!

Honourable members interjecting.

The SPEAKER — Order! This is question time.

Mr BRUMBY — I was delighted to join the CEO of Woolworths, Michael Luscombe. Yesterday I opened Woolworths' annual conference at the Melbourne Convention and Exhibition Centre. It was a great honour to open the conference and to see 3000 Woolworths managers from across Australia and the Asia-Pacific here in Melbourne at the new convention centre. The feedback was that it is just a fantastic facility, a sensational facility.

In opening the conference I thanked Woolworths for its very generous contribution to the Victorian Bushfires Appeal Fund earlier this year. It made a $1 million donation on 9 February. All of its stores and managers across Australia supported that, and as I said to them yesterday, I think their contribution makes them not only good corporate leaders but great civic leaders as well, and I thank them for that.

This morning at Coolaroo we announced the first of what will be a national rollout of home improvement services right across Australia. I am delighted Woolworths has decided that the first store to be built in Australia will be here in Victoria. It made that judgement because Victoria is a great state for investment, a great state for jobs and has a great business-friendly government.

The Woolworths announcement was that it will roll out 30 of these stores across the state. They will generate something like $390 million worth of investment, with 11 000 new jobs in the construction phase over the next few years and, when the stores are completed, 4000 ongoing jobs in retail. This is a partnership with Danks hardware and Lowes. I believe it will provide more choice and more competition in this market.

On Monday I was in Epping with the member for Yan Yean and the member for Derrimut for the opening of the new Mission Foods factory. This is another great example. It is Gruma's Mission Foods, producing burritos and tortillas, involving 470 jobs. It is Gruma's largest Australian operation. Again the story is the same. When it came to look at where it would make its Australia-wide investment, the place it chose was Victoria. This is 470 new jobs.

Last week the Australian Bureau of Statistics (ABS) released its unemployment data. Some people had a little bit of trouble — —

Mr Wells interjected.

Mr BRUMBY — Some people like the member for Scoresby have had a little bit of trouble understanding the data.

Honourable members interjecting.

Mr BRUMBY — It would not be the first time you have had that problem.

What the ABS data shows is that for all of the months of 2009 up to and including August, 12 200 new jobs have been created in Victoria. That is not bad. They have lost hundreds of thousands in the United States — —

Honourable members interjecting.

Mr BRUMBY — I can see why the opposition does not like this answer.

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

Mr BRUMBY — That is 12 200 new jobs in Victoria. What makes that figure so impressive is that the only other state to record positive jobs growth in calendar year 2009 is Queensland with 100 jobs. When you look at the engine room in terms of jobs in the Australian economy, you see it is Victoria — —

Mr Hulls interjected.

Mr BRUMBY — It is a V8 — a turbocharged V8. The strong performance of the Victorian economy has been remarked upon by a number of commentators in recent days. In the *Australian Financial Review* of 14 September Chris Richardson of Access Economics said that for Victoria to have kept up with the national average on indicators such as unemployment, population and economic growth is 'impressive through a commodity boom'. Yesterday an article in the *Age* citing the head of the Victorian Employers Chamber of Commerce and Industry said that a business tick for Labor is an election blow for Baillieu. The article is about assessing Victoria's performance in the decade since 1999. It reports VECCI as saying:

> the Labor government's hallmarks are sound financial management and a strong emphasis on economic development.

Wayne Kayler-Thomson went on to say that the government deserves 'plaudits for facilitating the EastLink toll road' — opposed of course at the time by the opposition — 'the Port Phillip Bay channel deepening' — opposed of course by the state opposition and 'the construction of Melbourne's new convention centre and water projects including the Wonthaggi desalination plant'. VECCI went on to praise the government for 'repeatedly cutting business taxes, especially payroll tax and WorkCover premiums'.

In this Parliament a year ago I said that the global financial crisis would test Australia and test this state — and it is true to say that it has. But I believe the economic fundamentals we have put in place, the budget fundamentals, the $11.5 billion of infrastructure spending, the incentives for first home buyers and the continued reductions in business taxes — all of these things — have produced an environment where we have been doing very well in terms of our share of national investment and new housing construction. As I said, in terms of new jobs generated this year no state can match Victoria.

Crime: incidence

Mr McINTOSH (Kew) — My question is to the Premier. I refer the Premier to the government's announcement on 9 September 2008 that it would respond to growing violence in the central business district by banning alcohol from strip clubs, and I ask: is it not a fact that a year later this government has still not implemented this measure to reduce violence because it is more interested in securing media headlines than it is in combating record levels of violence?

Mr BRUMBY (Premier) — As I indicated before, I think in all the areas — —

Mr McIntosh interjected.

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

Honourable members interjecting.

The SPEAKER — Order! The Premier! I warn the member for Kew, and he will not be warned again. The Premier, without assistance from the government benches.

Mr BRUMBY — As I indicated in my answer to the earlier question from the Leader of the Opposition in terms of the arrangements for liquor licensing, all those arrangements have been subject to a recent announcement by the minister responsible. We have put in place a completely new regime for liquor licensing. We have put in place a freeze on new liquor licences in the central business district (CBD). We have put in place 40 additional liquor compliance inspectors. All these things are designed to get on top of what has been a growing problem in our CBD, and as I said, I believe these measures are making progress.

Water: Victorian plan

Mr HARDMAN (Seymour) — My question is for the Minister for Water. I refer the minister 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 the status of the Victorian

government's plans to secure water for farmers, families and businesses?

Honourable members interjecting.

Mr HOLDING (Minister for Water) — It is good to be back. Firstly, I say to the member for Seymour, like all — —

Ms Asher interjected.

Mr HOLDING — You do not have to be nice to me any more, let me assure you!

The SPEAKER — Order! The Deputy Leader of the Opposition will not interject across the table.

Mr HOLDING — As the member for Seymour knows, and all members on this side of the chamber know, if you want to secure water for all Victorians, you have to have a plan. All Victorians know, whether they agree with each part of the plan or not, that we have a plan to provide water security for Victorians, and we are implementing that plan.

We have a plan, firstly, to ensure that Victorians continue to conserve water at every opportunity. In fact our plan to conserve water has seen the introduction of the successful Target 155 campaign. We have already saved 12.9 billion litres through the Target 155 campaign. We know not everyone agrees with it; there are some who believe the target should not apply in Brighton or Hampton. We think the target is important, and it is part of our plan.

We also have a plan to provide for the biggest upgrade to irrigation infrastructure in Australian history. This is the biggest water savings plan Australians have ever seen. In the long term the plan will save something like an average of 425 billion litres of water every year when it is implemented. As the plan is implemented in the years ahead, this will be remembered as the time when the people of Melbourne reached out to northern Victoria and said, 'We can help you pay'.

Honourable members interjecting.

The SPEAKER — Order! I ask the members for Benalla, Rodney and Murray Valley to control the level of their interjections.

Mr HOLDING — They reached out to the people of northern Victoria and said, 'We can help you pay for an irrigation upgrade'. If it was left to the farmers of northern Victoria to pay for alone, they could never dream of having the rejuvenation of their irrigation system that will occur because of this investment. The people of northern Victoria reached back and said, 'In exchange for this, we are willing to share with you a small part of the savings that will be generated from this investment'.

At the same time we are investing in a statewide water grid: the Wimmera–Mallee pipeline project, which is six years ahead of schedule; the goldfields super-pipe, which is securing water for Ballarat and Bendigo, delivered ahead of schedule; the Tarago reconnection, which was opened by the Premier and me a few months ago, completed under budget and ahead of schedule; and the north–south pipeline, for which I laid the last pipe a few weeks ago. That project, too, is months ahead of schedule, and it forms part of our plan to deliver water security for all Victorians. In addition there is the desalination project — the biggest desalination plant anywhere in Australia.

I was very pleased a week or so ago to announce that Tyco Water will be delivering the transfer pipeline as part of that project, securing 50 new jobs at Tyco Water and 50 existing jobs, as well as securing 900 jobs in Hastings at BlueScope Steel because that company is providing around 40 000 tonnes of the steel. This is part of the plan; part of our plan to provide water security for all Victorians.

Of course there are some things that are not part of the plan. For example, building a dam is not part of our plan. It is not part of our plan because we have seen that even in this winter, when we have had near average rainfall in Melbourne's catchments, we have had less than 50 per cent of the long-term average inflows into our storages. We know that with climate change and drought our dams and storages cannot be relied upon to provide the water security we need for all Victorians. You have to have a plan. When I was lost in the wilderness — —

Honourable members interjecting.

The SPEAKER — Order! I remind all members that question time does need to finish at some stage today. Perhaps if the minister were to address his comments to the question, we might have an orderly completion of question time. I ask that the interjections, particularly from the member for Rodney, cease.

Mr HOLDING — It is all about a plan. When I was lost in the wilderness I spent all my time thinking about my plan to get out of the wilderness. So my question to the Leader of the Opposition is: how is your plan going?

Crime: incidence

Mr RYAN (Leader of The Nationals) — My question is to the Premier. I refer the Premier to the government's announcement on 21 August 2007 about responding to record crime by introducing battery-operated golf buggies for police to patrol the central business district, and I ask: why is it that two years later the government has still not implemented this innovative measure despite a media public relations blitz for yet another Brumby law and order announcement which never, ever materialised?

Mr BRUMBY (Premier) — I ask the Leader of The Nationals to table the document that he purports to be quoting from. Where is the quote? I have asked for that document to be tabled because the first question I was asked today purported to quote me about a commitment. There is no such quote, and in fact I have the article from which the Leader of the Opposition quoted. I have the article. It is from the *Herald Sun* of 16 October, which was quoted back to me — —

Honourable members interjecting.

Mr BRUMBY — I bet he is embarrassed about this. I bet he is embarrassed about misleading the Parliament.

Mr McIntosh — On a point of order, Speaker, I ask you to ask the Premier not to debate the question but to answer the question that was put to him.

Mr Batchelor — On the point of order, Speaker, the Premier is quite entitled to refute these false quotes that are coming from the other side. Throughout question time today we have seen a systematic and deliberate campaign of referring to quotes that do not exist and attributing things to the government that never happened. This is another example; it is the third example today. I have read the document, do not worry, and we will refute all of them. What has happened today is the opposition has come in and sought to attribute things to the government which the government has not said or participated in.

Mr BRUMBY — On the point of order, Speaker, the standing orders provide that if a document is quoted from, a member may ask for it to be tabled. I asked for this document to be tabled today, which the Leader of The Nationals has done. There is no reference anywhere in this document, firstly, to the state government, or secondly, to me. There is no reference whatsoever. This is a complete fabrication. There is a responsibility — —

Honourable members interjecting.

Mr BRUMBY — It does; it quotes Morris Iemma. It is a different state and a different Premier.

The first question I was asked today is also equally false and equally misleading. Here is the document which presumably his staff prepared for him or one of his backbenchers. There is no reference to me anywhere in this document — none whatsoever. It states:

> Police Minister Bob Cameron said there was anecdotal evidence the scanners were useful in a small number of venues.
>
> There is a need for greater research to establish how effective they are in maintaining public order …

That is it. That is the government commitment. The Leader of the Opposition needs to apologise to the house for misleading the house, for misleading the public and for deliberately misleading the — —

Honourable members interjecting.

The SPEAKER — Order! I uphold the point of order that was originally taken, in that the Premier does need to address the question before him and not the question he was asked previously.

On the issue about substantiation of documents that has been raised, it is custom and practice that when assertions have been made in a question members ask for that substantiation at the time the question is asked.

Mr BRUMBY — The Leader of The Nationals misled the house, as did the Leader of the Opposition earlier. This is part of a deliberate and orchestrated campaign. There is no way that you can read those documents and get up with any skerrick of honesty and assert that there was a government plan in relation to these matters. The question from the Leader of The Nationals is complete fabrication, as was the question from the Leader of the Opposition 15 minutes ago.

Freedom of information: administrative reforms

Mr LUPTON (Prahran) — My question is to the Deputy Premier. I refer to the government's commitment to create a more open and accountable government, and I ask: can the Deputy Premier update the house on measures the Brumby Labor government is taking to meet that commitment?

Mr HULLS (Attorney-General) — I thank the member for his question and the opportunity to update the house on developments in this area. As members of this house would know, freedom of information is a

Labor policy. It was a Labor government that introduced it; it was a Labor government that strengthened it. We all remember that it was gutted during the period 1992 to 1999, when it became freedom from information.

Today I am pleased to announce that the Brumby Labor government continues to build on its commitment to open and accountable government by requiring all departments to proactively publish documents that are commonly sought under freedom of information and to proactively publish these documents on their websites every six months. That information includes details of consultancies of less than $100 000, Cabcharge expenditure, departmental lists of accounts or charts of accounts, costs of departmental executive officer conferences and planning seminars and also executive officer salary bonuses, which will be published annually. The release of more government information follows other initiatives to publish quarterly reports about ministerial overseas travel, transcripts of the Premier's media interviews and information about police speed cameras.

The Victorian government has a strong record on open and accountable government and is committed to ongoing reform in this area. Members will recall the Ombudsman's 2006 report titled *Review of the Freedom of Information Act*, which recommended important administrative and legislative changes to freedom of information. I am proud to say that each and every one of those administrative reforms has been implemented by this government across all departments and also Victoria Police. The legislative reforms, which were designed to provide cheaper and easier access to FOI, were introduced into this Parliament but, as we all recall, were opposed and in fact defeated by the same group that actually attempted to shut down FOI when it was last in government — that is, the opposition.

We have a proud record when it comes to FOI. The latest figures for 2008–09 show that more than 28 000 FOI requests were received across government, which is a 12 per cent increase on the previous year — so more and more people are feeling more and more confident in accessing FOI — and applicants were provided with full or partial access to documents in more than 97 per cent of access decisions.

The Ombudsman acknowledged in 2006 that the FOI decision-making process has become much more complex since the act came into operation. The number of broad-ranging and vague requests submitted by some applicants as fishing expeditions has added to the burden of agencies already dealing with increased workloads.

In fact, VCAT (Victorian Civil and Administrative Tribunal) — the independent umpire — has been critical of some applicants lodging unhelpful requests. In one instance the tribunal cautioned an applicant for submitting a request in such broad, sweeping terms that it would have required somebody to go through every single filing cabinet in a department. On another matter the tribunal commented that the request lodged was 'unintelligible' and held that the VCAT application was 'misconceived and lacking in substance'. It just so happens that the applicant in both those cases was the same person: the honourable member for Kew. Lazy FOI requests from a lazy opposition.

The SPEAKER — Order! The Attorney-General will not debate the question.

Mr HULLS — We will continue to do what we can to ensure accessibility to government information. We will closely monitor FOI developments in other jurisdictions, we will continue to liaise with the Ombudsman about FOI processes and we will continue to call on the opposition to reverse its opposition to the Ombudsman's recommendations for FOI reform.

Crime: sentencing

Mr CLARK (Box Hill) — My question without notice is to the Premier. I refer the Premier to the Sentencing Advisory Council's May 2006 recommendation that all 'suspended sentences should be phased out in Victoria by December 2009', and I ask: is it not a fact that three years later this government has still not fully implemented the recommendations of the Sentencing Advisory Council and is continuing to allow thugs committing violent crimes to get off with slaps on the wrist because of the Attorney-General's soft-on-crime policies?

Mr BRUMBY (Premier) — There is a bit of a pattern to this question time: not a single question asked today has been factually based. A litany of lies, one after another, has been coming through, and this is another one. Let the record stand on this disgraceful exhibition in question time today where not one single question being asked has been correct.

The member for Box Hill has been around this place a long time and is generally well informed. He would know that the 2006 report was superseded by a new report by the Sentencing Advisory Council, and he would know that the question he has asked is extremely misleading because he has quoted a report which is now redundant. It has been superseded by a more recent report of the Sentencing Advisory Council, which the

member for Box Hill would have been aware of, so his question today is another dishonest question.

Mr Donnellan interjected.

The SPEAKER — Order! I warn the member for Narre Warren North.

Mr BRUMBY — Today we again have questions from the opposition parties about law and order, as if they are tough on law and order, when there is only one party in this state which has put more police on the ground — by the time of the next election there will be 1890 extra police on the ground. The opposition today, through its — —

The SPEAKER — Order! I ask the Premier to stop debating the question.

Mr BRUMBY — It is a pity that the member for Box Hill did not ask a question which was factually based.

Employment: regional and rural Victoria

Mr NARDELLA (Melton) — My question is to the Minister for Regional and Rural Development. I refer the minister 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 on the government's approach to supporting regional Victorian jobs and of any alternative approaches?

Ms ALLAN (Minister for Regional and Rural Development) — I thank the member for Melton very much for his question. The house has heard on a number of occasions how the approach of the Victorian Labor government, the Brumby government, to supporting regional Victoria is about having a plan in place that is backed up with policies and programs that are about increasing jobs and investment in regional and rural Victoria. This plan started from day one; it started with our very first piece of legislation concerning the Regional Infrastructure Development Fund (RIDF). It is a fund that has grown to be a $611 million fund today making critical investments in our regions. We moved on in 2005 to develop our Moving Forward action plan, our $502 million action plan, which was a plan for growth in regional Victoria, a plan for jobs, a plan for investments and a plan for providing direct support for communities, industry and business right across our regions.

As a result of these policies and programs, the good news — and I am sure everyone in the house likes to hear good news — is that these policies and approaches are working very well. The Premier, the member for Bendigo West and I were recently in Castlemaine at Don-KR Castlemaine, a subsidiary of George Weston Foods, to announce that the Brumby government, through that hugely successful Regional Infrastructure Development Fund, will be providing a $3 million grant to help drive a massive new investment of more than $150 million at KR Castlemaine.

Physically this investment is so big that it is going to cover the size of around 30 football fields. This is obviously a massive boost for Castlemaine and for central Victoria's economy, which will see 200 new jobs created as a result of this investment. It will also, importantly, provide around 280 jobs during that critical construction phase. All up, that is 480 jobs right in the heart of central Victoria. Importantly it is also going to drive the next generation of bacon, ham and smallgoods that will be manufactured in Castlemaine. I am sure the member for Melton will agree, 'Is Don. Is good'.

This expansion will absolutely secure KR Castlemaine's future in Castlemaine. It will secure its future as the region's largest employer. It is also a major manufacturing site. All up, as a result of this expansion there will be 1200 people working at the Castlemaine site. This is an absolute vote of confidence in the region and in the state of Victoria as a whole. When we talk about jobs and we talk about investments like this we should also remember that behind each one of those jobs is a person with a family who is going to get a new opportunity as a result of that job. Of course local businesses are going to benefit from the flow-on effects.

Just as another quick update for the house, last week the Brumby government's support for this industry continued with a grant of $440 000 to R. Radford and Son, an abattoir located in Warragul, which is allowing that company to expand its business, putting on a further 15 people in the Warragul community. This is on top of the massive investments we have heard the Premier and the Minister for Water in particular outline to the house today.

As you can see, it is about having a plan; it is about making sure we have the policies to back up that plan and the programs in place to support those policies. These are the steps the Brumby government has been taking to ensure that we generate jobs right across regional and rural Victoria.

While we on this side of the house think we have got the balance right, there is another approach, and I was asked by the member for Melton about alternative approaches. It is called the oppose-or-nothing approach.

The strategy — believe it or not, there is a strategy behind this approach — is not to do the hard work, it is not to have any ideas, it is not to stand for anything and it is not to have your heart in the job.

While the Brumby government is bringing home the bacon, particularly for those 480 jobs in Castlemaine, which are some of the 19 000 jobs that are being facilitated in regional Victoria by this government, the opposition — or should I say the flopposition — has failed to have a plan after 1226 days of lazy leadership under the Liberal leader.

Crime: incidence

Mr BAILLIEU (Leader of the Opposition) — My question is to the Premier. I refer to the fact that after 10 years — —

Honourable members interjecting.

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

Mr BAILLIEU — I refer to the fact that after 10 years violent crime in this state has escalated to unprecedented levels, and in particular that in 1999 there were 31 000 violent attacks, which now number some 43 000, that in 1999 there were 19 000 assaults, which now number some 33 000, and further that in 1999 there were 38 000 incidents of property damage, which now number some 54 000, and I ask: is it not a fact that after 10 years of Labor this government's law and order policies have monumentally failed, leading to record levels of violence in this state?

Mr BRUMBY (Premier) — It is 145 weeks since the last state election, and the Liberal Party still has not a single policy. Isn't that amazing!

Honourable members interjecting.

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

Mr BRUMBY — Sorry, there is one — Avalon Airport. The other policy is to oppose most of the things we do to create more jobs, better health services and a better education.

I would not know if the statistics quoted by the Leader of the Opposition today are accurate. What we have heard today is a succession of porkies, a succession of mistruths and misleading statistics, but what I do know is that we have added more than — —

An honourable member interjected.

Mr BRUMBY — As I said, I do not know about the statistics quoted by the Leader of the Opposition, but I do know — —

Honourable members interjecting.

The SPEAKER — Order! The member for Kew will not interject again, or he will leave the chamber.

Mr BRUMBY — I do know that the Australian Bureau of Statistics figures show that Victoria last year remained the safest state in Australia, and the latest 2008–09 crime statistics show that crime rates have fallen over the past year in a number of crime categories, including overall crime against the person, which is down by 0.2 per cent; robberies, down 1.7 per cent; crime against property, down 3.5 per cent; residential burglary, down 4.6 per cent; theft from motor vehicle, down 11 per cent; and theft of motor vehicle, down 13 per cent. The crime rate per million trips on public transport has fallen 10.5 per cent in the last year. The number of knife attacks — assaults involving knives — decreased by 2.9 per cent, and since 2001–02 the number of assaults involving a knife has declined by 23.3 per cent. Since 2000–01, homicides are down 22.6 per cent; robberies are down 31.6 per cent; overall crimes against property, down 33.7 per cent; aggravated burglary, down 32.6 per cent; and residential burglary, down 49.6 per cent.

I do know that during the 1990s in the period in which the former government was in office and when the now Leader of the Opposition was Leader of the Liberal Party, crime rates increased by 10 per cent. During the time of the previous government police numbers were cut and crime rates went up; under our government police numbers have gone up and crime rates have come down.

Schools: student support services

Mrs MADDIGAN (Essendon) — I have a question for the Minister for Education. I refer the minister to the government's commitment to make Victoria the best place to live, the best place to work and the best place to raise a family, and I ask: can the minister advise the house how the Brumby government is taking action to engage students and promote respect in our schools?

Ms PIKE (Minister for Education) — I thank the member for Essendon for her question. Education is this government's no. 1 priority, and we are doing everything we possibly can to support students and ensure they remain engaged in education so they can reach their full potential as adults.

Some people think you decrease suspensions in our schools by calling for more powers to increase them. Some people think you build respect in our schools by searching five-year-olds for knives. Some lazy people think the only responses you can have in education are punitive responses. They are the kinds of people who do not have the heart or the energy to develop any decent 21st century responses — any 21st century policies — to the challenges of our generation.

We do not think you build respect in our schools by introducing metal detectors or directing teachers to do full body searches of students or schoolkids. If there are problems in our schools, students can be asked to empty their pockets or lockers, and they can be asked to hand over material. The appropriate step when there are problems with weapons and those sorts of things in our schools is to involve Victoria Police. We think it is much better as a government to work with principals and teachers and give them the support they need to engage students at the grassroots level and develop respect before problems arise, and that is why we invest about $60 million every year in our student support services and about $12 million in welfare officers. In fact it was our government which introduced primary welfare officers into high-need primary schools.

Like all Victorian parents, we want to see our students learn to respect each other and we want to see a reduction in bad behaviour, but we know that simplistic, punitive responses are not the answer. Those opposite want principals to treat students like they treated teachers.

Honourable members interjecting.

The SPEAKER — Order! I ask the minister not to debate the question.

Ms PIKE — There are some people who reminisce about the days of the ruler in classrooms. There are some people who think you could build respect by bringing back corporal punishment. There are some people who think you could build respect in our schools by bringing back the 12-inch ruler. There are some people who have this kind of policy by implication.

Honourable members interjecting.

The SPEAKER — Order! The minister has been in this chamber long enough to know not to attempt or expect to succeed in using props at question time. I refuse to hear her any longer. The time set aside for questions has expired.

LAND (REVOCATION OF RESERVATIONS AND OTHER MATTERS) BILL

Introduction and first reading

Mr BATCHELOR (Minister for Community Development) introduced a bill for an act to revoke certain reservations of land and related restricted Crown grants, to repeal the Kew and Heidelberg Lands Act 1933, the Kew and Heidelberg Lands Act 1958, the Footscray (Recreation Ground) Lands Act 1968 and the Footscray (Western Oval Reserve) Lands Act 1981, to amend the Geelong (Kardinia Park) Land Act 1950 and for other purposes.

Read first time.

SENTENCING AMENDMENT BILL

Introduction and first reading

Mr HULLS (Attorney-General) — I move:

That I have leave to bring in a bill for an act to amend the Sentencing Act 1991 and for other purposes.

Mr CLARK (Box Hill) — I ask the Attorney-General to provide a brief explanation of the bill.

Mr HULLS (Attorney-General) — This bill will amend the Sentencing Act to require courts to take motivations of hatred or prejudice into account when sentencing offenders. The objective of the amendment is to promote recognition of the relevant sentencing practices and ensure that the act is amended to deal with what have been spoken about in the media previously as 'hate crimes'.

Motion agreed to.

Read first time.

MONASH UNIVERSITY BILL

Introduction and first reading

Ms ALLAN (Minister for Skills and Workforce Participation) introduced a bill for an act to re-enact with amendments the law relating to Monash University, to repeal the Monash University Act 1958, the Monash University (Chisholm and Gippsland) Act 1990, the Monash University (Pharmacy College) Act 1992, to make a consequential amendment to the Leo Cussen Institute Act 1972 and for other purposes.

Read first time.

UNIVERSITY OF MELBOURNE BILL

Introduction and first reading

Ms ALLAN (Minister for Skills and Workforce Participation) introduced a bill for an act to re-enact with amendments the law relating to the University of Melbourne, to repeal the Melbourne University Act 1958 and other acts, to make consequential amendments to other acts and for other purposes.

Read first time.

DEAKIN UNIVERSITY BILL

Introduction and first reading

Ms ALLAN (Minister for Skills and Workforce Participation) introduced a bill for an act to re-enact with amendments the law relating to Deakin University, to repeal the Deakin University Act 1974, the Deakin University (Warrnambool) Act 1990 and the Deakin University (Victoria College) Act 1991 and for other purposes.

Read first time.

LA TROBE UNIVERSITY BILL

Introduction and first reading

Ms ALLAN (Minister for Skills and Workforce Participation) introduced a bill for an act to re-enact with amendments the law relating to La Trobe University, to repeal the La Trobe University Act 1964 and other acts and for other purposes.

Read first time.

PETITIONS

Following petitions presented to house:

Students: youth allowance

To the Legislative Assembly of Victoria:

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

The petitioners register their opposition to the changes on the basis that the youth allowance changes proposed in the federal budget place another barrier to university participation for students in regional areas; unfairly 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 calls on the state government to vigorously lobby the federal government to ensure that a tertiary education is accessible to regional students.

By Dr SYKES (Benalla) (23 signatures) and Mr CRISP (Mildura) (52 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 (FSL) on house, property and business insurance and points out to the house that everyone who benefits from fire services should contribute to its funding not just those who take out insurance whose premiums are effectively doubled by the FSL and associated taxes. Furthermore the gross disparity between the metropolitan and rural fire services levy is unjust, particularly when local CFA crews are totally comprised of men and women volunteers from the community.

The petitioners therefore request that the Legislative Assembly of Victoria investigate and implement a fairer model of funding fire services.

By Dr SYKES (Benalla) (160 signatures).

Public transport: student concessions

To the Legislative Assembly of Victoria:

The recent wave of racist attacks against international students has raised the issue of discrimination against international and postgraduate students. Denying international and postgraduate students access to public transport concessions is part of that discrimination.

We the undersigned call upon the Victorian government to stop ignoring international and postgraduate students and end this inequity. We believe that all tertiary students should have equal access to concession travel on public transport, regardless of their country of origin, or the type of course in which they are enrolled.

This petition is to be presented to the Parliament of Victoria as part of a demonstration for concession cards on Wednesday, 12 August, beginning 2.00 p.m. at the State Library of Victoria.

By Mr HUDSON (Bentleigh) (2590 signatures).

Rail: Mildura line

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

This petition of the citizens of the region known as Sunraysia, primarily in the state of Victoria but including cross-border

citizens of New South Wales centred on the city of Mildura, brings to the attention of the house the many promises to return the Melbourne–Mildura passenger train, without delivery.

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

1. the many undelivered promises;

2. the urgent need to promote public transport in a global warming context;

3. the pressing need to connect remote Mildura to both Melbourne and the national rail network; and

4. the geographic distance now requiring a rapid service (very fast train) to be competitive.

By Mr CRISP (Mildura) (34 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) (9 signatures).

Crime: arson penalties

To the Legislative Assembly of Victoria:

The petition of the citizens of Victoria draws to the attention of the house the need for changes to legislation regarding penalties for arson.

The petitioners therefore request that the Legislative Assembly of Victoria call upon the Victorian Labor government to immediately implement minimum sentencing for arson, to be enforced without exception, and that additional penalties be added to this minimum sentence for each house, shed, vehicle or animal-pet lost, loss of life caused by arsonists be treated as premeditated murder with no exceptions and that murder charges apply.

And that any new such law apply from 1 January 2009.

By Mr NORTHE (Morwell) (413 signatures).

Peninsula Link: construction

To the Legislative Assembly of Victoria:

We the undersigned citizens of Victoria draw to the attention of the house, the urgent need to amend LMA plans for the Peninsula Link Baxter interchange to ensure the Peninsula Link passes under Baxter-Tooradin Road and Frankston Flinders Road, in lieu of planned overpass; thereby minimising noise, greatly reducing physical impact to neighbouring residents-ratepayers and maintaining the aesthetic, aural and visual amenity of the Baxter-Frankston South communities, gateway to the Peninsula.

We, the undersigned concerned citizens of Victoria therefore request the Legislative Assembly of Victoria to immediately initiate all things necessary to ensure the LMA Peninsula Link plans are amended for construction to incorporate a Baxter interchange underpass for Peninsula Link roadway, beneath Baxter-Tooradin Road and Frankston-Flinders Road, in lieu of the existing plan for a fly-overpass.

By Mr PALLAS (Tarneit) (570 signatures).

Housing: Ringwood development

To the Honourable Speaker and members of the Legislative Assembly in Parliament assembled:

The petition of the community of the city of Maroondah draws the attention of the house to the lack of consultation undertaken by the Victorian government in relation to the public and social housing development proposed for Larissa Avenue, Ringwood.

The petitioners therefore request that the government postpone the commencement of the development pending a thorough consultation period with the community, with the continuation of the development to be dependent on the wishes of that community.

By Mr R. SMITH (Warrandyte) (541 signatures).

Tabled.

Ordered that petitions presented by honourable member for Benalla be considered next day on motion of Dr SYKES (Benalla).

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

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

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

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

INSPECTOR OF MUNICIPAL ADMINISTRATION

City of Brimbank

Mr WYNNE (Minister for Local Government), by leave, presented report.

Tabled.

Ordered to be printed.

SCRUTINY OF ACTS AND REGULATIONS COMMITTEE

Alert Digest No. 11

Mr CARLI (Brunswick) presented *Alert Digest* No. 11 of 2009 on:

Courts Legislation Amendment (Judicial Resolution Conference) Bill
Education and Training Reform Amendment (School Age) Bill
Land Legislation Amendment Bill
Local Government Amendment (Conflicting Duties) Bill
Major Transport Projects Facilitation Bill
Valuation of Land Amendment Bill
Victorian Renewable Energy Amendment Bill

together with appendices.

Tabled.

Ordered to be printed.

DISPUTE RESOLUTION COMMITTEE

Planning Legislation Amendment Bill

The Clerk tabled dispute resolution.

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

> That the house takes note of the dispute resolution reached on 10 September 2009 by the Dispute Resolution Committee on the Planning Legislation Amendment Bill 2009.

In moving this take-note motion it is incumbent upon me as Leader of the House and also as chair of the Dispute Resolution Committee to make some appropriate comments at this stage. Members will recall that the Planning Legislation Amendment Bill 2009 was previously passed by this chamber. It was defeated by the upper house and then subsequently referred by a motion of this house to the Dispute Resolution Committee. The committee has met. Its proceedings are held in private in accordance with the Victorian constitution. It is required to report back to both houses on the first sitting day following its reaching a resolution. It reached a resolution; that was done on 10 September. This being the first sitting day, the resolution comes before the house.

This is an important indication in that it is the first occasion on which a recommendation from the Dispute Resolution Committee has come before the chamber of the Victorian Parliament. This is a new constitutional tool that was inserted into the Victorian constitution with the simple objective of trying to reach a resolution of any disputes which may arise between the two houses of the Victorian Parliament following reforms to the Victorian upper house that resulted in the method of election and the composition of the upper house change quite significantly. The Victorian Parliament set up the Dispute Resolution Committee as a companion piece to that historic reform of the upper house.

We have come back to this chamber with the resolution of the Dispute Resolution Committee, which is now available for honourable members. It will form the basis of a series of procedural motions immediately following this take-note motion that will enable the bill firstly to be introduced and then to be second-read by leave today. It is our expectation that we will bring the bill back for debate subsequently in this parliamentary sitting week.

We have got some obligation to move quickly to enable both chambers to respond to this resolution, because as part of this new constitutional tool there are various drop-dead dates operating at different stages. The previous stage, which saw this matter come to conclusion and informs the basis of the report to the Legislative Assembly, required that work to be undertaken within 30 days. The next stage in resolving the dispute over the Planning Legislation Amendment Bill requires a report to be made in both chambers and for both chambers to deal with it within 30 days or 10 sitting days, whichever is longer. Members can see there is not much time. The clock has started ticking

today. We will be seeking to expedite the final step in the agreement that has subsequently been reached and come out of that Dispute Resolution Committee.

Essentially, following the bill's defeat in the upper house, the Dispute Resolution Committee has considered various amendments and changes that had been put forward. The government has considered those. There has been quite a lot of detailing and drafting taking place. As I have said, I cannot go into the minutiae of that because that is what the constitutional requirement. Nevertheless, there was a resolution of the majority of members of the Dispute Resolution Committee to try to progress the passage of this piece of planning legislation.

During the course of the proceedings assistance was provided substantially by the member for Box Hill and the Minister for Police and Emergency Services, who are both members of the Dispute Resolution Committee. They worked with the Minister for Planning and the shadow Minister for Planning in the other place, Matthew Guy. As a result of that an agreed position has come through. This is an important occasion. I would like to thank the members of both houses who led the process for the Dispute Resolution Committee. As chair, I thank them for the work they have undertaken. The journey the committee embarked upon was one that had not been charted before. The clerks of both houses were of great assistance in helping us chart a sensible and cogent path.

The overwhelming support of the members of the Dispute Resolution Committee has enabled us to achieve those constitutional objectives in a way that will set a pattern and precedent, if you like, for any other matters that may be referred to the committee for its consideration at a later date. In that context it was a very useful exercise. The assistance provided by the clerks was appreciated. It will stand us in good stead in dealing not only with this matter but with any other matters that may subsequently be sent to the Dispute Resolution Committee by the Legislative Assembly.

We have learnt some lessons from the process. Members will observe that the resolution of the DRC is about detail and technical drafting requirements. That is because of the implied framework and the explicit framework set out in the constitution, which requires the houses to accept or reject the recommendation of the committee.

As an interesting aside, there is even a typographical error in the dispute resolution that will need to be corrected at a later date. We do not yet have in the mechanisms the ability for the clerks to make that sort of correction in the way they can make corrections to bills. The dispute resolution contains a reference to the Victorian Local Government Association, when everybody knows it is the Victorian Local Governance Association. That will require a technical change to the bill at a later date, and we will make that change. However, given the procedural requirements as they now stand, I hope we will be able to reach agreement to set in place a mechanism within the DRC that is similar to the procedures that are set out in the standing orders whereby we ask the clerks to make typographical and numerical corrections between the time matters are finalised in the committee and the time they are presented to the Parliament. However, the reality is that this time we do not have such a mechanism. I hope that is an administrative lesson that we can correct when we deal with this going forward.

With that explanation, I commend the motion to the house. I would be happy to introduce and second-read these bills subsequently.

Mr CLARK (Box Hill) — This purported dispute resolution from the Dispute Resolution Committee comes to the chamber following the house on 11 August passing a resolution that is purported to refer the Planning Legislation Amendment Bill 2009 to the DRC. I say 'purported' because this side of the house does not accept that a bill that has been defeated by the Legislative Council, as the Planning Legislation Amendment Bill was defeated, can be the subject of a referral to the DRC.

You, Speaker, ruled that the motion for the referral was in order, and that ruling bound the house unless the house otherwise determined. However, your ruling does not determine the issue for the purposes of the constitution.

A further issue that has arisen is whether the constitution requires the DRC to reach a dispute resolution within 30 days or simply to embark on the process of seeking a dispute resolution within 30 days. On one interpretation the authority of the DRC to seek a dispute resolution ceases 30 days after the issue was referred to it by the house. That is yet another aspect of these provisions of the constitution that lacks a definitive answer. Understandably in those circumstances for the avoidance of doubt it was considered preferable to seek to achieve a dispute resolution within 30 days of the referral of 11 August.

This issue is yet another confirmation of the problems members on this side of the house warned about when the constitutional amendments that inserted these provisions were debated in 2003. As I said at that time

in the 10 minutes allotted to me under the dumbed-down procedures of this house which the Labor Party introduced,

> … on the dispute resolution — the deadlock procedures — pages and pages of detailed drafting will be entrenched in the constitution.
>
> Heaven help us when we get to the fine print if they do not work properly …

Now here we are today in the exact situation we on this side of the house feared and warned about at the time. The DRC has been surrounded by the uncertainties caused by these undemocratic, rushed and bungled provisions which the Labor Party, despite all warnings, insisted on having hard-wired into the constitution of the state in such a way that they can only be amended by referendum.

Nonetheless the DRC has met on three occasions, including twice on the possible drop-dead date of last Thursday, 10 September, and has resolved on the dispute resolution that has been presented to the house. There is no debate that the dispute resolution reached by the DRC complies with the constitution aside from the issue of whether there was a valid referral of a disputed bill in the first place, although it is fair to say there remain unresolved issues about how exactly the resolution fits within the constitutional requirements.

There are three key points to the DRC's report on the dispute resolution. Firstly, it recommends that a new bill be introduced and passed that takes the form of the former bill redrafted so as to incorporate the amendments set out in the dispute resolution. Secondly, it recommends that no steps be taken to reinstate and pass the former bill. Thirdly, it notes that discussions are taking place on funding arrangements but that such arrangements are not part of the terms of the dispute resolution.

I make the observation that funding arrangements are outside the scope of the dispute resolution, because they do not relate to the provisions of the legislation itself, which is what the DRC is concerned about. Nonetheless, discussions on funding arrangements are taking place and, hopefully, will be resolved soon. No doubt we will be discussing the provisions of the dispute resolution itself in more detail when the legislation to give effect to it is debated. However, in summary the coalition secured a number of significant safeguards and improvements for local communities. These include limiting the applicability of development assessment committees (DACs) to just 26 principal activity centres or central activities districts plus Geelong rather than their being able to be applied to any municipality anywhere in Victoria with one or more DACs being able to be established in any such municipality.

The resolution requires the government to consult with relevant local government associations when choosing the chairperson for each DAC. It removes the requirement of councils to bear the direct costs of DACs. It removes the ability of the government to zone any area of Victoria as a growth area as a prelude to hitting that area with its proposed growth areas infrastructure contribution. It forces DAC boundaries to be set through the process of planning scheme amendments with the safeguards and requirements of due process that apply to planning scheme amendments and provides no capacity for the minister to bypass those requirements.

It requires an independent planning panel to set the recommended trigger points for each DAC after consultation with the community and the relevant municipality. It requires all DAC meetings to be open to the public unless a matter is to be heard in camera for specific reasons. It removes the ability of the minister to suspend a councillor or council officer from a DAC for allegedly acting against the best interests of the DAC, and it involves a government commitment to a further review of the DAC regime after two years.

The process by which the dispute resolution has been reached has been a tortuous one. It has taken up the time of five ministers of the Crown, the cabinet secretary, five shadow ministers and one-third of the parliamentary membership of the Greens; all have been tied up in this process. An enormous amount of unnecessary time and effort has been consumed in the DRC process when the dialogues that took place in and around the DRC could just as easily — indeed far more easily — have taken place without a reference to the DRC.

I suggest that if the government feels the reason it sends a bill to the DRC is to allow other ministers to get involved in solving impasses created by one of its number who is either incapable of getting their mind around the issues involved with his or her legislation or incapable of carrying on an intelligent discussion and negotiation with other parties, then it would be far better for the government to set up a legislation subcommittee of the cabinet or a similar body which would be far less draining of the time and energy of its ministers than the DRC process has proven to be.

One thing that has become clear to the opposition as a result of this process is that the real Minister for Planning in Victoria is not Justin Madden, but another

Justin — Justin Jarvis, the minister's chief of staff. It has been Mr Jarvis — or Justin, Jr, as he has been referred to for convenience — who has been the government's representative in the vast majority of the discussions that have taken place, and it is Mr Jarvis who is clearly the person who has been calling the shots within the minister's office.

On the other hand, I express my appreciation of the constructive role played by the Minister for Community Development in reaching a resolution. It is clear that the minister has one of the highest IQs and quickest minds of any minister in the Brumby government, and that is welcome when he applies his abilities for beneficial rather than nefarious ends. I also wish to acknowledge the hard work and constructive role of the Minister for Police and Emergency Services in those times when the Minister for Community Development was absent from the state.

The resolution before the house is not a resolution leading towards legislation that can in any sense be said to be good legislation. All that can be said is that the legislation that is likely to result from it is less bad than the regime that would otherwise prevail. The government has made it clear that if this legislation is not passed it will use its existing call-in powers to call in any planning application it likes, meaning that local communities across Victoria would face the threat of call-ins on a swathe of projects not just in principal activity centres but anywhere down to the smallest neighbourhood shopping centre. If that occurred, local communities would have no say whatsoever in any planning application that the government chose to call in.

Thus the benchmark against which the dispute resolution before the house is to be judged is not the benchmark of whether it is good legislation, but whether it is less bad than the regime of unchecked and repeated call-ins that was the alternative with which the community was being threatened by the Labor Party. The coalition parties will be voting to give effect to the dispute resolution that has been reached because it is less bad than the alternative call-in regime with which the community was threatened by the government had we not reached the dispute resolution. However, it remains bad legislation, and we are committed to changing it upon coming to government.

Mr McINTOSH (Kew) — I want to make a short contribution on the motion moved by the Leader of the House. I join the debate to re-emphasise what the member for Box Hill has said — that is, that the opposition does not concede this bill was capable of being referred to dispute resolution because it had been defeated. However, the bill was referred to the Dispute Resolution Committee. However, I am particularly concerned about the interpretation that we were forced to accept, which was that a resolution had to be achieved within 30 days.

That was the subject of enormous discussion both in this chamber and in the committee. There was a strong view that the 30 days was only the beginning of the process and that as long as the dispute was resolved that was the most important thing. However, as a result of further deliberations and a study of the constitution, it was the prevailing view that 30 days is a finite time in which that committee can meet to resolve a dispute. That is not the opposition's interpretation of the constitution; it is the opposition's view that the 30 days is an open-ended process. It is only a commencement date — that is, the process is commenced within 30 days, not that it is actually resolved. However, in this case the position is that the dispute was resolved within that time.

It also has to be acknowledged, as the member for Box Hill has indicated, that it has taken the time of five ministers of the Crown, five shadow ministers, one cabinet secretary and other members. The clerks worked extremely hard behind the scenes to try to facilitate this process, and no doubt parliamentary counsel was thrown into a flurry to achieve the result of the ultimate drafting of the resolution that we have before us.

On a personal level, I would like to acknowledge the hard work of two people in the opposition: the member for Box Hill and the shadow Minister for Planning, Mr Guy, a member for Northern Metropolitan Region in the Council. The shadow Minister for Planning is not a member of the Dispute Resolution Committee but over the last 30 days he has had to deal with the matter as the shadow minister, diverting an enormous amount of time away from his other activities.

In relation to the member for Box Hill, everybody knows that the shadow Attorney-General's portfolio is the busiest bills portfolio. On top of that, there has been a significant amount of legislation in his other shadow portfolio responsibility, that of energy and resources. As the responsible minister, the Leader of the House knows there has been a significant amount of legislation tabled in relation to his portfolio. In each sitting week we can expect at least two, if not three bills. As far as I am aware, I think the record is five bills for the member for Box Hill. But then he is called upon to divert his attention away from all of those things, together with other portfolio and constituency matters, to deal with this as a matter of absolute urgency to get it

through. He deserves the congratulations not only of this side of politics but of all sides of politics. The fact that he brings his astute legal brain to this issue has my complete admiration and deserves the admiration of every member of this house. In the end it was the member for Box Hill, who was not backed up by a chief of staff or anyone else, who enabled the minister to perhaps watch the *Simpsons*. It was the shadow Attorney-General who did the work.

As I have said, my admiration and the admiration of all members of the house should be expressed for the work of the member for Box Hill. While the result was a successful outcome, in no way does the opposition accept that this is a reflection of the democracy we should live in: at the end of the day some four parties voted against this legislation. As the member for Box Hill has indicated, it is not an outcome that was favoured by those parties but instead was the best of a bad lot.

Mr LUPTON (Prahran) — I want to make a brief contribution to reflect, as a member of the Dispute Resolution Committee, on what the Leader of the House has already referred to as an interesting constitutional moment in the history of Victoria with the first meeting of the Dispute Resolution Committee following the 2003 reform of the Victorian Constitution Act. I believe the successful resolution of the dispute concerning the Planning Legislation Amendment Bill is an important historic milestone in our constitutional development. Once this legislation is brought back into the Parliament and passed it will provide for improvements in our planning system. This is also an important first step in a new era of being able to work through disagreements between the two chambers of this Parliament. I think it sets an important precedent and one that will be for the betterment of the Victorian democratic process.

I would also like to extend my congratulations to the members of the committee who work on the resolution of the issues and particularly to the clerks for their support and very good and valuable guidance during the course of our deliberations.

Motion agreed to.

BUSINESS OF THE HOUSE

Standing orders

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

That so much of standing orders be suspended immediately so as to allow:

(1) the immediate introduction and consideration of a further bill for an act to amend the Planning and Environment Act 1987, the Docklands Act 1991, the Heritage Act 1995, the Local Government Act 1989 and the Melbourne Convention and Exhibition Trust Act 1996 and for other purposes;

(2) the second reading to be moved immediately after the bill has been read a first time.

Motion agreed to.

PLANNING LEGISLATION AMENDMENT BILL (No. 2)

Introduction and first reading

Mr BATCHELOR (Minister for Community Development) introduced a bill for an act to amend the Planning and Environment Act 1987, the Docklands Act 1991, the Heritage Act 1995, the Local Government Act 1989 and the Melbourne Convention and Exhibition Trust Act 1996 and for other purposes.

Read first time.

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 Planning Legislation Amendment Bill 2009 (No. 2).

In my opinion, the Planning Legislation Amendment Bill 2009 (No. 2), 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 Planning Legislation Amendment Bill 2009 (No. 2) is to amend the Planning and Environment Act 1987 to introduce a system of development assessment committees to function as if a delegate of a responsible authority to make decisions on classes of applications specified by the Minister for Planning.

Specifically the bill proposes to:

Give effect to the government's announced intention to establish development assessment committees (DACs) as outlined in *Planning for all of Melbourne — The Victorian Government Response to the Melbourne 2030 Audit 2006*.

Amend the Local Government Act 1989 to provide an exception from a conflict-of-interest provision for a member of a development assessment committee.

Make unrelated amendments to the Docklands Act 1991, Heritage Act 1995 and Melbourne Convention and Exhibition Trust Act 1996.

Clause 5 of the bill introduces a new Part 4AA to the Planning and Environment Act 1987 to introduce a system of DACs. Only the amendments to the Planning and Environment Act 1987 to introduce a system of DACs are considered to engage the Charter of Human Rights and Responsibilities ('the charter').

The removal of the date in the Docklands Act 1991 has no obvious impact on any human rights. The amendment to the Melbourne Convention and Exhibition Trust Act 1996 will have no human rights impacts.

Amending the Local Government Act 1989 to provide an exception from a conflict-of-interest provision for a member of a development assessment committee is not expected to have any impact on human rights.

Increasing the maximum penalty which may be prescribed for an infringement offence will not adversely affect a person's rights to a fair hearing or rights in criminal proceedings. It will not have any retrospective operation. The amendment is considered to be compatible with the charter of human rights.

Human rights issue

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

The bill engages three of the human rights protected by the Charter of Human Rights and Responsibilities ('the charter').

Section 13 establishes a right for an individual not to have his or her privacy, family, home or correspondence unlawfully or arbitrarily interfered with and not to have his or her reputation unlawfully attacked. The right to privacy concerns a person's 'private sphere', which should be free from government intervention or excessive unsolicited intervention by other individuals. An interference with privacy will not be unlawful provided it is permitted by law, is certain, and is appropriately circumscribed.

Section 15 establishes a right for an individual to seek, receive and impart information and ideas of all kinds, whether orally, in writing, by way of art, in print or other medium. The right to freedom of expression also encompasses the right not to express.

Section 18 establishes a right for an individual to participate in the conduct of public affairs, to vote and be elected at state and municipal elections, and to have access to the Victorian public service and public office, without discrimination. The right to participate in public affairs is a broad concept, which embraces the exercise of governmental power by all arms of government at all levels.

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

2.1 Section 13: privacy and reputation

Proposed new section 97MZN requires the disclosure of interest on a register of interests. The proposed new section of the bill requiring DAC members to disclose interests on a register of interest engage and limit the s13(a) charter right to privacy.

However, the requirements of the register, and the details to be contained therein, are clearly and precisely defined by the act. For this reason the interference is not unlawful. Further, it is necessary to obtain the relevant information and place this on the register to ensure transparency around the private interests of DAC members which may have the potential to influence their public duties and decision making. For this reason the interference is reasonable in this circumstance and is not arbitrary.

Proposed new section 97MO requires that the minister publish on the internet the details of the members and the alternate members of the DAC, including variations to the DAC membership, where the DAC is to cover more than one municipality. The proposed new section of the bill requiring DAC members and alternates to be listed on the internet engage and limit the s13(a) charter right to privacy.

However, the information to be published on the internet is clearly and precisely defined by the act. For this reason the interference is not unlawful. Further, it is necessary for this information to be published on the internet so it is easily accessible for members of the public.

Proposed new section 97MZM and 97MZL requires the mandatory provision of private details in ordinary and primary returns. The proposed new section of the bill requires DAC members and alternates to provide private details and ordinary returns, which limits s13(a) charter right to privacy.

However, the details that need to be provided are clearly and precisely defined by the act. For this reason the interference is not unlawful. Further, it is necessary to obtain the relevant information to ensure transparency around the private interests of DAC members which may have the potential to influence their public duties and decision making. For this reason the interference is reasonable in this circumstance and is not arbitrary.

Accordingly, as the bill does not provide for the unlawful or arbitrary interference with privacy, this right is not limited.

2.2 Section 15: freedom of expression

Proposed new section 97MZ (2)(b) prohibits DAC members from disclosing information which is confidential and thereby engages the s15 charter right of freedom of expression.

Proposed new section 97MZR prohibits department staff from making a record, divulging or communicating to any person any information conveyed to him or her during his or her employment with the department, or to make use of that information for any purpose other than the discharge of his or her official duties, and thereby engages the s15 charter right of freedom of expression.

Such limitations are commonly applied to persons undertaking public duties and performing public administration functions and are necessary to provide DAC members with access to confidential information important to their duties in making decisions on application.

(a) the nature of the right being limited

Freedom of expression, including the right not to express, is an important right central to a democratic society.

(b) the importance of the purpose of the limitation

The purpose of allowing for confidentiality is to ensure that a DAC member can effectively undertake his or her function of assessing applications and ensure the integrity of the application process, and to ensure that department staff involved in the operation of a DAC can undertake his or her function of providing advice and support to the DAC members.

(c) the nature and extent of the limitation

The right will be limited only to the extent that a person is compelled to keep certain information confidential. Information which is to be kept confidential will be identified as having been provided in confidence by the responsible authority or by the person providing the information. Alternatively, the DAC may identify the information as being subject to confidentiality.

(d) the relationship between the limitation and its purpose

There is a direct relationship between the limitation and the purpose to ensure that there is integrity in the application process while enabling the DAC access to the confidential information required to assess the application.

(e) any less restrictive means reasonably available to achieve its purpose

There are no less restrictive means reasonably available to achieve the intended purposes.

(f) any other relevant factors

There are no other relevant factors to be considered.

For the above reasons the proposed limitation on the right to freedom of expression is considered 'reasonable' pursuant to s7(2) of the charter.

2.3 Section 18: taking part in public life

Provisions requiring DAC members not to participate in decision making in certain circumstances and empowering the minister to suspend DAC members engage and limit the s18 charter right to take part in public life.

Under proposed new section 97MM, if the minister believes on reasonable grounds that a member of a DAC has breached any of the requirements of the division 5 of new part 4AA relating to misuse of a position, conflict of interest and disclosure of interests or has acted in a way which is corrupt, the minister may suspend the member's membership of the DAC for up to three months.

Further, under proposed new section 97MZA(1), where DAC members have a conflict of interest the member must without delay advise the secretary of that conflict and take no part in deciding on the application.

Further, proposed new section 97MN sets out circumstances where the office of a member or an alternate member of a DAC becomes vacant.

Provisions requiring DAC members not to participate in decision making in circumstances where they may have a conflict of interest and in other circumstances as set out in proposed new section 97MN, impinge on the DAC members' rights to take part in public life.

Restrictions on taking part in decision making where members recognise a conflict of interest are common, and are necessary to ensure impartial assessment of projects in the public interest, untainted by a member's private interest.

All these impacts relate solely to DAC members. They will be clearly set out, and will be in accordance with law. They will not apply to the general public. A person who does not assent to these restrictions need not agree to appointment as a member of a DAC or accept a position or agreement to provide advice or other services to a DAC.

(a) the nature of the right being limited

The right to take part in public life protects the right to participate in public affairs, the right to vote in genuine, periodic and free elections and the right to have access to the public service and office. However, the right to take part in public life is not absolute and may be subject to reasonable limitations.

(b) the importance of the purpose of the limitation

Proposed new section 97MM: the ability to prevent a person that has engaged in a level of misconduct from undertaking their duties and functions and holding their position of office, recognises that there are standards that are required of people who hold public office. It also ensures that appropriate disciplinary measures are taken against members depending on the seriousness and nature of their conduct. The limitation will also work to maintain the integrity of the application process for the benefit of the public.

Proposed new section 97MZA(1): expects that persons with a conflict of interest do not participate or vote on DAC matters as it ensures DAC functions and duties are not unduly compromised and that its decisions are made fairly.

(c) the nature and extent of the limitation

Under proposed new section 97MM if the minister believes on reasonable grounds that a member of a DAC has breached any of the requirements of the division 5 of new part 4AA relating to misuse of a position, conflict of interest and disclosure of interest or acted in a way which is corrupt, the minister may suspend the member's membership of the DAC for up to three months.

Under proposed new section 97MM the Governor in Council may at any time remove a member or alternate member of a DAC from office.

Proposed new section 97MN sets out circumstances where the office of a member or an alternate member of a DAC becomes vacant.

(d) the relationship between the limitation and its purpose

There is a direct relationship between the limitation and the purpose of ensuring that members properly undertake the duties of office and act in a manner appropriate to the position.

(e) any less restrictive means reasonably available to achieve its purpose

There are no less restrictive means reasonably available to achieve the intended purposes.

(f) any other relevant factors

There are no other relevant factors to be considered.

For the above reasons it is considered that these provisions constitute a reasonable limitation, pursuant to s7(2) of the charter. This is especially so given the important purpose of ensuring the integrity and transparency of decision making.

Conclusion

I consider that the bill is compatible with the Charter of Human Rights and Responsibilities because, although it does engage three human rights, the limitations are reasonable and proportionate. The limitations strike the correct balance by providing persons with the right to take part in public life and serving the interests of the local community.

Peter Batchelor, MP
Minister for Community Development

Second reading

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

That this bill be now read a second time.

This bill addresses the government's commitment to partnering with local government to make decisions on planning permit applications in relation to areas and matters of metropolitan, regional or state significance

This bill seeks to amend the Planning and Environment Act 1987 in order to introduce a system of development assessment committees to make decisions on particular types of planning permit applications of significance, and to set out clear provisions in the act relating to effective and transparent probity for members of a development assessment committee and associated issues. Consequentially, it also seeks to amend the Local Government Act 1989 to provide an exception from conflict-of-interest restrictions which may arise from a councillor's membership of a development assessment committee.

The bill also proposes unrelated amendments to the Heritage Act 1995, the Docklands Act 1991 and the Melbourne Convention and Exhibition Trust Act 1996.

The Planning Legislation Amendment Bill 2009 was defeated in the Legislative Council on 11 June 2009. Under the Constitution Act 1975 the bill became a disputed bill and was referred to the Dispute Resolution Committee by a motion of the Legislative Assembly on 11 August 2009.

The Dispute Resolution Committee met on two occasions and I am pleased that the committee was able to reach a dispute resolution. I commend the committee for the collaborative manner in which it was able to resolve the issues of contention and was able to reach a dispute resolution within the time frame set out by the Constitution Act. I will refer to the amendments made as a result of the dispute resolution as I outline the main provisions of the bill.

This bill seeks to introduce a framework for a new state-local government partnership by providing for the establishment of development assessment committees comprising state and local government nominees. These committees will make decisions on significant planning permit applications. The bill will set out clear provisions in the act relating to effective and transparent probity provisions for members of a development assessment committee.

The reforms presented in this bill follow the government's release of *Planning for all of Melbourne*, in which the government laid out its actions in response to a five-year audit of Melbourne 2030 in four key areas: planning for all of Melbourne; transport and managing congestion; environmental sustainability and climate change; and managing urban growth.

Currently the Victorian planning system only provides for planning permit decisions to be made by councils or by the Minister for Planning. Councils make decisions that have impacts well beyond the boundaries and scope of their municipalities. There is no mechanism by which state and local government can effectively partner to make decisions on areas of shared interest or responsibility.

The establishment of development assessment committees will ensure that the state government and local government partner in the decision-making process for these significant matters. The government is committed to strengthening confidence in decision making, for the state government to play a role in actively implementing state policies, and having shared responsibility for developments of metropolitan, regional or state significance.

The establishment, jurisdiction and functions of development assessment committees are set out in proposed part 4AA division 2 of the Planning and Environment Act 1987, to be introduced by clause 5 of the bill.

The dispute resolution required that the bill be amended to list suburbs in which the principal activity centres are located (some of which are now designated as central

activities districts) and the Geelong central activities area.

Each development assessment committee will be established by an order of the Governor in Council, made on the recommendation of the Minister for Planning. The order will specify the area to be covered by the development assessment committee and the specific matters upon which the development assessment committee will make a decision.

The dispute resolution also required amendments be made to the bill to ensure that there is a public exhibition process prior to the establishment of a boundary that is to be covered by a development assessment committee. In addition, there is a new provision that requires the Minister for Planning to refer criteria that are to be decided on by a development assessment committee to an advisory committee under section 151 of the Planning and Environment Act 1987 and that the advisory committee undertake a public consultation process. The bill has been amended to give effect to this requirement.

The order establishing the development assessment committee may be revoked or varied to modify the location and criteria for applications determined by a development assessment committee.

A development assessment committee has the jurisdiction to decide planning permit applications, and applications to amend a planning permit, only as specified in an order. Councils will continue to retain the role of responsible authority and will process applications both before and after a decision.

A development assessment committee will decide all applications within its jurisdiction as set out in the order. Councils will not be able to make a decision on a matter assigned to a development assessment committee. The decision made by the development assessment committee will become the decision of the responsible authority. The development assessment committee makes the decision on a planning permit application for the council.

When making a decision on a planning permit application, the development assessment committee will implement the policies and controls set by the council and the state.

Development assessment committees will not remove third-party appeal rights or affect the call-in powers provided in the Planning and Environment Act 1987.

This decision-making model was developed in consultation with local government and peak bodies. A technical working group was established, represented by local government, in July 2008 to provide technical planning input to inform the development and finalisation of proposals for the implementation and operation of the committees. These proposals were then taken to all metropolitan councils for comment.

The local government sector should be commended for the input and response they have put into this new decision-making model.

The membership of the development assessment committee is set out in proposed part 4AA division 3. The composition of a development assessment committee membership provides for equal state and local government representation.

Each development assessment committee will comprise:

one independent chair, and an alternate. As a result of the dispute resolution, the bill has been amended to require the Minister for Planning to consult with the Municipal Association of Victoria and the Victorian Local Governance Association on persons available for appointment as chairs to a development assessment committee.

two standing state government nominees, and an alternate for each member, who will be nominated by the Minister for Planning.

two local government nominees who will rotate on and off the development assessment committee to ensure representation from the municipality in which the application is based.

The two local government nominees for each municipality can be nominated by each council from a ‘pool’ of five members consisting of elected councillors or members of staff.

All members of the development assessment committee will be appointed by the Governor in Council. A member will hold the office for a period of up to three years, and may be reappointed.

The names of the development assessment committee members and alternates will be published on the department internet website.

The procedures to be followed by a development assessment committee are set out in proposed part 4AA division 4.

If either the chairperson or the alternate chairperson is for any reason not able to attend a meeting of the

committee, the members present must elect an acting chairperson for the meeting.

The quorum for a meeting of the development assessment committee is three members. The committee may act despite a vacancy in its membership provided there is a quorum.

An amendment to the bill as a result of the dispute resolution requires a meeting of a development assessment committee to be open to the public. The provisions on costs have also been removed from the bill.

To enable a development assessment committee to decide on an application for a permit or an amendment to a permit within its jurisdiction, the responsible authority must provide it with any technical advice, administrative support and any other support it reasonably requires.

Appropriate provisions have been included regarding probity and accountability measures, as set out in proposed part 4AA division 5.

The provisions apply to all members of the development assessment committee and are modelled on the Local Government Act 1989 including the changes made by the Local Government Amendment (Councillor Conduct and Other Matters) Act 2008, however, with some significant variations to provide for the unique circumstances applying to a development assessment committee, including the quite limited functions assigned to it.

The probity requirements for development assessment committee members cover:

conduct principles for members;

misuse of position;

direct and indirect interest; and

the need for the secretary of the department to maintain a register of interests of members.

A provision that enabled the Minister for Planning to remove a development assessment committee member if he or she acted in a way that was not in the best interest of the development assessment committee has been removed from the bill as part of the dispute resolution process.

The government is committed to ensuring that the new decision-making model operates effectively and efficiently and will review the operations of development assessment committees after two years. Adjustment to operations will be made, if needed. The state government has provided $2 million over two years for development assessment committees and the government is committed to funding development assessment committees beyond this period. Such funding will be made available to support the operation of the committees and may be used to offset extraordinary council expenses.

It is acknowledged that the provisions of the Local Government Act 1989 directly apply to a councillor who is nominated by the council to be a member of a development assessment committee as a result of the person being a councillor. The specific provisions for members have been designed to ensure that there are neither conflicting requirements nor duplicate disclosure requirements for councillors.

The bill will amend the Local Government Act 1989 to provide an exception from a conflict-of-interest provision in relation to a conflict which may arise for a councillor as a result of that councillor being a member of a development assessment committee.

Through the establishment of development assessment committees, the government is providing an arena for the shared responsibility of managing future growth and the creation of an effective partnership between state and local governments to make decisions on significant planning permit applications for areas of shared interest or responsibility. Such shared responsibility for decision making will provide for a better standard of decision to be made on planning permit applications.

I wish to turn now to the other matters covered by this bill. The Docklands Act 1991 is to be amended to remove the expiry date for the involvement of the Victorian Urban Development Authority in Docklands development. The Victorian Urban Development Authority will have an ongoing role in the Docklands development.

The Heritage Act 1995 will be amended to empower the regulations to prescribe an infringement offence with a penalty of up to 10 penalty units, increased from the current 4 penalty units. This is consistent with recent amendments to the Heritage Act which foreshadowed prescribing a new offence with penalties of up to 10 penalty units; however, the statutory limit on the maximum prescribed penalty was not altered at the time.

The Melbourne Convention and Exhibition Trust Act 1996 will be amended to widen the area in which the trust can operate, to allow the trust to operate throughout Victoria, and to include ‘entertainment’ as

one of the functions of the trust. Currently the trust is limited to operating within the City of Melbourne and the City of Port Phillip.

Previously the bill contained provisions on the declaration of growth areas. These have been removed as the result of the dispute resolution. Clause 1(a)(ii) contains a purpose which is no longer covered by the bill. It will have no effect on the operation of the bill and clause 1 will cease to exist 12 months after the bill commences.

The amendments to the other acts provide for the effective operation of heritage infringements, the Victorian Urban Development Authority's ongoing involvement in Docklands development and the broadening of scope and operation of the Melbourne Convention and Exhibition Trust, all of which in their own way contribute to facilitating Victoria's development.

I commend the bill to the house.

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

Debate adjourned until later this day.

DOCUMENTS

Tabled by Clerk:

Conveyancers Act 2006 — Review of Exclusion under s 189

Financial Management Act 1994 — Report from the Minister for Agriculture that he had received the 2008–09 report of the Victorian Broiler Industry Negotiation Committee

Local Government Act 1989 — Order under s 219

Planning and Environment Act 1987 — Notices of approval of amendments to the following Planning Schemes:

Ballarat — C117, C133

Brimbank — C118

Casey — C118, C123

East Gippsland — C70

Golden Plains — C37, C38

Greater Dandenong — C98

Greater Shepparton — C129

Indigo — C44

Knox — C80

Melbourne — C145

Mitchell — C57

Monash — C87

Surf Coast — C51

Victoria Planning Provisions — VC61

Whittlesea — C132

Wodonga — C67

Wyndham — C68

Statutory Rules under the following Acts:

Building Act 1993 — SR 105

Crimes Act 1958 — SR 102

Domestic (Feral and Nuisance) Animal Act 1994 — SR 100

Local Government Act 1989 — SR 104

Magistrates' Court Act 1989 — SR 101

Road Safety Act 1986 — SR 94

Supreme Court Act 1986 — SRs 96, 97, 98, 99

Wildlife Act 1975 — SR 103

Subordinate Legislation Act 1994:

Minister's exception certificates in relation to Statutory Rules 96, 97, 98, 99

Ministers' exemption certificates in relation to Statutory Rules 94, 101, 102, 103, 104, 105.

The following proclamations fixing operative dates were tabled by the Clerk in accordance with an order of the house dated 19 December 2006:

Animals Legislation Amendment (Animal Care) Act 2007 — Remaining provisions — 1 September 2009 *(Gazette S298, 1 September 2009)*

Justice Legislation Amendment Act 2009 — Part 2 — 3 September 2009 *(Gazette G36, 3 September 2009).*

ROYAL ASSENT

Message read advising royal assent to:

8 September

Courts Legislation Amendment (Judicial Resolution Conference) Bill
Courts Legislation Amendment (Sunset Provisions) Bill
Racing Legislation Amendment (Racing Integrity Assurance) Bill
Local Government Amendment (Conflicting Duties) Bill

15 September

Water Amendment (Non Water User Limit) Bill.

APPROPRIATION MESSAGES

Message read recommending appropriations for:

Land Legislation Amendment Bill
Planning Legislation Amendment Bill (No. 2)
Valuation of Land Amendment Bill.

BUSINESS OF THE HOUSE

Program

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

> That, under standing order 94(2), the orders of the day, government business, relating to the following bills be considered and completed by 4.00 p.m. on Thursday, 17 September 2009:
>
> Education and Training Reform Amendment (School Age) Bill
>
> Land Legislation Amendment Bill
>
> Local Government Amendment (Offences and Other Matters) Bill
>
> Personal Property Securities (Commonwealth Powers) Bill
>
> Valuation of Land Amendment Bill
>
> Victorian Renewable Energy Amendment Bill.

In moving the government business program for this parliamentary week we have identified six pieces of legislation that we are putting forward for completion by 4.00 p.m. on Thursday. Whilst the spread of these pieces of legislation is wide, I think it would be acknowledged that there is sufficient time and capability over the next three days for the Parliament to complete these tasks by 4.00 p.m. on Thursday. Accordingly, I recommend the motion to the house.

Mr McINTOSH (Kew) — The opposition will not oppose the government business program. From my understanding of these bills, debate on them will certainly be finished by the conclusion of the program at 4.00 p.m. on Thursday. I have no doubt that will occur. In relation to the Planning Legislation Amendment Bill (No. 2) that we have just heard about, I understand that debate on that bill will take place some time tomorrow, enabling the opposition to take in the detail of the second-reading speech. I would imagine that debate will occupy some time. Notwithstanding that matter, I think the program will be able to be completed satisfactorily by 4.00 p.m. on Thursday.

I note that on today's program there are only two bills, apart from the annual statement of government intentions, the Macedonian Orthodox Church (Victoria) Property Trust Bill, which has been sitting on the notice paper for some time, and the Water Amendment (Critical Water Infrastructure Projects) Bill, which apparently was so urgent we had to come back in December 2006 after the 2006 election. It was then that it was put on the notice paper, and it has been sitting there ever since. I would have thought that if the government was fair dinkum about dealing with matters relating to water in this state, it would be timely to bring that matter forward. As the member for Lowan has indicated, the government has said it has got a plan, but this bill has been sitting on the notice paper for almost three years.

However, there are only two bills that we have to deal with today because the other bills cannot be listed on the government business program until Wednesday or Thursday due to their being adjourned for two weeks. With those short remarks, as I indicated, the opposition does not oppose the government business program.

Mr LUPTON (Prahran) — I want to make a couple of brief remarks about the government business program. It is pleasing to see that the opposition agrees with the government's estimation of its ability to transact this amount of business on the government business program this week. We have some important pieces of legislation, particularly the Education and Training Reform Amendment (School Age) Bill and the Victorian Renewable Energy Amendment Bill, which is one that I have a particular interest in. It is hoped that not only will the opposition not be opposing the government business program on this occasion but it will also be supporting the legislation.

Mr DELAHUNTY (Lowan) — I rise on behalf of The Nationals in coalition to say that we will not be opposing the government business program. The business paper in front of us today lists five bills. Two of those are listed under the government business program, and they are the only two that can be debated today. However, page 3 lists four bills on which debate can start tomorrow. As the member for Kew said, these bills should not take a lot of time to get through, so I am confident that we will be able to get through them by 4.00 p.m. on Thursday.

As a result of the motion agreed to a moment ago, we also have a new bill, the Planning Legislation Amendment Bill 2009 (No. 2), which will be debated tomorrow. That could take up a little bit of time. From talking to members on this side of the house my understanding is that we should be able to appropriately debate those seven bills within the time allocated.

I have to say, as the member for Kew said, the Water Amendment (Critical Water Infrastructure Projects) Bill 2006 is listed fifth on the notice paper. It is getting up there; it was down as low as 13 or 14 a couple of months ago. This bill was amended and came back from the Legislative Council.

As we all heard today in this chamber, the government has a plan for today, but it did not have a plan three years ago. Three years ago the government said that it would never take water from north of the Divide and pipe it to Melbourne and that it would never support the desalination plant, which was the Liberal Party policy before the last election. We can understand why government members do not want to talk about water bills, because I am not sure they know what the plan is for today. With those few words I will say that in coalition we will not oppose this business program this week.

Ms MUNT (Mordialloc) — I would like to speak in support of the government business program for this sitting week, which contains a number of important bills. I join with the member for Prahran in highlighting in particular the Education and Training Reform Amendment (School Age) Bill and the Victorian Renewable Energy Amendment Bill 2009. The Education and Training Reform Amendment (School Age) Bill will have an effect on all young adults of school leaving age in Victoria. Renewable energy of course is an important part of the government's program.

I would also like to make a quick note of the fact there are four sitting weeks left in this sitting year. There is a very busy program; there are six bills plus the planning bill to be dealt with this sitting week. I am pleased the opposition is not opposing the program for this sitting week.

Mr HODGETT (Kilsyth) — I rise to make a few brief comments. As has been stated, the opposition is not opposing the government business program. The six pieces of legislation plus other matters should be adequately dealt with by the 4.00 p.m. guillotine on Thursday. In particular we look forward to making contributions to the debate on the Education and Training Reform Amendment (School Age) Bill 2009 and the Victorian Renewable Energy Amendment Bill 2009. I know a number of members on this side of the house will make contributions to the debate on the other bills, in particular the Local Government Amendment (Offences and Other Matters) Bill 2009 and the Valuation of Land Amendment Bill 2009, about which a number of members have been consulting in their electorates and have some feedback. We look forward to making contributions to those pieces of legislation.

Motion agreed to.

MEMBERS STATEMENTS

Rail: Brighton level crossing

Ms ASHER (Brighton) — I wish to draw to the house's attention a petition that has been presented to me requesting the opening of the New Street railway gates. The petition has more than 1000 signatures on it. The gates have been shut for over two years. This is symptomatic of the government's incapacity to make a decision. I have presented petitions previously in this Parliament, and I have written on multiple occasions to ministers with some level of responsibility over this issue — the Minister for Public Transport, the Minister for Roads and Ports and the Minister for Local Government — and still there has been no action over a simple gate.

The closure of these gates has had a significant impact in the electorate. There is significant congestion in Hampton Street because there is a 'No right turn' sign at the corner of Beach Road and South Road. It is forcing drivers to act illegally, in many instances doing U-turns in the Brighton Beach railway station car park. The community is fed up after two years of inaction from the government on this issue.

The government has now appointed two bureaucrats to 'solve' this dispute, which yet again is another example of further delay and the shifting of responsibility. This is not a big problem. The solution is a simple one. The solution is for responsible the ministers to reopen the New Street gates to allow relief of traffic congestion in my electorate.

Solar energy: regional and rural Victoria

Mr BATCHELOR (Minister for Energy and Resources) — Solar workshops will be held across regional Victoria this week to engage with and update local organisations on the $100 million that is available from the Brumby Labor government for another large-scale solar project. The meetings will be held tomorrow and Thursday in Tatura, Bendigo and

Mildura. Earlier this year the Premier and I announced that the Brumby Labor government will provide up to $100 million to develop a new large-scale solar power station in Victoria which can produce about 330 gigawatt hours of electricity per year or enough power to run 50 000 homes. Large-scale solar power is the most economical form of solar energy generation.

Requests for proposals for this funding are currently open and we want to work with regional areas to help attract interest from companies and proponents who may be considering the projects. The high level of interest also highlights that regional Victoria has excellent solar potential and an electricity network capable of accepting new generation. The closing date has been extended so that those making applications for Brumby Labor government funding can also apply for Rudd Labor government funding at the national level. The request for proposals for Victorian funding will now close six weeks after guidelines for the Federal Solar Flagships program are released. This will enable proponents to apply for not only Victorian funding but also national funding.

Local learning and employment networks: funding

Mr WELLER (Rodney) — I wish to convey my very serious concerns about the new funding agreement for the local learning and employment networks (LLENs) which appears to be disproportionately tilted in favour of the urban and large provincial based networks. The federal government has significantly increased its spending on the LLENs. However, millions of dollars which should have gone to regional areas have been diverted to the city by the Victorian Labor government. The total new funding represents an average increase of 69 per cent, but it appears that a disproportionate number of LLENs based in regional areas of Victoria have received funding increases which are well below that average. In stark contrast, many city based LLENs have had their funding increased by more than 100 per cent.

The Campaspe Cohuna LLEN in my electorate received an increase in funding of just 32 per cent. The Grampians, Wimmera, Northern Mallee, North Central, North East and South Gippsland LLENs also received well below average rises of between 20 per cent and 30 per cent. This funding distribution analysis raises very serious questions about the formula used by the Brumby government to determine the allocation to each LLEN. The lack of adequate funding allocated to country based networks will ultimately disadvantage teenagers requiring assistance and support with education and employment. Rural-based LLENs met with the Victorian Treasurer in Echuca over the matter last Thursday and I support them wholeheartedly in their push for a more equitable system of funding distribution.

Maribyrnong Park Football Club: premiership

Mrs MADDIGAN (Essendon) — I would like to congratulate the Maribyrnong Park Football Club on its great win in the Essendon District Football League grand final on Sunday. Maribyrnong Park won the grand final in B division only two years ago and it is a great effort that two years later it has now taken out the grand final in A division. I would like to congratulate their captain, Heath Ayres, who did a great job, and of course their coach, Brodie Holland, who is well known to some members of this house.

Maribyrnong Park has proved to be a great football club. Five years ago the club was just about defunct and I helped it to get established again. Perhaps I should say that I do have a slight conflict of interest in that I am the club's no. 1 supporter. The supporters, ex-players and parents of the under-age sides have worked extremely hard to get Maribyrnong Park to this stage, and it is a great credit to them. It is good that we have some staff of the Essendon Football Club in the gallery today listening to my contribution on the Maribyrnong Park Football Club. We also have some members here who barrack for the Essendon Football Club, which has shown great support for local football in the area. We had the pleasure of being able to play the grand final at Windy Hill — a great football ground — and one where members would have been to over the years. Well done to the Marby Army!

Minister for Roads and Ports: press release

Mr MORRIS (Mornington) — The Minister for Roads and Ports is at it again. First he tried to suggest that the absolutely independent councillors at the Shire of Mornington Peninsula were in reality partisan political players. Now he is trying to redefine Victoria's geography to suit his own political agenda. Last Wednesday the minister issued a press release headed '$17.3 million in road upgrades for the Mornington area'. Clearly the minister has recognised that Mornington is being short-changed and is seeking to create an impression of activity.

Projects listed by the minister included: work on the Western Port Highway — 24 kilometres from Mornington; on the Frankston-Flinders Road — 18 kilometres from Mornington; at Pearcedale — 24 kilometres from Mornington; at Blairgowrie — 37 kilometres from Mornington; and at Sorrento —

41 kilometres from Mornington. None of these sites is, by any stretch of the imagination, in the Mornington district. They are not in the post code; they are not in the electorate; they are not even in the district occupied by the former Shire of Mornington. They have absolutely nothing to do with Mornington. Thankfully there is in fact one project in Mornington — $1.2 million, not quite 7 per cent — for a set of traffic lights on the Nepean Highway, which is long overdue. Well done, Minister. Given the minister's shortcomings in geographic expertise, it is perhaps a good thing that a driver is provided to him or we might never see him again.

Roxburgh Rise Primary School and Gladstone Park Secondary College: musical productions

Ms BEATTIE (Yuroke) — I rise to congratulate Roxburgh Rise Primary School and Gladstone Park Secondary College on their excellent work in the performing arts. I recently had the pleasure of attending both of these schools' annual productions, and this year I was again thrilled with the high standard of these outstanding productions.

On Friday, 28 August, I attended Gladstone Park Secondary College's adaptation of *The Wiz*, and on Thursday, 10 September, I attended Roxburgh Rise Primary School's musical concert. Both school productions really showcased the talents of their students and in particular the high levels of dedication required to perform such terrific shows, not only with the students performing on stage but also the support back stage. Such wonderful school productions as these are only possible with the support and enthusiasm of all involved, including the fantastic and dedicated teachers and parents.

I would like to congratulate and thank all those involved in these productions. These productions would not have taken place had it not been for the Brumby Labor government funding the Ken Thompson Performing Arts Centre and building the new Roxburgh Rise Primary School. There is no doubt that many of these talented students will go on to achieve much in the area of the performing arts. Both evenings were most enjoyable and reinforce to me the fact that the electorate of Yuroke has indeed the most talented children in all of Victoria.

Sewerage: Dutton Way

Dr NAPTHINE (South-West Coast) — Last week I attended a public meeting on the proposed reticulated sewerage scheme for Dutton Way near Portland. There was widespread support for the implementation of this scheme for public health, environment and to create future development opportunities in the area. However, the affected community seek action from the Minister for Water on several key aspects of the proposed sewerage scheme. Due to the low-lying topography, high water table and the relatively long narrow area covered by the scheme, the preferred scheme is a low pressure system which requires each landowner to have a grinder pump on their property. These pumps cost about $8000 each and under the Wannon Water proposal that cost will be borne by landowners along with the other on-site costs, bringing the cost to property owners for connection to this scheme to about $12 500 per property owner.

Wannon Water has offered to bulk purchase these grinder pumps and fully maintain them into the future, including future replacement cost. The action I seek from the state government and the Minister for Water is to accept the responsibility for this $8000 initial cost for each pump as they are part of the essential infrastructure of this low pressure scheme. We also need the Minister for Water and Wannon Water to increase the size of the pipes in this scheme to allow for additional houses to be built on the 80 to 100 empty lots in the Dutton Way area. Finally, we need the state government to provide low interest loans to help landowners with financial difficulties meet their costs of this scheme and make sure that they are able to afford to contribute.

John Cohen

Mr HERBERT (Eltham) — Last Saturday, 12 September, I had the honour to attend the 90th birthday celebration of John Cohen, a significant Eltham identity. Born in 1919, John fled the Nazis in 1938 following beatings and persecution when he was a Jewish youth living in Germany.

He has been a great addition to Australia and in particular a great contributor to Victoria's development. He has been strongly involved in interfaith dialogue and promoting peace amongst different races and religions. He has made an enormous contribution to many community groups. He has been a teacher, a unionist, a Diamond Valley councillor and one of the most successful and admired mayors our area has seen. He has been instrumental in the development of Legacy, and he is a lifetime member of the ALP.

John Cohen has made and continues to make a fantastic contribution to political, cultural and intellectual community groups in this state, and his birthday celebration acknowledged what a great husband, father and grandfather he has been. John's ongoing love of his

children and grandchildren, his commitment to forming a strong and formidable family in Australia and his total dedication to his wife, Shirley, has been a source of inspiration to all who know him, although I must report that some present described Shirley as one of the most tolerant women on earth! I am sure John would agree with that definition.

John has been a great source of advice and knowledge for me since I was elected in 2007, and I hope to benefit from that advice for many years to come.

Water: Thomson River supply

Mr NORTHE (Morwell) — I refer to an article in yesterday's *Age* newspaper under the heading 'Thomson water grab a measure of policy failure' and subheading 'The refusal to tap major alternative sources have left us all vulnerable' and congratulate the author for such an accurate and succinct appraisal of the Brumby government's water plan. The article makes reference to the Brumby Labor government's decision to draw another 10 billion litres of water earmarked for environmental flows to the already stressed Thomson River for the purpose of supplementing Melbourne's water supplies.

In October 2006 then water minister, John Thwaites, declared that the government was returning 10 billion litres to a stressed Thomson River, but 12 months later the current Minister for Water rescinded that decision. In complete contradiction to the government's Our Water Our Future plan, the Minister for Water now wants to rob our rivers further.

I cannot fathom why, while 500 billion litres of water flows into Port Phillip Bay on an annual basis, this lazy government has opted to pillage regional rivers to augment Melbourne's water supplies. The question that needs to be posed is why the Brumby government is not focusing its efforts on utilising this wastewater. Quite simply, Melbourne needs to do more to live within the means it has available to it, much like many regional areas. East Gippsland Water, for example, treats and reuses 100 per cent of its wastewater, while the Gippsland Water Factory will soon reuse approximately 25 per cent of its industrial and domestic wastewater for industrial purposes. The Brumby government must cease its raid on regional rivers, which will ultimately lead to the degradation of whole regional communities.

University of Melbourne: faculty of the VCA and music

Mr HUDSON (Bentleigh) — Last week the Leader of the Opposition wrote to the students and staff of the Victorian College of the Arts saying that a Baillieu government would ensure that the VCA's shortfall of up to $6 million was restored and that he would move to make the VCA independent again. However, he failed to mention that the reason there is a shortfall is that Brendan Nelson as the federal Minister for Education, Science and Training ripped $6 million out of the VCA in 2005 by changing the university funding arrangements and forcing the University of Melbourne to subsidise it. As a result, the subsidies to VCA students dropped by $10 000 a student. The Minister for the Arts wrote to Brendan Nelson protesting the cut, but nothing was heard from the Leader of the Opposition.

The VCA has been part of the University of Melbourne for the past 21 years. The Leader of the Opposition's other plan, to make the VCA independent again, will strip a further $18 million of university subsidy from the VCA without doing anything about its financial situation.

University funding is a commonwealth responsibility, and the issue for the VCA is funding parity. The VCA is getting less than a third of the per capita funding of other arts training institutions around the country. The Minister for the Arts is taking action by requesting funding parity from the commonwealth. Engaging in a cheap stunt by suggesting the VCA become independent again will do nothing to help the students and teachers at the VCA, but it will put a gaping hole in the state budget. Why has the Leader of the Opposition given up on parity for the VCA, and why did he not do something in 2005 when he had the chance?

Bushfires: native vegetation clearance

Mrs FYFFE (Evelyn) — In this job we come across people from all walks of life, many of whom are the salt of the earth, volunteering time to all in need. At the other end of the spectrum we have the low-life mongrels and unscrupulous scum, who have been preying on the elderly and vulnerable since the 10/30 vegetation removal announcement. They are the lowest of the low. They have been knocking on doors and telling residents they must cut down trees and demanding $5000 up-front to do it. They are causing immense distress to residents who are already nervous about the upcoming fire season. Acting Speaker, if it were not for the fact that you would pull me up for

unparliamentary language, I would really say what I think about these people.

Government: performance

Mrs FYFFE — We have had 10 years of Labor, and what have we got? Twenty-five new taxes netting billions in extra cash, yet transport, hospitals, roads, and law and order are only getting worse. We have the highest unemployment levels in Australia, businesses are dealing with more red tape than ever, and due to 10 years of incompetent management we are running out of water. Victoria is burning while Premier Brumby's Labor government just sits and spins its web of announcements and reannouncements, treating the electorate like fools.

Road safety: hoons

Mrs FYFFE — The hooning hotline is a joke, a political stunt, a political gimmick. Residents tell me they have called the hotline after regular weekend encounters with hoons in their streets and unless they can obtain the registration details, which is impossible with the smoke that comes from these vehicles, they are told that nothing can be done. The residents want results from the hotline, not the hot air they are getting now.

Drought: coalition policy

Mr HELPER (Minister for Agriculture) — The opposition does not respect Victorian farmers enough to put together a properly researched and costed drought package. On 3 September the Leader of The Nationals issued a media release that claimed drought funding must remain, and he listed the drought policies a coalition government would instate. When I read these policies they sounded very familiar. I quickly realised they were Brumby government policies simply cut and pasted. So botched was the cut-and-paste release that one of the drought response measures the Leader of The Nationals claimed would be reinstated was 'increased demand for exceptional circumstances drought assistance'.

Is this really the opposition's policy? Does the Leader of The Nationals want more Victorian farmers to be drought affected? Perhaps he wants the drought to continue so he can issue more press releases with the same misinformed lines. What of the reinstatement of drought coordinators that opposition members demanded in no less than 12 press releases? Somehow that has disappeared from their newfound policy, despite commitments to the Alpine, Murrindindi, Strathbogie, Mansfield, Benalla, Wangaratta and Shepparton shire councils. The member for Benalla's once vivid recollection of the names of individual drought coordinators has also disappeared.

Where is the Leader of the Opposition in all of this? His heart is not in it — all he can do is leave it to Cut-and-Paste Pete to slap together a plagiarised drought policy, and that does not hold water.

Andersons Creek Primary School: speed zone

Mr R. SMITH (Warrandyte) — I recently tabled a petition in the Parliament bearing the signatures of 778 local Warrandyte residents. These are signatures of the parents, families and friends of students of Andersons Creek Primary School who are calling for a 40-kilometre-per-hour speed limit zone to be introduced in Harris Gully Road, Warrandyte, to help ensure the safety of students crossing that road on the way to and from school.

The school's community has been asking VicRoads to lower the speed limit for over two years. VicRoads's response has been that since Harris Gully Road does not run directly adjacent to the school, it does not qualify for the speed limit reduction. VicRoads's regional director, Duncan Elliot, has said that because the school gates do not open directly onto Harris Gully Road the reduced speed limit is unnecessary. Never mind that the school operates a crossing on Harris Gully Road before and after school, because it is used by a number of students. Never mind that the children who use the road are in a degree of danger from speeding cars. Never mind that 778 members of the broader school community think differently to Mr Elliott. The fact is that the school gates do open onto Harris Gully Road, but the strip of natural reserve between the school and the road is deemed by VicRoads to be too wide to allow the proposed change. We should not allow bureaucratic red tape to get in the way of ensuring local children are safe as they travel to and from school.

School principal, Des MacKenzie, has said that the current situation is an accident waiting to happen. I ask the Minister for Roads and Ports to heed this warning and urge him to intervene in VicRoads's decision and to introduce a reduced speed limit as a matter of urgency.

Camp Ashraf, Iraq

Ms CAMPBELL (Pascoe Vale) — Many of my constituents and I have grave concerns for more than 3500 Iranian exiles living in Camp Ashraf in Iraq who were forced to leave Iran. Camp Ashraf residents have

been designated as 'protected persons' under article 27 of the Fourth Geneva Convention, which prevents extradition or forced repatriation to Iran as long as the United States-led multinational force is present in Iraq. An agreement for the protection of Camp Ashraf residents was signed between each and every resident and the US forces, governing their status until their final disposition.

There have been well-known instances of human rights violations at Camp Ashraf, most recently on 28 July when Iraqi security forces stormed the camp on the pretext of establishing a police station within the camp. Armoured cars drove into crowds, zigzagging from side to side and running several residents down. Video footage is just horrendous. Pictures show police beating women and men with staves, while one officer brandished an axe. I saw this on the video with my own eyes. Videos show police wielding not only batons and water cannons but also iron bars in their assault on unarmed residents. Residents also claim that at least two people were killed by sniper fire. Eleven residents were killed in the melee and over 350 people were injured, some of whom are in deep comas, in critical states or on the verge of death. Thirty-six hostages were taken to unknown destinations. We cannot allow Camp Ashraf residents to face persecution any longer; the international community must speak.

Housing: maintenance

Mrs VICTORIA (Bayswater) — Recently a constituent came into my office with a troubling scenario. The gentleman lives in an Office of Housing unit and recently contacted the office to arrange the replacement of some fluorescent tubes in his kitchen and bathroom. He was informed of the cost and was happy to pay for the replacement. However, he then received a document from Office of Housing entitled 'Notice of acceptance of responsibility for damage' which he was required to sign and send back with the payment. My constituent was understandably disgruntled that he was asked to sign this document, given that he had not done anything wrong. The replacement was due to regular wear and tear and had nothing to do with damage.

This further demonstrates the consistent approach taken by the Brumby government — continual cost-shifting. He was told that this was just a standard departmental document, and although it was worded in way which was upsetting people, it was likely to remain that way for another two years. Luckily we have great staff at the Ringwood Office of Housing who were understanding and were able to assist. Ten long years of a Labor government addicted to taxes and ripping off those who can least afford it — something is very wrong.

First Friends of Dandenong Creek

Mrs VICTORIA — As a member of the executive of the First Friends of Dandenong Creek, I am proud and pleased to say that we recently celebrated our 10th annual general meeting and 100th meeting. We are a group of active local volunteers who dedicate our time to preserving the Dandenong Creek and surrounds. Recently 25 green-thumbed Marlborough Primary School students helped us plant and tag trees; a great way to foster future interest in our youth. I applaud my fellow members for their passion.

East Geelong Football and Netball Club

Mr TREZISE (Geelong) — I take this opportunity to congratulate the East Geelong Football Club on its magnificent victory in the Geelong and District Football League grand final last Saturday, the club's first premiership since 1993. As members of the house would be aware, the night's celebrations were marred by the tragic death of reserves player Nathan Alsop. My thoughts go out to the Alsop family at this terrible time, and also to the Singleton family.

As a former player at the East Geelong footy club and current no. 1 member, I assure the house that Saturday's victory was well deserved and the result of a lot of hard work by both on and off-field leadership teams. Off the field the club is ably and professionally led by Graham Thompson, who is supported by an equally dedicated committee. On the field, coach Adam Skrobalak has done a tremendous job as a quality leader and is well supported by his coaching staff.

Just as important to the club as its football success in 2009 is that of the club's netball team, with the under-15 and D-grade sides winning their grand finals.

The East Geelong Football and Netball Club is a great club, a club that does tremendous work in providing the game of football and netball to hundreds of players across eight footy and seven netball teams. The million-dollar upgrade to the clubrooms this year, with the assistance of the council, typifies the progress of the club. The East Geelong Football and Netball Club is a very proud club, steeped in a 130-year history, and it is a club that I am proud to be a member of. I congratulate the club on its success in 2009, and I know that work for 2010 will already have commenced.

Water: allocations

Mr CRISP (Mildura) — The announcement today on the Victorian Murray water allocation of an additional 11 per cent, making a year-to-date total of 13 per cent, should be a call to action on fixed water rates and exceptional circumstances qualifying for local government rate relief. Past assistance measures have been provided to horticulturalists in the Murray region, and these persistent low allocations are of considerable concern. Farm businesses need certainty in order to maintain confidence amongst financial and other service providers, local government and farm providers.

At the very least, the Minister for Agriculture should announce the continuation of last year's qualifying level of 30 per cent or less at 1 December. It is obvious we are not going to make that 30 per cent without an extraordinary rainfall event, which seems less likely every day. This would allow analysis of current allocations and weather conditions and allow growers to plan for the future.

Ouyen: centenary celebrations

Mr CRISP — The Ouyen centenary year continued on 4 September with the great vanilla slice triumph. Vanilla slice day is a wonderful event featuring judging of the vanilla slices, won this year by Sharp's Bakery from Birchip — the first Mallee winner for some time. Two sections of the Tour of the Murray River cycle event and historic plaques were unveiled, among numerous other events. Congratulations to Ouyen Inc and the many other helpers on the day for a wonderful event. The centenary year's next event is the Ouyen farmers' festival and street parade on Melbourne Cup Day.

The ACTING SPEAKER (**Mr K. Smith**) — Important issues come before the house, and vanilla slices are important.

Emerald: community arts centre

Ms LOBATO (Gembrook) — I highlight new infrastructure recently opened that will significantly benefit the electorate of Gembrook. I was pleased to participate in the official opening of Gemco's performing arts facility in Emerald. For many years the very successful community theatre group had lobbied for a facility to cater for local drama. Funding was achieved in 2006 through a partnership between the state and federal governments and Cardinia Shire, with significant funds also contributed by Gemco. Congratulations to Gemco and the Emerald community for the outstanding new facility.

Berwick Technical Education Centre

Ms LOBATO — Another local facility recently opened is the Berwick Technical Education Centre located at Chisholm Institute of TAFE. The Berwick TEC, officially opened by the Minister for Skills and Workforce Participation, is an architecturally outstanding building providing a variety of trades training for our young people. The $8 million state-funded TEC has been an overwhelming success with all places subscribed almost immediately. Congratulations to Berwick TEC and Chisholm Institute.

Country Fire Authority: satellite stations

Ms LOBATO — Another infrastructure achievement for the electorate of Gembrook is two new satellite fire stations in some of our most fire-prone areas. I was joined by the Minister for Police and Emergency Services, who officially opened the satellite stations at Powelltown and Warburton East. The existing brigades of Gladysdale and Warburton will be even better served with these satellite stations providing protection for the Upper Yarra communities for this coming fire season and into the future. I acknowledge, thank and congratulate all volunteers in the Warburton and Gladysdale brigades.

Employment: government performance

Mr WELLS (Scoresby) — This statement condemns the Brumby Labor government for its failure on jobs and in particular the Premier for his disgraceful denial of the Australian Bureau of Statistics figures in question time today. The release last week of labour force data for August revealed that Victoria now has the highest unemployment rate in the country at 6.3 per cent — an increase of 0.4 per cent compared to July 2009. Nationally unemployment remains steady at 5.8 per cent. This means 13 100 Victorians lost their jobs last month, and a total of 178 900 Victorians are now unemployed. Over the year to August, unemployment has now increased by a deeply disturbing 50 per cent, or an extra 60 000 Victorians. In August Victoria achieved a dismal trifecta. Our state also has the highest underemployment rate, at 8.2 per cent, and the highest labour under-utilisation rate, at 14.4 per cent, in the country.

Victorians are sick and tired of hard-hat media stunts by the Premier. The Brumby government wastes plenty of taxpayers money on television advertisements about its so-called transport plan, but no projects have commenced, and $30 billion of this plan is unfunded. What we need is urgent action on bringing forward

major projects to get Victorians back into jobs. What we have seen is a decade of Labor's failure to secure Victorian jobs. There is something very wrong when the government turns its back on Victoria's growing jobless queues.

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

Western Bulldogs

Ms THOMSON (Footscray) — I rise to congratulate the Western Bulldogs on their great victory last Friday night and to wish them all the best for this Friday night. I hope to see them in the grand final.

Diwali festival

Ms THOMSON — I would also like to take this opportunity to thank the Western Bulldogs, who, during this very busy time for them, have gone out of their way to help the community in the west organise the upcoming Diwali festival. Diwali is known as the Festival of Light and is celebrated by all Indians, both within India and externally. This Diwali festival will be held on 3 October. I hope Footscray will be celebrating finals victories right through to 3 October and that we see the Bulldogs successful.

The Western suburbs are joining together with West Footscray neighbourhood house; Victoria Police; the Metropolitan Fire Brigade; Maribyrnong City Council, which is also offering a great deal of support; Bharat Times; the Victorian Multicultural Commission; Cricket Victoria; Victoria University; ANZ Bank, Primus Telecom and iPrimus; Kosdown Printing; City West Water; Australian Technical and Management College; and Leader Newspapers in helping to make this a wonderful event. There will of course be the obligatory cricket match, with Merv Hughes attending, and lots more.

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

LOCAL GOVERNMENT AMENDMENT (OFFENCES AND OTHER MATTERS) BILL

Second reading

Debate resumed from 12 August; motion of Mr WYNNE (Minister for Local Government).

Mrs POWELL (Shepparton) — I am pleased to speak on the Local Government Amendment (Offences and Other Matters) Bill 2009. I would like to say at the outset that the Brumby government's failure to deal with Labor councillors and members of Parliament who continue unlawful practices with regard to local government has resulted in many reports being tabled in this house and has caused huge angst amongst councillors because all councillors have been wrongly tainted.

Another report on the Brimbank City Council — the third — was tabled this afternoon. This is a report by Mr William Scales, inspector of municipal administration, who was asked to monitor the council for the next three years. He started in May of this year and has now made a recommendation that the government consider suspending or dismissing the councillors at Brimbank City Council — after just four months of monitoring the council. The council knew it was under scrutiny by Local Government Victoria, by the wider community and, more importantly, by members of its own community.

The Ombudsman alerted the government to concerns that issues would continue at Brimbank, and sadly this has been the case. There was also evidence of unelected people influencing council. I see that the Premier's office has put out a release saying the government will immediately sack the Brimbank councillors, and I urge the government to do that so that the people of the western suburbs of Melbourne can have some decent representation.

I would now like to talk about the Local Government Amendment (Offences and Other Matters) Bill. The Brimbank issue illustrates the offences quite well. References to all these issues have been sourced from the first Brimbank council report. The Liberal-Nationals coalition will not be opposing the bill. However, we do have some concerns — I will talk about those in a moment — because again the government is bringing in legislation hastily and without looking at all the issues.

When the government brought in its first local government amendment bill in November 2008 we asked it to review the conflict-of-interest provisions. This is the second bill that deals with and proposes to change those provisions. The first bill to do that was the Local Government Amendment (Councillor Conduct and Other Matters) Bill under which councillors could no longer work for state or federal members of Parliament.

This bill proposes to amend the Local Government Act 1989 to increase penalties for certain offences. We are told that it is to reflect current community expectations

and provide consistency with the Sentencing Act 1991. There is a glaring omission in this legislation — in section 55D, which I will talk about later — given that the government has made a number of changes to and has increased penalties in sections 55A, 55B and 55C but has not increased penalties in section 55D. There are also no penalties in the corresponding section of the Local Government Act, which deals with councils. I will talk about that later. However, the bill increases substantially penalties for breaches of the Local Government Act. As I said earlier, it increases substantially penalties for the electoral breaches and amends the conflict-of-interest provisions.

There is also a backflip relating to the definition of 'applicable gift', which has now been amended. We on this side of the house are pleased to see that change. As I travelled around the state one of the biggest conflict-of-interest issues I became aware of concerned gift donations of $200 and over during the past five years. This has caused huge angst in councils, because many current councillors were not on councils during that time. That retrospectivity is a huge issue. We raised it as an opposition, and I know councils right across Victoria wrote to the minister. I am pleased to see that the minister has finally changed that provision so that not-for-profit organisations will be exempt if a councillor, a mayor or an officer attends an event or function on a hospitality basis in the course of their duty.

The Local Government Amendment (Councillor Conduct and Other Matters) Bill was introduced in November 2008. We allowed that bill to pass. Although we had some concerns about the conflict-of-interest issues we did not oppose it because we understood there was a need to introduce a code of conduct and code of conduct panels and to implement councillor remuneration packages. There was also a need to enforce standards of conduct regarding local government councillors and to reform some codes of conduct that councillors were not strictly adhering to. That legislation introduced extensive changes to conflict-of-interest provisions and dealt with the issue of direct or indirect interest.

Indirect interest has caused major angst in councils, because it deals with very grey areas. I have had a number of examples provided to me about councillors not understanding if they have a conflict of interest because the area is so broad. Having an indirect interest could mean having a close association; it could mean having an indirect financial interest; it could mean having conflicting duties; it could mean, as I said earlier, having received a gift, gifts or donations totalling $200 plus over the previous five years.

Another issue concerned section 78D entitled 'Indirect interest as a consequence of becoming an interested party'. I will deal with that issue later in a discussion of an issue I raised with the minister during the last Latrobe City Council election, where a person had become interested in civil proceedings.

The biggest change regarding those conflict-of-interest provisions is that councillors can no longer take part in discussions. They must declare an interest, then leave the room and not vote. Before that legislation came in, a councillor would declare their interest, stay for the debate and be available to be asked questions. The questions could be part of the debate, but the councillor would then be requested to leave the room and not vote. That has now changed, and a number of councillors are saying they are now not able to be part of a debate when it might be in the best interests of the council for them to be there on the understanding they should not vote.

During the debate on the councillor conduct bill I asked the minister to review the conflict-of-interest provisions after 12 months. We will again have amendments to those provisions. They are still not right; the government should have got them right in the first place. Constantly bringing in amendments — this is the third time since November 2008 — does not clarify the position. Those provisions are much more complex.

This bill only tinkers at the edges. The government needs to have proper discussions with councils and conduct a genuine review to make sure it gets those conflict-of-interest provisions right. It is important that if councillors have a conflict of interest, they declare it and make sure they do not vote on those matters. The issue at the moment is that councillors are removing themselves, sometimes conservatively, when maybe they should not. The fact is that a number of councils now often cannot get a quorum and councillors are excluding themselves during budget debates and so forth. In some cases, as in Geelong, they have done this 15 to 17 times during the budget process.

The bill before the house today increases the penalties in the Local Government Act. I thank the minister for organising the briefing; we spent a lot of time going through the bill, and it was very helpful. I was told at the briefing that although there are now penalties to deal with a lot of the offences that were committed at Brimbank City Council and a lot of other councils, there are penalties in the Local Government Act that could have been imposed. I was told very few penalties have been imposed. I think two Geelong councillors and one Ballarat councillor have been affected in recent times. The government is bringing in legislation to

increase penalties in an effort to prove that that is how it is dealing with corruption. However, if the government had imposed the penalties that already provided for in the Local Government Act we would have been able to make sure corrupt practices were stopped.

I have consulted quite a number of councils across Victoria. Together with my colleague the shadow parliamentary secretary for local government I have personally travelled to about 38 councils and have spoken with their representatives. I have also spoken to the MAV (Municipal Association of Victoria) and the VLGA (Victorian Local Governance Association). There is some angst over concerns with the conflict-of-interest regulations, but I have not received any responses about this particular legislation from the MAV or the VLGA. I am hoping that means there is no opposition to it. I noticed in the briefing notes of the MAV a suggestion that there was no opposition to this bill.

I received a number of responses. One was from Peter Brown, the chief executive officer of Moreland City Council. The letter says in part:

> The amendment of certain penalties for offences in the bill are considered appropriate …

It goes on to suggest the proposed amendment to section 58A 'Offence to interfere with postal ballot materials' could be amended to read:

> (1) A person must not interfere with any material being, or to be, sent or delivered to a voter, or being returned by a voter or any other person under section 41A(2)(b). Penalty: 10 penalty units.

The letter states:

> The reason for this is that some ballot papers are damaged or interfered with at mail sorting rooms, while being returned from voters, or more likely where the voter has left the address and the envelope is marked not at this address or similar. The act has a flaw that provides for no offence to interfere with the returning of ballots.

The minister might like to have a look at that in his summing up. I have also received a letter from Greater Geelong City Council. It deals with issues of conflicting interests, the register of interests and the need for training. This is a copy of a letter that was sent to the Minister for Local Government, so I know he is aware of it. I hope he is looking at the issues that the council has raised.

As I said, the government has increased penalties for many offences regarding section 55. I quote from the bill's explanatory memorandum:

> Clause 9 amends section 55(1) of the principal act to alter the maximum penalty for a body corporate that fails to include authorisation details on electoral material from 20 penalty units to 50 penalty units.
>
> Clause 10 amends sections 55A(1) and 55A(2) of the principal act to increase the maximum penalty for a person who prints, publishes or distributes misleading or deceptive electoral matter or who prints, publishes or distributes a purported representation of the ballot paper that is likely to induce a voter to incorrectly mark their ballot paper …
>
> Clause 11 amends section 55B of the principal act to alter the maximum penalty for a body corporate newspaper proprietor that does not print the word 'advertisement' above paid electoral material from 20 penalty units to 50 penalty units.
>
> Clause 12 amends section 55C(1) of the principal act to alter the maximum penalty for a body corporate that prints, publishes or distributes a newspaper, circular or pamphlet that includes material containing electoral matter without setting out the name and address of the material's author from 20 penalty units to 50 penalty units.

Members will notice that I have talked about sections 55A, 55B and 55C. Section 55D of the Local Government Act is headed 'Prohibition on Council' and says:

> A Council must not print, publish or distribute or cause, permit or authorise to be printed, published or distributed, an electoral advertisement, handbill, pamphlet or notice during the election period unless it only contains information about the election process.

There is no penalty listed after the offence. It seems strange to me that this is a bill that increases penalties; however, not only does it not increase the penalty for this, but there is no penalty.

I raised this issue with the Minister for Local Government during last year's council election process after I became aware of a newsletter that was being distributed by the Latrobe City Council which I was told might be in breach of section 55D of the Local Government Act. Some constituents had raised with me the issue of the council printing and distributing a newsletter that might be in breach of that section. The minister investigated the matter, then told me that he had tried to have the distribution of the newsletter stopped, and I understand that was his intention.

Unfortunately the newsletter was not stopped, even though the chief executive officer had put out a press release saying it was stopped. I understand Cr Price, who at that time was also a candidate, was still allowing the material to be distributed. It was distributed in certain shops in Moe and was being sent out. A number of constituents were concerned about this and about the fact it might advantage several candidates who were standing for election at the time. About 10 Moe residents went to the Melbourne Magistrates Court for a

hearing of the Municipal Electoral Tribunal (MET). They were advised by Local Government Victoria and the Victorian Electoral Commission that that was the course to take, so they took it.

I understand the hearing was on 10 August. The front cover of the transcript shows that case no. X03577266 was between Craig IcIver, the applicant; Latrobe City Council, the first respondent; and Lisa Price, the second respondent. The decision was made by Magistrate Smith. I quote from the magistrate's determination:

> Clearly when one is considering the issue of whether or not material is 'electoral matter' within the meaning of the relevant provisions, regard must be had to the circumstances of each particular case, in order to determine whether a council has crossed the line from acceptable conduct within the ordinary business of the council having regard to the election period, to a breach of section 55D.
>
> In my opinion, the publication and distribution of this newsletter has crossed that line and the council was in breach section 55D.

Section 55D contains an important offence. No penalty was given to Latrobe City Council, and my understanding is that was because there is no penalty in the act. It was very difficult.

The government knew about the breach of this section. I ask the minister to address the following questions during his summing up. Why is section 55D not amended by this bill to include a penalty, given there is now a precedent and that the magistrate said it is an important issue? It is not just an issue for Latrobe City Council; we need to send a message to Victorian councils at large that during an election period it is an offence to distribute or print electoral material. There needs to be not only an offence but also a strong penalty, which would send a strong message to councils that they cannot do that. There is already a precedent in that it has been found that an offence had been committed. Now we need to make sure that local government understands it cannot breach that section and get away with it. At the moment it looks as though there is no follow-up to the issue regarding Latrobe City Council.

On 25 August Cheryl Wragg, who was one of the people who went to the Magistrates Court for the MET hearing, wrote to Colin Morrison, acting director, governance and direction, Local Government Victoria. I quote from her letter:

> As you may recall, last year I made formal complaint about an apparent section 55D breach by Latrobe City Council during the 2008 council elections. During that complaint process, you advised that I and other complainants could make application for a Municipal Electoral Tribunal (MET), to hear our complaint.
>
> I write to thank you for your advice. We did seek a MET, the complaint was heard, the allegation was upheld and Latrobe City Council found to have breached section 55D of the Local Government Act …
>
> … I request that the Local Government Act be changed to provide a penalty against councils who breach section 55D.

She concludes by asking:

> … what actions are LGV and the minister going to take in response to Latrobe City Council's breach of section 55D?

Mr Morrison responded on 8 September. I quote from his letter:

> With regard to the tribunal's finding that the above council breached section 55D of the Local Government Act 1989 (the act), I confirm your understanding that there is no offence or penalty applicable to such a breach. As such there is no further enforcement action that can be taken by the minister or LGV in relation to this matter.
>
> Your comments about suggested amendments to the act concerning publication of electoral material by councils are noted. For your information, I advise that regular reviews of provisions of the act are undertaken by LGV for possible legislative reform where appropriate, and input from individuals on matters of concern relating to the act is always appreciated and where warranted, considered in conjunction with such reviews. Any decision to amend the act is ultimately a matter for the Victorian Parliament.

I agree that it is up to the Parliament to make those decisions. I do not know why we have dealt with other breaches of the act with increased penalties. We have found that there was probably no need to increase those penalties, as they are not a deterrent because the penalties have not really been imposed on councils or on councillors.

My question to the minister is: why is there no penalty to section 55D? Is the minister thinking about putting a penalty in as a deterrent to other councils? I urge him to do so, because without the penalty there is only an offence and it has no teeth. Councils will breach this section and get away with it, and we cannot continue to have that. It disadvantages certain candidates. If we make rules, we have to make sure that they are enforced. Again I call on Local Government Victoria and the minister to make sure that matter is dealt with.

On the continuing issue of the Latrobe City Council, it has come to my attention that at a council meeting on 7 September this year a notice of motion was moved by Cr Fitzgerald. The motion says:

> 1. That the chief executive provides council with a report in relation to the municipal electoral hearing case no. X03577266 the report should outline the following and be presented to open council:

> The reasons for council to distribute the Moe activity centre plan newsletter issue 1, November 2008;
>
> When the decision was made to release the Moe activity centre plan newsletter issue 1, November 2008;
>
> The reasons council did not believe it was in breach of the Local Government Act 1989; and
>
> The governance processes in place to prevent this from occurring in the future.

2. That in addition to point 1; that council engages an independent third party agreed to by council to undertake an investigation into the breach of section 55D of the Local Government Act 1989.

3. That a full accounting of the legal costs incurred at the municipal electoral hearing be provided to open council.

As I said, that motion was moved by Cr Fitzgerald, and Cr Kam seconded that it be adopted. Councillors for the motion were Crs Gibson, Kam, Fitzgerald and O'Callaghan; against the motion were Crs White, Middlemiss, Vermeulen, Price and Lougheed. The mayor confirmed that the motion had been lost.

If members recall my remarks about the judgement by the magistrate, the municipal electoral hearing case was between Cr McIver and the Latrobe City Council with Cr Lisa Price as the second respondent. I wonder whether Cr Price has breached section 78D of the Local Government Act. That section is headed 'Indirect interest as a consequence of becoming an interested party'. It is a new provision of the Local Government Act which was inserted into the act prior to the November elections. It states:

> A person has an indirect interest in a matter if the person has become an interested party in the matter by initiating civil proceedings in relation to the matter or becoming a party to civil proceedings in relation to the matter.

Cr Price has been found to have been a person in relation to those proceedings. Cr Price voted at a council meeting on 7 September when she was the second respondent in the proceedings. I ask the Minister for Local Government to investigate whether there was a breach by Cr Price of section 78D of the Local Government Act given that she is listed as the second respondent in case no. X03577266 in the Magistrates Court of Victoria at Melbourne at the sitting of the Municipal Electoral Tribunal. She also voted on that matter in council.

I believe that the conflict-of-interest provisions were designed to exclude councillors who have an interest in a matter such as that from voting on those matters. Cr Price should have noted that she had an indirect interest in that matter and should have excluded herself not only from the room but also from the vote. The vote was very close; if Cr Price had not been there, the vote would have been 4:4. So the vote was passed on the vote of the mayor, who is Cr Price.

Again I urge the government to have a look at that issue. I am sure it is not an issue with just the Latrobe City Council; we have to send a very strong message to all councils. The government has put conflict-of-interest provisions in the legislation, and it should now ask the councils to comply with them. Otherwise there will simply be conflict-of-interest provisions of which councillors are not taking any note. We will find report after report when we, on this side, write time and again to the Ombudsman seeking investigations of matters where breaches have occurred.

In this piece of legislation there are a number of examples of offences for which penalties have been increased, and I will go through just a number of them. There is now a maximum penalty of 120 penalty units for offences relating to misuse of a voters roll or provision of false enrolment information; it is currently 10 to 20 penalty units. There is a maximum penalty of 240 penalty units and two years prison for a person who nominates for election when not entitled to do so; currently it is 20 penalty units. There is a penalty of 120 penalty units or up to one year in prison for interfering with a person's free exercise of their democratic rights or interfering with a person when marking a ballot paper. There is a penalty of 240 penalty units or up to two years prison for interfering with ballot boxes, interfering with the delivery of postal votes or impersonating a voter.

There is a penalty of 600 penalty units or up to five years prison for a person who commits an offence by offering, giving, seeking or accepting a bribe in connection with an election; currently it is up to two years prison. There is also a penalty of 120 penalty units or up to one year in prison for acting as a councillor when not entitled to be a councillor; at the moment it is only 10 penalty units. There are huge increases in penalties under this bill that supposedly will make sure that councillors and council officers do the right thing by their residents and ratepayers and by their community and are more open and accountable to the community.

I urge the government to look again at the conflict-of-interest provisions with a view to making them workable rather than unworkable. The community wants its councillors in their chambers to vote when the matters before council do not directly affect them. If a councillor does not have a direct interest — and councillors themselves know when they have a direct interest — or even an indirect interest which only

challenges them, other than as an ordinary ratepayer, even though that part is in the act, the government is making this issue far too complex. It needs to go back to the drawing board; it needs to review the 79-page guideline that was put out to supposedly make it simpler for councillors to ascertain whether they have a conflict of interest.

The government has to be serious about Labor councillors and Labor councils that are doing the wrong thing. It has to make sure that it investigates those councillors and councils. If they are found to be innocent, it needs to make sure that those investigations are conducted in a timely manner. If they are guilty, it needs to impose penalties. At the end of the day the majority of councillors who are elected to councils are decent, hardworking people who want to represent the interests of their ratepayers in the best possible way. As a former councillor and shire president, I understand how important local government is, and I want to make sure that this government does not simply engage in rhetoric when it says it supports local government.

Mr Weller — The spin.

Mrs POWELL — As the member for Rodney says, the spin. The government has to ensure that any legislation it brings in is enacted without fear or favour and without a councillor being a Labor Party member.

The government has introduced all of these provisions to deal with Labor councillors. It has yet to deal with Labor members of Parliament who are inappropriately dealing with councils. We saw another report on Brimbank by the municipal inspector which said those sorts of practices are continuing. We are still seeing members who are not elected to council dealing inappropriately with councillors. I know the government has released a press release saying it will dismiss the Brimbank council; I urge the government to do that.

An honourable member — About time!

Mrs POWELL — As other members have said, it is about time. But we have to make sure that the community has confidence in local government, and that has been eroded by this government.

Ms D'AMBROSIO (Mill Park) — I am very pleased to speak in support of the bill. I do this knowing that this government has a very broad but determined agenda for improving local government governance arrangements to reflect the high community standards expected of local government.

This bill sits nicely in that framework. It updates the penalties for various infringements from those that may arise through the conduct of ballots or elections right through to the behaviour of councillors, and it updates penalties that were originally set in the Local Government Act in 1989. By doing this it presents more contemporaneous standards that are akin to the penalties in other Victorian statutes. It also reflects contemporaneous community expectations of what penalties should apply to be commensurate with the weight of the standards expected of local councils by the wider community and the modern standards and penalties that apply in other legislation.

As I mentioned earlier, the changes affect a range of provisions from election processes right through to the behaviour or conduct of elected councillors. Together these changes give added confidence to the community that local government functions transparently, efficaciously and in accordance with good governance principles. Those are the pillars of what makes local government appreciated and valued by the community.

The bill also lends support to the overwhelming majority of candidates and elected councillors who conduct themselves with utter integrity by establishing high standards of behaviour. Australia and Victoria no less are well served by the principle that elections are administered independently, in the case of federal elections by the Australian Electoral Commission, and in the case of Victorian elections by the Victorian Electoral Commission. Indeed many councils adopt or take on board the expert assistance of the Victorian Electoral Commission in the conduct of their ballots. This independent body and the administration of the election are of course at arm's length from the body that is being elected. That is one of the fundamental pillars of democracy as we know it in Australia and Victoria. This is one essential component of our democracy, the way that we choose to brand our democracy. It is almost a unique situation compared to other robust Western democracies.

Another pillar is the integrity of the voters roll, which is an important marker of our democracy. This bill updates the fines or penalty units that apply to interference with the integrity of the voters roll. The penalty for providing false information regarding enrolment or misuse of the voters roll will be doubled from 10 to 20 penalty units.

Nominating for public office is a serious business. In order to better discourage ineligible nominations for council, the penalty for this offence will be increased to 240 penalty units or, and this is a new penalty that is being introduced, imprisonment for up to two years.

Examples of where someone may nominate for public office in a council where they are ineligible include a person who is not entitled to be a voter or a council employee who has not taken leave. Those are two examples of persons not being able to nominate and stand for election. Penalties for those ineligible nominations have been strengthened.

Let us remember that this bill serves on one level to raise penalties and make them comparable to the penalties in other acts. If we look at the Electoral Act 2002, penalty provisions of up to six years imprisonment or 600 penalty units apply in the event of a false statement being made under that act. People nominating for election when they are ineligible generate a burden on the community, and we need to understand this when we consider why penalties need to be upgraded to the levels I have mentioned. There is the burden on the community of administration costs if an election is deemed void and there is a need to conduct another election if someone ineligible nominates, and that may skew the election results. It is important for us to discourage that type of behaviour, and we do that. One mechanism for discouraging that type of behaviour is to have more serious penalties that can be applied.

The bill also significantly lifts the penalty for interfering with a particular voter's exercising of a free vote. Remarkably interference with a person's marking of a ballot paper is met at the moment with a penalty to the value of 1 unit. I think in anyone's language that is not appropriate. The bill increases the penalty for this direct obstruction of the right to exercise a free vote by lifting the penalty to a possible fine of 120 penalty units or imprisonment for up to one year. Other interferences with voting include interference with ballot boxes, postal votes and so on, which also attract high penalties.

This government is serious about raising standards of local government. Robust penalties must be in place to meet and respond to robust and serious breaches. A person who offends either by the giving, taking, offering or accepting of a bribe commits a very serious criminal offence. This has to be met by serious penalties, and this bill moves towards that with a penalty of a fine of up to 600 penalty units or up to five years imprisonment.

Local governments turn over tens of millions of dollars. They are very serious businesses and they carry a great burden.

Similarly, we need to ensure we have penalties in place to deal appropriately with breaches — breaches which have the capacity to shake the confidence of the community. We can compare this with the penalties for bribery under the Electoral Act, where there are penalties in a similar vein — of 600 penalty units or up to five years imprisonment. There are many other penalties that relate to the behaviour of elected councillors rather than actual election processes. An example is the misuse of position, where a councillor misuses their position either for their own personal gain or for the gain of or to cause harm to another person. That will also be met by serious penalties, including a fine of up to 600 penalty units or imprisonment to a maximum of five years, or both. As a government we aim to maintain trust and confidence in our elected officers, whether they be state officials or councillors.

Last year in its major overhaul of matters of conflict of interest and conduct of councils, the government and the minister committed themselves to a watching brief on the operation of the new provisions they put in place for any alterations or finetuning that might be required. True to that commitment, discussions and consultations are now under way to find areas that can be improved to increase the confidence that people rightly deserve to have in their elected local governments. There are some refinements in that regard in this bill, which I am running out of time to articulate. I look forward to seeing those consultations unfold and to the government giving even greater weight to the importance of local government by introducing further amendments to this house with respect to the conduct of councillors. I commend the bill to the house.

Mr MORRIS (Mornington) — I come to this bill with a sense of deja vu, because again we are debating legislation that is necessary largely because of the rorts perpetrated on Victorian ratepayers by the Australian Labor Party. A few short weeks ago we were debating the Local Government Amendment (Conflicting Duties) Bill. That bill, which is now an act, requires many decent, hardworking, law-abiding councillors to choose between their duty to their constituents as councillors and their duty to their families and themselves as breadwinners. It deprives them of the opportunity to participate freely in public life. It deprives them of what should be the right of everyone in a well-developed democracy such as Victoria — to participate, to be part of the solution to society's ills.

The excuse given to us by the government on that occasion was that we had to ensure, and it could only be achieved through that legislation, the elimination of conflict in local government. It was said it was essential for us to go down that draconian path. The government said it was the only way to eliminate conflict, it was the only way to ensure probity, it was the only way to guarantee transparency. The fact is that we always had

adequate controls to deal with the issues that were raised in that legislation, and the fact that we are debating this bill today proves it. That legislation always was a smokescreen. It was a diversion. It was a desperate attempt to take attention away from the real situation, which was the activity and practice of Labor members of standing over employees. In typical fashion that bill went after the victims. It punished the employees who had been stood over by their bosses, and it did so retrospectively.

The Local Government Amendment (Offences and Other Matters) Bill makes it clear, as I said earlier, that that action was a sham. The total and absolute failure to enforce the existing provisions caused that legislation to be enacted. It was a direct, full frontal attack on local democracy, and it was consistent with the overbearing, bullying approach taken by this government, whether we are talking about planning schemes and the requirement for councils to get permission before they can consider changing their schemes, whether we are talking about the planning appeal process or whether we are talking about, as we did most recently, the direct attempt to take over the planning process and take away the right of average citizens to be involved in the process that determines the bricks-and-mortar future of their communities.

In true Labor fashion penalties are being varied by this bill, but they are not being varied in the interests of the community, they are not being varied in what I would consider to be the general public interest and they are not being varied in a manner which will always lead to good public policy outcomes. This is about making sure the system serves the political objectives of the government. It all comes back to that.

Now there are some 'technical' amendments proposed by this bill. The amendments are necessary because the minister, unfortunately, failed to think through the implications of other recent amendments to the act, amendments that at the time the opposition and councillors said were a problem. We told the minister they would not work, yet they went through the Parliament. Ever since then councils and councillors have been saying, 'This is not working' and the minister has been saying, 'No, it's fine; it is not a problem'. Again and again he has been saying, 'There isn't any problem with these provisions', yet I know, and the member for Shepparton certainly knows, that every council we have spoken to in the months since these gift provisions were included has seen there is a problem with them.

Every single council we have spoken to — and there be have been many, many councils — has raised these provisions with us as a problem. There have been considerable financial and time costs to councils, and as a result there has been a considerable cost to ratepayers. What should have been a relatively straightforward matter has occupied an inordinate amount of time. I must say I am pleased the minister has seen the error of his ways and has finally fixed this blunder, which should not have occurred in the first place.

Before I go on I must say that I very much appreciated the usual thorough briefing we received from Local Government Victoria. We seem to do that on an all-too-frequent basis. Despite what differences I might have with the minister on the legislation, I appreciate the briefing we were given. The detail of the bill falls essentially into three areas. There are the amendments to the penalties — the Local Government Act predates the Sentencing Act so there are some inconsistencies that need to be dealt with; there is the creation of some additional offences; and there is some clarification to ensure that where it was intended that an offence should exist, it did in fact exist. The gift provisions I referred to previously are addressed, and there is some guidance regarding the making of local laws, which is relatively uncontroversial.

Clauses 5 to 19 largely relate to the penalties. As we have heard, there are some changes to the provisions for elections, for the handling of the voters roll and for campaign finance. The penalty for misuse of the voters roll has increased some sixfold for an individual and by considerably more than that for a body corporate. There are some other important changes. There are changes to the provisions relating to the voting process, extending and increasing considerably the penalty for interfering with the marking of a ballot paper. The bill extends those penalties to apply not just to scrutineers, as is currently the case, but to any natural person. Clauses 20 to 34 relate largely to the behaviour of councillors and council staff. It is instructive to look at how the penalties will be varied by this bill.

The penalty for acting as a councillor when incapable is increased 12-fold from 10 to 120 units; the penalty for misuse of position — appropriately enough, I agree — is increased from 100 penalty units to 600 penalty units or five years in prison. But when we get to the conflict-of-interest provisions that have — surprise, surprise! — bedevilled ALP-dominated councils, then there is really a little bit of tweaking and that is about it. The penalty for failing to disclose a conflict of interest is up from 100 to 120 units. Similarly, the penalty for the same offence but occurring in an assembly of councillors is up from 100 to 120 units. The same penalty is extended to staff exercising delegation, and that is appropriate. The penalties are roughly half that

for staff reporting to council; they are up from 10 to 60 penalty units, and that is appropriate.

Then of course there is the issue — identified by the member for Shepparton — of section 55D. I will not repeat the details about the Latrobe City Council incident, but I want to make the point that there was clearly a breach of the act, and yet there is no penalty. If we do not have a penalty, there is a very real risk that people will try again and again to use the resources of a council in an election contest. We simply cannot afford to have this keystone of our democracy under threat. Where there is no penalty there will be breaches. If you breach the act, it does not matter because there is not a penalty.

This bill, like its predecessor, is very much a smokescreen, a diversion and a distraction from the real damage being done to the fabric of local government in Victoria by the ALP machine under the stewardship of ALP members — including members in this place, members in the Legislative Council, members in the federal Parliament and of course members of the branches, like the members of the St Albans branch.

Mr STENSHOLT (Burwood) — I remind the member for Mornington that any imputations against members of this house must be made by a substantive motion. He seems to have a very short memory on some of these matters. I refer to the Glen Eira council and to those seven dark years of the Kennett era when the planning minister used to call in two matters a day. I remember a year in which the candidate who stood against me was revealed to have had a couple of decisions made in her favour by the minister, matters which were reported in the news et cetera. The member for Mornington might want to look at his party's history and look at things that happened there. I suggest the member for Mornington takes a more measured approach to these matters, rather than the approach that he has sought, which is a very sectional, sectarian-based approach.

This bill amends the Local Government Act by increasing penalties for certain offences to reflect current community concerns — the main thing the member for Mornington did get right. Firstly, I mention one matter in this bill which is quite important — that is, clause 57, which deals with rebates and concessions. I do not think other speakers have touched on this to any large extent. The clause will allow councils and shires to:

> … grant a rebate or concession in relation to any rate or charge, to support the provision of affordable housing, to a registered agency.".

That is a very good thing. I have had discussions on this issue with some of my local councils — Boroondara, Whitehorse and Monash. In the past I have had discussions about social housing policy with Boroondara council. It has a social housing policy, but I urged it, and in part it accepted this urging — which is to its credit of course — to provide rate relief for rooming houses or housing agencies. I know in the past the City of Boroondara has worked with housing agencies in terms of the rate relief and other concessions that it can apply.

Unfortunately some councils do not see a need to look at social housing policy. They have said that their legal advice is that they cannot do this, when in actual fact discretion is the better part of valour in terms of supporting social housing. We do have a need for social housing. I am sure that member for Mornington would agree with this. The member for Shepparton would also strongly agree, because I know she has frequently spoken about the need for social housing, almost as frequently as I have.

The rebates and concessions provided by clause 57 are an important part of the bill. Only last week the Premier was out in my electorate announcing a magnificent new social housing project in Power Avenue in Ashwood. This was not just any old social housing project; this was part of the visionary action by the Bracks and the Brumby governments of providing $500 million towards social housing. Part of this involves working with registered agencies, in this case housing associations, to make sure that they are leveraging to provide more social housing.

Last week's announcement by the Premier was that the Port Phillip Housing Association had won the tender for the Ashwood gateway project with funding of $70 million from the state government, leveraging not 15 per cent, as was the minimum required in the tender, but leveraging 100 per cent. So it is a $140 million project. The aim of this project is to provide 240 housing units in the Ashwood-Chadstone area, of which 170 will be for social housing and the other 70 will be for private housing, which can be sold off, because a philosophy of mixed housing is part of the Brumby government policy on housing. The project also means a further 250 social housing units will be available throughout the rest of Melbourne and Victoria from the Port Phillip Housing Association. This is part of the leveraging effect.

Clause 57, which relates to rebates and concessions, allows councils right throughout Victoria — not just the City of Monash, which I know is a very good council and is very socially responsive in many ways — to

consider providing rebates and concessions for registered agencies such as the Port Phillip Housing Association. Furthermore, because the housing association is providing a further 250 social housing units throughout Victoria, the other 78 councils will be able to consider providing rebates and concessions to that particular registered agency with respect to those 250 units throughout the rest of Melbourne and Victoria.

I think this part of the legislation is an excellent initiative. I know a number of councils are already implementing it. Some have been a bit tardy. Some have said, 'Not me. I do not wish to do it because I think it is illegal'. This will make it perfectly legal. For those councils that have considered it in the past, it remains, as always, perfect good sense.

There are a range of other provisions in the bill in terms of penalties, which other members have talked about. Some of the work that I have done and that I know some of my colleagues have done in the past on the Law Reform Committee in trying to get consistency in regard to the penalties has been very important, because it is not good legislation to have inconsistencies in penalties between one act and another. This bill is seeking to bring penalties in line with those in section 109 of the Sentencing Act 1991.

I could go through some of these penalties. Quite a number of them have been changed. Clause 7 of the bill increased the penalty for false nominations from 20 penalty units to 240 penalty units. A more significant one is in clause 16, which deals with the penalty for bribing in connection with an election. It has increased from 20 penalty units — and I am sure members are aware what a penalty unit is; it is $116.82 — to a maximum of five years imprisonment or a fine of 600 penalty units. I will leave members to do the arithmetic in that regard. Similarly the prescribed maximum penalty for the misuse of a position by a councillor will be increased from 100 penalty units to 600 penalty units, or imprisonment for five years, or both. They are just some examples of the provisions in regard to the penalty increases, which are also consistent with other legislation.

I notice there are a number of other changes that have been made. The suggestions that have been made in terms of hospitality received by councillors when on official business are obviously sensible. From listening to the views that people have put, I also see that as a first step in terms of the consultation process. As with the new conflict-of-interest laws, a change is being made in clause 47 in regard to issues which might actually directly affect an individual councillor. In this particular case it is in regard to the conduct of a councillor with respect to an internal dispute which involves the councillor or the allegation of misconduct or serious misconduct by the councillor, as defined by section 81A of the principal act. This is obviously common sense because if somebody makes allegations against a councillor, that councillor should be able to be involved in any discussion and defend themselves from such allegations.

There are a range of other matters in the bill which others have covered. I see it as being a sensible part of the process of ensuring that local government works well. I remind the house it was the Labor Party that enshrined local government in the constitution. That should not be forgotten. It is the Labor Party that takes local government seriously; it is the Labor Party that provided the powers to local government and reinforced them through the constitution. I support the bill.

Mr O'BRIEN (Malvern) — It is a pleasure to rise and speak on the Local Government Amendment (Offences and Other Matters) Bill 2009. The member for Shepparton and the member for Mornington have already set out at considerable length the reasons for this bill and the circumstances under which it is being brought before the Parliament. There are particular aspects of this bill that I would like to concentrate on in my contribution, particularly those clauses within part 2 of the bill that relate to the amendment of penalty levels for offences relating to misuse of the electoral roll.

I come to this debate as a member of the Electoral Matters Committee of this Parliament. We have just recently tabled a report in this house dealing with electoral participation. Part of what came out in preparing that report was the importance of the accuracy of the roll. The flipside of that is that people have a right to expect that when they are required to provide information to the electoral commission, that information can be used only for proper purposes. Proper purposes are those that are specified by law. Any misuse of that information is a corruption of the electoral process and undermines public confidence in the integrity of the electoral process. In the bill before us there are measures to try to increase the penalties for misuse of the electoral roll in relation to local government matters, and I think this is entirely appropriate. Some of the current penalties are relatively underweight, given the seriousness of the offences that we are talking about.

In relation to offences relating to misuse of voter rolls or provision of false enrolment information, there will be a maximum of 120 penalty units for such offences,

whereas currently the penalties are only 10 to 20 penalty units. The need for these penalty provisions to be updated was thrown into sharp relief by the Ombudsman's report into conduct relating to Brimbank council. I would like to quote aspects of that report, because they directly relate to exactly the sorts of offences for which the penalties are being increased in this bill.

In paragraph 466 of the Ombudsman's report he says:

> During my investigation, I was concerned to find the names and details of tens of thousands of Victorian citizens on the council laptop provided to Cr Capar.

He goes on:

> The information was found within Excel spreadsheets entitled, 'ALP [Australian Labor Party] members not yet renewed', 'Brimbank City', 'Derrimut SECC', 'Maribyrnong FEA …', 'POSC … Committee' …

And he goes on in paragraph 468 to state:

> The information on each list varied; however, it included full names of all voting individuals residing in a property, addresses, dates of birth, gender, identification numbers, telephone numbers and email addresses.

He continues in paragraph 469:

> My office made inquiries with the Victorian Electoral Commission … to determine whether the information was from VEC records.

And the Ombudsman continues:

> The VEC confirmed the information on these lists was from VEC records.

Paragraph 471 states:

> Section 36 of the Electoral Act states that MPs and political parties must not use the enrolment information provided by the VEC except for permitted purposes.

We have a situation here where the Ombudsman in his report on Brimbank council has found that one of the councillors there had a laptop with, as he said, the details of tens of thousands of Victorians on it and no apparent reason for having that information, which came from the Victorian Electoral Commission's rolls.

The Ombudsman goes on to say:

> The Electoral Act definition of 'election' is limited to state Parliament elections. Therefore, use of the electoral information for council elections is not permitted.

We have a Labor Party councillor with access to this information which he should not have.

Paragraph 477 of the report states:

> Cr Capar acknowledged he received the voters roll when he nominated for council in 2005. He also requested and received additional electoral information in April 2006, August 2006 and September 2008 from the ALP. He requested names, dates of birth, gender, ethnicity, postal and email addresses, and telephone numbers.

We have here a situation where somebody nominating for council, who wanted to contest a council election, felt that because he was a member of the Labor Party he could go to Labor Party headquarters and ask for information which is provided to the party solely for use in state parliamentary elections and that it would just be handed to him; and he had every reason to believe that the information would be handed to him because it was, and he was not the only one.

The Ombudsman goes on in paragraph 479:

> My office interviewed the ALP's IT data manager from whom Cr Capar obtained most of the lists, Mr Sel Sanli. Mr Sanli is also the deputy mayor of the City of Maribyrnong.

There is a surprise for you, Acting Speaker.

> Mr Sanli stated he had been providing electoral information to councillors since he started at the ALP five years ago, as this is what his predecessor had done.

So you have got the Labor Party handing out information to council candidates that it has no right to be handing out. This has been going on under the current administration for five years, and it had been going on under its predecessor as well. For how long has this corruption and the use and misuse of electoral information been going on in King Street? The people of Victoria have every right to be absolutely appalled by this.

We are seeing a longstanding and systematic misuse of electoral information by the Labor Party to try to prop up its council candidates. Where are the government members in this house coming in with their tails between their legs to apologise for that? They are absolutely nowhere.

The Ombudsman in his report makes it quite clear that:

> Section 37 of the Electoral Act states a person must not disclose enrolment information that has been provided under section 33 or 34, unless the disclosure would be a use of the information for a permitted purpose.

Trying to take over Brimbank council is not a permitted purpose. It is not a state election. There is absolutely no right for the Labor Party or any political party to be handing out enrolment information to council candidates; yet this is what has been done by the Labor

Party in a systematic fashion going back well over five years. This is not just about corruption in Brimbank; this is about what is happening in King Street. I see the Labor Party has finally decided to move its state secretary on today. We will see whether the Premier's adviser — the new state secretary — has any more respect for the law. We will see whether Mr Reece has any more respect for the right of Victorians to have their information, which is provided under law to the VEC, used for proper purposes and not misused for improper purposes by Labor Party councils.

The Ombudsman goes on to say, and it was quite clear from his interviews with Mr Sanli, that there was absolutely no consideration given as to whether there was a problem with the handing on of this information to Labor Party council candidates for their own use, notwithstanding the fact that the party had no legal right to do that.

Holding Redlich lawyers were engaged by the then state secretary of the Labor Party, Mr Newnham, to provide advice, and even Holding Redlich had to come to the conclusion that, and I am quoting from this advice:

> On the basis of the prohibitions under the Victorian Electoral Act, however, we do not consider that the ALP can use the roll which it has combined for use in connection with a local council election.

The Labor Party's own legal advice was that what it had been doing in a systematic fashion going back over years was wrong, was illegal. When Mr Sanli, who was the person handing out this information, was queried about this by the Ombudsman, he gave a response. He said:

> Since I began working in this position, it was accepted practice to assist ALP members with their elections.

What about the rights of Victorian citizens not to have their electoral information used and abused and misused in contravention of the law? It is no surprise that we saw the conclusions of the Ombudsman at paragraph 489 state:

> I consider that there appear to have been serious breaches of the Electoral Act by the ALP and, possibly, by Mr Sanli in relation to electoral material that was obtained from the VEC pursuant to section 39 of the Electoral Act and which was used and disclosed for purposes other than those permitted.

One of the recommendations of the Ombudsman was that:

> The Victorian Electoral Commission investigate possible breaches of the Electoral Act by the Australian Labor Party.

We have seen what has happened in Brimbank. We have seen that the recommendations say the Brimbank council should be sacked. The question is, who is going to take responsibility for this corruption of the electoral information in ALP headquarters? It is not enough for Mr Newnham to walk; other people should walk too so Victorians can be sure their electoral information will be used and not misused by the Labor Party.

Mrs MADDIGAN (Essendon) — It is a pleasure to rise to speak on the Local Government Amendment (Offences and Other Matters) Bill 2009. I must say I sometimes find sitting in this chamber quite fascinating. I have had the pleasure of speaking after the member for Malvern before, and I must say it is even more fascinating than speaking after any other member. I am slightly in awe of the member for Malvern this afternoon because he waffled on for his full 10 minutes and did not mention the bill once. I do not think he even mentioned the name of the bill in his contribution. That is not a bad effort, really. He can stand up there, rehash something he was interested in that occurred some time ago and speak for his whole 10 minutes. So I thought I would take a radical approach to this bill and speak on it, which I know will disappoint the member for Malvern, but sometimes one just has to address the bill before the house.

In doing so, can I say first — and once again perhaps the opposition does come to mind in relation to this — regardless of what some of the members of opposition have said, I have the highest regard for people who stand for council. There is a bit of self-interest in there as I was a councillor for the City of Essendon between 1985 and 1991. But most people I have met who stand for council — and I extend this even to members of the Liberal Party who stand for council, and there are some of those in this chamber — are very honest and upright and are there to help the community. I would hate the debate in this house to give the impression that all councillors in some way abuse their positions, because most of them do not. Most of them are excellent community workers, and we should be very grateful for them.

In speaking to that, when I was on council with the City of Essendon, it was a much smaller council. Life was in my view far more pleasant in some ways, and certainly much easier for councillors than what they have to deal with now. The larger councils, which of course our party opposed — we were not in government at the time — have changed the whole focus of council and make it much harder for councillors in the environment in which they are operating.

The purpose of this bill is to try to ensure to a certain extent that the community has confidence in councils, because I think there has been a lot of, in some cases, quite unfair criticism of councillors. I even noticed when one of the speakers was speaking previously that their comments were addressed as though the Ombudsman's report had covered all of Melbourne. It was one council that he investigated. To try and say the problems found in that council could occur in every other council in the state is quite wrong. It is important that councils understand we do not consider them to be corrupt, we do not consider them to be there only for self-interest and we do have a clear understanding that most councillors are honest, hardworking people. I am sure some further speakers in the opposition will be happy to reinforce those views.

Most of this bill deals with technical matters that have arisen, particularly in relation to penalties, which most of the clauses relate to. The penalties were set in 1989, which is a significant period of time ago — 20 years ago — so they are quite out of touch with other legislation. It is out of step with the penalties under the Sentencing Act 1991 as well as with a number of other acts that are current in the state, so it was necessary to update those penalties. I say again that very few people will be affected because very few people would breach the provisions.

The conflict-of-interest provisions, clauses 52 to 56, are also updated. The bill contains a clause which is of interest to us in relation to exemptions from the conflict-of-interest provisions. It has come about from circumstances we would not normally think about — that is, in relation to the bushfires and the Murrindindi Shire Council. The bill provides that if you set up a committee that has councillors and non-councillors, perhaps even members of the community, the non-councillors are not covered by the same conflict-of-interest provisions as councillors are.

The provisions relating to local laws are worthwhile as well, particularly as they make the consultation and communication process much better. Certainly members of the community come to see me — as they do other members of Parliament, I am sure — when they have breached a local law they have never been aware of. We have a local law which says you cannot feed the ducks in Queens Park. It would be fair to say that a lot of members of my community have breached that local law over a period of time because it has never been made known to the public. It is difficult to condemn people for not upholding local laws if the council has not made it clear to the community what they are. Certainly councils are being required to put them on council web pages, where many community members now go to seek community information, and that is a very good idea. Of course some councils already do that, but it is great that all councils will do it in the future.

The other clause which the member for Burwood spoke about — clause 37, which relates to rebates and concessions for community housing — is also a great step forward. Especially at the moment with the global economic downturn and people losing their jobs or having their hours cut, the provision of housing and ensuring that people have housing is important. In the Essendon electorate, where we have little vacant land, the private rental rate is high, and for many people it is almost impossible to sustain a rental property in that area. Giving the capacity for rebates and concessions to agencies working in that area of social housing is something that the broader community will be pleased about.

This bill is a good one. It picks up lots of good points. It clarifies a few things that I presume have been unclear in the past. We can see that these provisions will enable councils to continue to provide the sort of service that their communities want. I wish all councils and councillors well in the future.

Mr CRISP (Mildura) — I rise to make a contribution to the Local Government Amendment (Offences and Other Matters) Bill. The Liberal-Nationals coalition is not opposing this bill. I would like to congratulate the members for Shepparton and Mornington for their detailed analysis of this bill. The purpose of the bill is to amend certain penalties and offences under the Local Government Act 1989 so they are consistent with the Sentencing Act 1991, to increase the penalties for certain offences to reflect current community expectations, to enhance the operation of the act and to make some technical amendments to the City of Melbourne Act 2001.

The main provisions of this bill deal with the penalties under the Local Government Act, which were set in 1989 when the act was originally enacted. Changes are now required as most penalty levels currently specified in the act are inconsistent with the standards set out in the Sentencing Act 1991. The bill amends many of the penalties to match those standards.

There are a number of examples. The ones I will talk about later include the amendment to the definition of 'applicable gift' to exclude hospitality received from non-profit organisations at a function or event that is attended in an official capacity by a mayor, councillor or member of council staff. The bill also regulates the local law-making powers of councils by providing

guidelines and regulations regarding the process of preparing local laws and the content and format of local laws.

There are a number of issues that need to be considered. The government has increased the penalties under sections 55A(1), 55A(2), 55B, 55C and 56. As mentioned in some detail by the member for Shepparton, section 55D does not currently have a penalty, and the government has not included a penalty in this amending legislation. Section 55D states:

> A Council must not print, publish or distribute or cause, permit or authorise to be printed, published or distributed, an electoral advertisement, handbill, pamphlet or notice during the election period unless it only contains information about the election process.

This will be something that the next amendment bill will have to pick up. The member for Shepparton went through an example in relation to this provision in some detail. That is a concern as we go forward, because we have had a number of these amendments.

I cannot go past these matters without mentioning the report by the inspector of municipal administration tabled today. It is concerning that after four months of observation he has recommended that the government suspend or dismiss the council. I understand the government has made a decision on that matter today. That is regrettable. It is a difficult balance dealing with people who get it wrong while also helping others learn about the process. I am mindful of the proverb 'A stitch in time saves nine'.

I find myself agreeing with the previous speaker, the member for Essendon, that so many councillors are wonderful people who make a great contribution to our community. However, amendments to the conflict-of-interest laws came through in a number of versions prior to this. The first amendments came through at the end of the council election period late last year. More recently there was an amendment bill dealing with employment status.

At this stage I would like to pay tribute to Cr Susan Nichols, who has to announce a difficult decision tomorrow. She is a member of both Mildura and Wentworth councils. She is one councillor caught up by the Local Government Amendment (Conflicting Duties) Bill as she serves as a councillor on both sides of the river. She has until tomorrow to make her announcement as to which council she will serve on. I wish her the best with whichever decision she makes and pay tribute to the work she has done in the council she will depart from.

I can understand the difficulty councillors have in understanding the conflict-of-interest legislation that was brought in late last year. There is no common law on this as yet. It is new, and many councillors are having difficulty finding their way around the conflict-of-interest guidelines to work out exactly where they stand. The work done on the Brimbank council by the inspector of municipal administration is probably not going to clarify things a great deal for many councillors as there are only a few examples like that which can be tidied up.

The definitions of 'indirect interest' and 'gift' need to be further clarified for councillors. The 79 pages of guidelines are complex, and many councils are struggling with them. We have noticed in particular that some are erring on the side of caution. The old adage for local government is: if in doubt, get out. That has caused councillors to struggle at times to get quorums, and in particular they have great difficulties around their budget considerations when there is a procession of councillors in and out of the chamber. I also note that councillors can no longer stay for the debate and exit for the vote; they must now exclude themselves from both the debate and the vote. I am sure that those 79 pages of guidelines that have been developed will need further amendments as time goes on.

Other sections of this bill which are of concern include those that deal with the interference with the ballot provisions, which are somewhat extraordinary. Quite severe penalties apply with respect to what are extremely serious issues, and they have been covered in detail by previous speakers.

Another area of concern, referred to on page 3 of the minister's second-reading speech, relates to the fact that:

> The bill will also insert an additional ability for the minister to grant an exemption to conflict of interest. There has been a longstanding provision that the minister may grant an exemption for a councillor when the council cannot maintain a quorum because of the number of councillors with conflicts of interest.

I am wondering how we are going to do that. The time lines involved will be an issue for councils. Councillors have to receive their papers for a meeting, consider them and communicate with other councillors before they know if they are going to have a quorum issue, in which case they will need to take that issue to the minister's office to ask for an exemption. This is an honourable way out for the minister in dealing with a quorum issue, but I just do not know how it will work in terms of time. I hope the minister, in summing up, can give us all some guidelines on how this will work.

In particular, if it is a late item — in budget periods in particular things often arrive late on the agenda with local government — how will we manage this quickly and effectively? The process will need to be quick and effective, with very short time lines for turnaround, and I look forward to some details on how to do that.

I also note that affordable housing projects were mentioned in the second-reading speech and that councils can grant some rate exemptions, which is a very honourable thing for councils to do. I note Mildura Rural City Council has been advocating VicUrban on the need for an affordable housing project in Mildura. Unfortunately some questions have popped up as to whether VicUrban could come to Mildura because of difficulties in defining a growth area. It has been suggested that Mildura has stopped being a growth area. I understand this is being corrected within the Department of Planning and Community Development, so we can look forward to Mildura once again getting on VicUrban's list for an affordable housing project. That body can then approach council for a rate exemption. That would give us great social relief in Mildura.

The bill is mainly about changing penalties for very serious issues, but it does raise a number of other issues, in particular the one I put on notice about quorum. Having said that, I can say that The Nationals are not opposing this bill.

Mr LIM (Clayton) — I rise to speak in support of this bill. The Local Government Amendment (Offences and Other Matters) Bill 2009 substantially toughens penalties for offences relating to elections and the conduct of councillors. These increased penalties are in line with community expectations, as we can imagine.

A couple of other important themes underpin this legislation. Firstly, the legislation recognises that technology has changed both the method of elections and the way candidates conduct their campaigns — and this is quite significant. Secondly, and increasingly, the standard we are setting for local representatives is far removed from the fictional and scheming Mayor Bob Jelly of Pearl Bay in *SeaChange* or the real and scheming Mayor Larry Hand of Leichhardt Council in *Rats in the Ranks*. Rather, the conduct required of elected councillors is more akin to the fiduciary and governance responsibilities of directors of a board, and many members before me mentioned that the overwhelming majority of councillors are decent, hardworking and honest representatives of the community.

The bill will substantially increase penalties in the following areas, and I refer to the second-reading speech. Firstly, the penalties for bribery in connection with an election will increase to imprisonment for five years or a fine of 600 penalty units; secondly, nominating for a council election when not eligible, interfering with the delivery of postal voting materials, possessing unauthorised ballot papers or impersonating a voter will attract a penalty of two years imprisonment or a fine of 240 penalty units; thirdly, there will be a penalty of five years imprisonment or a fine of 600 penalty units for a councillor who misuses his or her position for personal gain or to improperly harm or benefit another person — and this may include a breach of conflict of interest that is intentionally done for personal gain; and fourthly, there will be a penalty of one year imprisonment or a fine of 120 penalty units for a person who acts as a councillor when not qualified to do so, and provision for a court to order the person to repay allowances for the period when they unlawfully acted as a councillor.

There are several other amendments, particularly around the definition of 'applicable gift' and the conflict-of-interest provisions relating to members of special committees. These will make situations such as interacting with not-for-profit organisations or special circumstances, such as those by faced by bushfire relief committees, more workable.

The Scrutiny of Acts and Regulations Committee (SARC) identified several concerns relating to the human rights of individuals with respect to increased penalties. This goes to the heart of the debate. In my view there is also a collective human right relating to the integrity of elections, and SARC appears not to have given sufficient weighting to this point. The right to free, fair and democratic elections is one of the most basic of human rights and freedoms. When we live together in society we receive benefits and protections and in turn we agree to be governed by its rules and decisions. This is legitimised by the right to vote and stand for election. The hallmark of a Western liberal democratic society is that such a process is fair and transparent. I do not think there is a conflict, but to the extent there is, the collective human right for free and fair elections outweighs the rights of those who are caught rorting and corrupting the process.

The previous government introduced the option of postal voting for council elections. While the debate then was around the principle of whether there should be such an option, some concern was expressed about the integrity of the process, and the debate has now moved on to a focus on that integrity. In days gone by town clerks conducted elections and their main worries

were flying voters and dodgy flyers. Consistent with concerns expressed in the early 1990s, when postal voting for council elections was introduced, new technology has made possible new rorts as well as raising a plethora of privacy issues. This bill in this case demonstrates the seriousness of the Brumby government's intention to deal with these concerns.

I wish to conclude by returning to one matter I referred to earlier in my contribution. The election of representatives at a local, state or federal level is a political process. While state and federal representatives follow wise counsel, they are never divorced from the political processes of implementing election promises, having regard to the decisions of the party room and the pragmatism of decision making such as compromising to negotiate legislation through, say, a hostile upper house. How a political process of electing councillors sits with their corporate and governance responsibilities will be a continuing debate. I commend the bill to the house.

Mr THOMPSON (Sandringham) — Local government has been a very important area of administration since the Victorian community has had self-governance. It is important its responsibility is discharged with purpose and integrity. Regrettably a number of examples of the responsibilities undertaken at local government level not being discharged wisely and with due diligence have made it into the statewide and local press. One can cite a range of examples including the cities of Darebin, Hume, Greater Geelong and Monash where there have been allegations regarding misconduct on the part of councillors and their dealings with either council staff or the wider world.

A report dated September 2009 on Brimbank City Council by Bill Scales, inspector of municipal administration, has been tabled in this place. Following an initial investigation a number of matters are reported on adversely. It is noted in the report:

> One councillor has attempted to inappropriately intervene in relation to a parking fine related to his private business vehicle.
>
> Four councillors have been investigated and have been found to have acted inappropriately in relation to their responsibilities as councillors. Two other councillors are currently the subject of other investigations.
>
> Three councillors have inappropriately contacted staff of council, contrary to the recently signed code of conduct.
>
> One councillor has been found at the very least to have confused his private commercial activities with his public responsibilities as a councillor and at worst has attempted to use his elected position as a councillor to advance his personal business interests.
>
> Important information has been leaked from council in relation to two important confidential briefings to council.
>
> There is also evidence that unelected persons are still trying to inappropriately influence the actions of councillors. For example the St Albans branch of the ALP has attempted to influence councillors who are also members of the Labor Party to vote in a particular way on an important and very sensitive matter currently being considered by council. It is not possible to know if this attempt to influence certain councillors will be successful. However, actions such as those by the St Albans branch continue to undermine confidence in the governance and administration of Brimbank City Council.
>
> This is particularly of concern because the Ombudsman Victoria report (2008) gave very significant emphasis to this issue.
>
> > 'However I remain concerned that the influence and intervention of individuals who hold no local government office may continue'. (Ombudsman Victoria report 2008, page 45, clause 194).

The report goes on to detail those matters. It then notes:

> Taking all these matters into account and given the systemic nature of the problems with the Brimbank City Council I have decided to recommend that you consider suspending and/or dismissing the councillors of Brimbank City Council.

That is an example. There was also the yesteryear example regarding the Darebin City Council, which was replaced owing to its inability to work on behalf of and in the interests of ratepayers.

One problem that was canvassed in this chamber earlier this year was the difficulty of ALP members being required to caucus prior to any major decision being made by council. Those members who were card-carrying members of the Labor Party who were also elected as councillors according to the rules of the Labor Party had to caucus on many major issues prior to any council meeting. It might have been the mayoral election sequence or it might have related to senior appointments or other important matters. That meant many local governments were effectively ungovernable. Bright-eyed, keen and earnest councillor members of the community would turn up to council meetings expecting to vote on and determine issues on their merits with each person having a free vote only to find that other people were bound by Labor Party rules to vote for a course of action they might not have agreed with.

In that process decisions were made behind closed doors. That is one of the reasons we have the problems in the Darebin City Council, the Brimbank City Council and others that have been highlighted in the metropolitan press and in this place over the last

decade, of undue influence being sought to be exercised by the Labor Party through the local government process — a process under which fair-minded citizens seek to take an interest in something that is not in the interests of a particular political party but is for the good of the local community. Fair-minded citizens who seek to advance the good of the local community come up against the internecine, behind-closed-doors tactics of the Labor Party.

In my time in this place I do not think I have ever seen a starker contrast between what is expected in terms of good governance and what the Labor Party's rules of conduct have enshrined than the mandate for caucusing before most major council decisions. I think this has led to many of the problems we are addressing with the bill before the house.

A range of penalties are being increased by the bill before the chamber. The bill provides for a maximum penalty of 120 penalty units for offences relating to misuse of voters rolls or provision of false enrolment information; the penalty is currently 10 to 20 penalty units. Earlier the member for Malvern alluded to the misuse of voters rolls at Brimbank. The bill provides for a maximum penalty of 240 penalty units and two years prison for a person who nominates for election when not entitled to do so; it is currently 20 penalty units.

The bill also provides for 120 penalty units or up to one year in prison for interfering with a person's free exercise of their democratic rights or interfering with a person when marking a ballot paper; 240 penalty units or up to two years prison for interfering with ballot boxes, interfering with the delivery of postal votes or impersonating a voter; 600 penalty units or up to five years prison for a person who commits an offence by offering, giving, seeking or accepting a bribe in connection with an election — an offence currently incurring up to two years in prison; 600 penalty units or up to five years jail for a councillor or member of a council's special committee who misuses his or her position for personal gain or to improperly benefit or harm another person — an offence currently incurring 100 penalty units; and 120 penalty units or up to one year in jail for acting as a councillor when not entitled to be a councillor — an offence currently incurring 10 penalty units.

It is noteworthy that the bill amends the definition of 'applicable gift' to exclude hospitality received from a not-for-profit organisation at a function or event that is attended in an official capacity by a mayor, councillor or member of council staff. This is an example of where the government went too far in an attempt to control the inappropriate conduct of councillors. It is not necessarily inappropriate for a serving councillor to be the beneficiary of hospitality from a not-for-profit organisation within their municipality. The government is winding back this provision which has been the subject of some criticism.

Alert Digest No. 10 draws attention to a number of matters and to the fact that the bill's statement of compatibility does not address any of the increased penalties. A letter was sent to the responsible minister earlier this month, but to date a reply has not been received. Opposition members in this chamber look forward to receiving that reply. The Scrutiny of Acts and Regulations Committee noted in that *Alert Digest*:

> The committee recalls its *Alert Digest* No. 8 of 2009, where it stated (in relation to the Tobacco Amendment (Protection of Children) Bill 2009):
>
> > While the committee feels that a statement of compatibility need not address minor changes in offence penalties the committee considers that statements should address the impact of a provision doubling a fine for an offence on any rights engaged by that offence. In particular, the statement should address whether or not the new penalty is a proportionate means of achieving the purpose of any provision limiting rights.
>
> The committee considers that the same approach should apply where, as in the present bill, a previous fine is replaced with a potential prison sentence or a prison sentence is substantially increased.
>
> For example, clause 10, amending s. 55A(1), lifts the penalty for the offence of distributing 'any matter or thing that is likely to mislead or deceive a voter in relation to the casting of the vote of the voter' from its present 10 penalty units to '60 penalty units or imprisonment for six months'.

This is a matter that should be of concern to members of the Labor Party. The committee continued:

> Section 55A(1) engages charter rights to expression and s 55A(3), which requires a defendant charged under s. 55A(1) to prove the absence of an honest and reasonable mistake of fact as to the misleading nature of the thing distributed, engages the charter right to be presumed innocent.

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

Ms BEATTIE (Yuroke) — It gives me great pleasure to speak on the Local Government Amendment (Offences and Other Matters) Bill 2009. What we have seen in the house this evening is more of what we saw at question time today — people making completely inaccurate statements and basing their arguments upon them. The member for Sandringham named Hume City Council — and all my electorate sits within the city of Hume — as committing a wrongdoing. There is no wrongdoing in the City of

Hume; it is a fine council that has not been named in any of these reports. The member for Sandringham should apologise to the City of Hume, which does a great job of serving a diverse constituency of residents and ratepayers and has done no wrong. If the member for Sandringham has evidence of any wrongdoing, then he should report it — not just get up in Parliament, wave his arms around and say there is wrongdoing when there is absolutely none.

Honourable members interjecting.

Ms BEATTIE — I invite the members for Sandringham and Hastings to come out to Hume — and not just on their way to the Melbourne international airport for an overseas trip — and have a look. They would see there is no wrongdoing in Hume. It is a fine council that serves its ratepayers and residents very well indeed. It is reflective of its ratepayers and residents in that it includes councillors who were not born in Australia. There are two Turkish-born councillors and one Greek-born councillor, so it is a great cultural mix. The councillors of Hume, along with the councillors of most other municipalities in Victoria, do a fine job representing their ratepayers under what are sometimes difficult circumstances. To tar them all with one brush, if you like, because of some wrongdoing is absolutely wrong.

Having said that, we require standards in local government just as we require standards in all walks of public life. This bill addresses some of those standards and imposes penalty levels that are now consistent with modern day standards; it amends many penalty levels. The bill also addresses voters rolls. Those rolls are sacrosanct. The penalties for interfering with rolls are high and I think that is appropriate.

Some of the significant increases are not even directly related to elections. The penalty for a councillor or a member of a council special committee who misuses his or her position for personal gain or to improperly benefit will be increased from 100 penalty units to a maximum of five years imprisonment or a fine of 600 penalty units, or both. I think any person in public life who abuses a position of trust should be dealt with quite severely; it is not only that person who is affected the whole fabric of society is undermined.

Members of this house should not forget that it is Labor that regards the other levels of government as important. It was not Labor that appointed commissioners, scrapped councils and introduced compulsory competitive tendering. It was not Labor that imposed a rates freeze and a rate cap so that services were slashed. It was those on the other side of the house and they should hang their heads in shame for that. Yet they stand up in the house today and trumpet themselves as the great defenders of democracy. There is nothing democratic about sacking people and handing power to unelected commissioners.

I turn now to some of the other penalties in the bill. The penalty for acting as a councillor when you are not entitled to act as a councillor will be increased from 10 penalty units to a maximum of imprisonment for one year or a fine of 120 penalty units. In addition, a court will be empowered to order a person found guilty of this offence to repay any allowances or reimbursements and return equipment and materials.

I will now talk a little about conflict of interest, because the act lists a number of matters on which councillors are not considered to have conflicts of interest. Members will be aware that other legislation has been passed in this house that makes it clear what a conflict of interest is. The chief executive officers of all councils instruct newly elected councillors as to what is a conflict of interest. However, hospitality received from a not-for-profit organisation at a function or event that is attended in an official capacity by a mayor, councillor or council staff will be excluded.

The bill will also insert a provision for the minister to grant an exemption to conflict of interest where there has been a longstanding provision that the minister may grant an exemption for a councillor when the council cannot maintain a quorum because of the number of councillors with conflicts of interest.

This bill is a very good and timely bill. But it is a bill which most councils will not have to use because most councils and councillors do the right thing so they will not be breaching this legislation. I commend the bill to the house.

Mr Thompson — On a point of order, Acting Speaker, I wish to clarify that there was a developer with the City of Hume who failed to report a campaign donation. That was the City of Hume example to which I was referring in my contribution.

The ACTING SPEAKER (**Ms Munt**) — Order! There is no point of order.

Sitting suspended 6.30 p.m. until 8.02 p.m.

Mr WAKELING (Ferntree Gully) — It gives me pleasure to rise to speak on the Local Government Amendment (Offences and Other Matters) Bill 2009. I cannot think of a more appropriate bill for us to be debating in this house today when we have seen the sorry tale of the Brimbank City Council played out yet

again under the watch of this government. Those opposite should hang their heads in shame at the way they and their party have operated in councils such as the City of Brimbank. The City of Brimbank is symptomatic of the problems that beset this state.

This bill seeks to amend the Local Government Act 1989 to amend certain penalties for offences so that they are consistent with the Sentencing Act 1991. It will provide for an increase in penalties for certain offences to reflect current community expectations. It will also seek to enhance the operation of the act and to make certain technical amendments to the City of Melbourne Act 2001.

It is very interesting to look at the problems this government has been facing in managing corruption in local government. One of the proposals under this bill seeks to increase the penalty units with respect to offences perpetrated by those in local government. As a former local councillor, I understand the benefits and the significance of local government and the role it plays in representing the needs of local communities. I pay tribute to those hardworking councillors who do put the community before themselves. But, as we have seen played out today, there are clearly some councillors who are not interested in having the community as their no. 1 concern. I can only surmise that we are at the tip of the iceberg with respect to the level of corruption taking place among those in local government within this state, many of whom have direct or indirect links with the Australian Labor Party.

This bill seeks to increase the maximum penalties, for example, for offences relating to the misuse of voters rolls or the provision of false enrolment information, for example. It will also deal with interfering with a person's free exercise of their democratic rights or interfering with a person when marking a ballot paper. It will increase penalties with respect to interfering with ballot boxes and with the delivery of postal votes. It will increase penalties with respect to the offences of offering, giving, seeking or accepting a bribe, and it will increase the penalties where a person misuses their position for personal gain or to improperly benefit or to harm another person.

That all sounds good and well, and you would think that was a reasonable response, but one has to remember that the act from which this is drawn already has provisions in place to deal with these offences. The importance of this is that we are not creating new offences; all we are doing is seeking to increase the penalties associated with offences under the act. The question has to be asked: under the watch of this government how many people, how many councillors and how many candidates for local government have actively been charged and prosecuted as a consequence of breaching these sections of the act? I think we all know the answer to that: negligible numbers of those perpetrating crimes have actually been prosecuted under this act. So to cover up the corruption, to cover up its inaction, this government is seeking to increase penalties. Those opposite can try to defend the actions of Labor Party members and Labor Party councillors in councils such as Brimbank, but the reality is that for 10 years this government allowed this sort of sore to fester — until the member for Keilor came into this house and lifted the lid on the corruption in this state.

The member for Shepparton, with the assistance of the member for Mornington, called for an inquiry into the activities of that municipality. Let us just see how that is played out. It is a sorry tale. One can only feel sorry for the residents in that municipality when they pay rates and elect councillors on the basis that they will provide services and facilities that meet the needs of those local communities. I can only feel sorry for the residents in those communities. The member for Keilor, the member for Shepparton and the member for Mornington were prepared to stand up and lift the lid on and identify the problems.

Only today we saw this sorry tale played out even further. It is alleged that one councillor took it upon himself, when issued with a parking fine, to stare down the parking officer within that municipality and request that his parking fine be withdrawn. That is just one example. It was reported today during the 5 o'clock news service, and it demonstrates the level of corruption that is taking place in this state.

The reality is that the person charged to investigate that municipality was given three years, and after a period of, I think, four months — —

Mr Morris — Four months.

Mr WAKELING — After four months it was decided that enough was enough. This is a council that is beyond repair. This is a council that could not recover from the tragedy that beset it through those who were elected as local representatives. The only thing that could be done with respect to that council was to terminate its activities. That is a tragedy.

As I indicated, this bill seeks to increase penalty units, which is a way for this government to pretend that it is dealing with the problems. But the reality is that all it is doing is increasing penalty units for offences that have existed for the time that this government has been in power.

Honourable members interjecting.

Mr WAKELING — Those opposite can whine and whinge, but the reality is that under the watch of this government, under the watch of this minister, events are being played out within the city of Brimbank which are appalling and are a tragedy. One can only surmise that those opposite are sitting there bleating in defence of their party colleagues who are operating in municipalities such as Brimbank. I would have thought those opposite would be hanging their heads in shame and seeking to distance themselves from the Hakki Suleymans and the other operatives and apparatchiks who were operating within that municipality when an investigator actively named branches of the Australian Labor Party. This is unheard of. We are not talking about the operations of individuals; we are talking about the operations of branches of the ALP. This is unbelievable. A branch of the Australian Labor Party is directly involved in the activities of — —

Mr Wynne — On a point of order, Acting Speaker, I would ask you to direct the honourable member to return to the bill at hand. This bill is relatively contained, and he is now straying off into areas that are clearly not part of this bill.

The ACTING SPEAKER (**Mr Ingram**) — Order! I uphold the point of order. I call on the member for Ferntree Gully to refer his comments to the bill.

Mr WAKELING — Acting Speaker, I am more than delighted to speak on this bill. I am interested to see that the minister is encouraged by active and robust debate on this bill. As I have indicated during my contribution, this bill seeks to introduce an increase in penalty units. I bring the minister back to the issue at hand — that is, on the one hand it is all good and well to increase the penalty units for offences, but the first thing you have to do is hunt down and act against perpetrators in order to implement the penalty unit application. The government can increase penalty units as much as it likes, but the first problem is that it has to actively want to go out and hunt down the perpetrators of these offences.

Mr LANGUILLER (Derrimut) — I rise tonight in support of the Local Government Amendment (Offences and Other Matters) Bill 2009. The purpose of the bill is to amend the Local Government Act 1989, the principal act, to increase the penalties for certain offences to reflect current community expectations, to amend certain penalties for consistency with the Sentencing Act 1991 — ringing them into line so they are in harmony with other jurisdictions, to enhance the operation of the Local Government Act 1989 and to make technical amendments.

This is a good bill, and it is good reform. It is good in terms of bringing the legislation up to date and up to speed with the times, because they have changed. We on this side of the house take issues of democracy seriously, we take issues of accountability seriously and we take issues of transparency seriously, as tough as that may be. Unlike that mob on the other side, we on this side are not ideological about decisions we make. Whatever decisions we have made — —

Honourable members interjecting.

Mr LANGUILLER — Members opposite should make no mistake about this. Whatever decisions we make on this side are based on facts; they are based on evidence, as painful as that may be. We are a responsible government and we have a responsible minister who is doing what he needs to do across the board to ensure that those fundamental issues, of which Victorians are custodians, are and remain in good hands.

One of the matters this bill attempts to address is the issue, importantly, of interfering with a person's free exercise of their democratic rights or interfering with a person when marking their ballot papers. The bill talks about the penalties, which are improved and upgraded. What is significant for us in Victoria, as members should remember, is that it was in Victoria, in 1856, that the secret ballot was introduced for the first time. We became the first jurisdiction to introduce the secret ballot. As Victorians, and as the government, we recognise our responsibility of ensuring that the fundamental effort made in delivering the secret ballot to Victorians remains intact, transparent and accountable.

I am talking particularly of the tradition of Henry Chapman, an Englishman who introduced a mechanism by which Victoria became the first jurisdiction in the world to introduce the secret ballot. That mechanism was developed by the lawyer Chapman, who I understand later became a judge in New Zealand. We should remain good custodians of that and ensure that in our legislation and indeed in our penalties we do what is required across all jurisdictions, and in this case in local government, to keep the secret ballot absolutely secret.

This bill introduces other important matters. Many of the changes relate to electoral offences, such as offences relating to the misuse of voters rolls or the provision of false enrolment information. It is plain and

simple. We are saying to voters, to councillors and to candidates that wrongdoings such as misuse of powers, misuse of rolls, interfering with people's rights to vote, purporting to be somebody you are not, remaining as councillors and so on and so forth — all those important matters that go to the heart of democracy, transparency and accountability — will be dealt with by this government, and dealt with unashamedly.

I fully support this bill. Before concluding my remarks — I understand we are constrained by time — I wish to commend the minister for introducing the provision which will allow councils to grant rebates or exemptions to agencies registered under the Housing Act in order to support the provision of affordable housing. I have to commend that provision in particular, because it is important that the Labor government remain committed to delivering affordable housing for all Victorians. I therefore commend the bill to the house.

Mr WALSH (Swan Hill) — I rise to make a contribution on the Local Government Amendment (Offences and Other Matters) Bill 2009. In listening to the previous speaker, the member for Derrimut, talk about the secret ballot and how his party is so proud of what it has done, I noticed he did not reflect on the fact that — as I understand it — Labor members of councils in Victoria actually have to vote how their party tells them to vote. It is all very well to wax lyrical in this place about how you are going to have a secret ballot, but you are being told by your party how you are going to vote before you even get there to do it. I find that rather fascinating — —

The ACTING SPEAKER (**Mr Ingram**) — Order! The member for Swan Hill, through the Chair.

Mr WALSH — I find it rather interesting that you could talk about secret ballots when people are instructed on how they are going to vote. I do not see how there could be — —

The ACTING SPEAKER (**Mr Ingram**) — Order! The member for Swan Hill, through the Chair.

Mr WALSH — I am speaking through the Chair, Acting Speaker. In thinking about this particular bill, one of the things that I reflected on was — I think it was after the 2006 election — when the then Premier Steve Bracks made a great deal out of changing the constitution in Victoria to recognise the third tier of government and to give that tier of government in Victoria some independence, which would supposedly go with having it recognised in the constitution. But as I reflect over the last three or four years of local government functioning here in Victoria with that supposed independence, I see there is a whole issue around financial dependency on the other two levels of government. Local government may have its constitutional independence in this state, but it is financially tied to both the commonwealth and the state for a large percentage of its funding, because local government does not have a taxing role except for shire rates, which are a very archaic way of raising money.

The growth taxes in Australia, that are based not on capital assets but on income, particularly the GST, are giving the federal government and the state government huge revenue streams, but local government has been denied that. Local government may have been given constitutional rights and recognition by this government as the third tier of government, but until it has the finances it needs to deal with the issues it has to deal with, it is not going to have any particular independence.

As we talk about this bill and the issues in this bill, we note one of the issues is the penalties for councillors or council staff who do anything wrong. One of the organisations that represents local government in this state is the Municipal Association of Victoria.

Mr Wynne — Good people!

Mr WALSH — I will come to the Municipal Association of Victoria. In my life in public office I have had a lot to do with the Municipal Association of Victoria, through the Victorian Farmers Federation, both before I came in here and since I have been in here. A lot of people I deal with would say that the MAV is in effect a branch of the Labor Party. The MAV is dominated by people from the Labor Party, and I do not believe it gives a fair and unbiased view of what is going on in local government. In general it will not be critical of this government. In general it is far too soft on this government.

There have been a lot of issues around local government on which the MAV should have been stronger. It should have stood up for the issues that are affecting local government, particularly country local government and the smaller councils which are really struggling to find the finances to manage, particularly with the drought and the issues around water in northern Victoria. I believe the MAV has been far too silent on those particular matters. It has gone soft on things like the north–south pipeline and the separation of land and water from a rating point of view. There is no recognised strong voice speaking up as an independent body for local government here in

Victoria, because the MAV is far too close to the government.

The other matter I would like to briefly touch on is clause 36 of the bill, which provides for gift disclosure thresholds of $200 or a higher amount prescribed in the regulation. This is a good change. This was described to me as something that was to the significant disadvantage of local councillors: if they did the right thing in their community and attended different functions to get an understanding of what was going on, that would be classed as hospitality and would mean they would potentially have a conflict of interest in the future. The changes here are very good. They will allow local councillors to get involved in their communities and not be penalised for it with the conflict-of-interest issue.

Mr Weller — Should have been there in the first place.

Mr WALSH — It should have been in there in the first place, as the member for Rodney says. But I suppose if you look at this and the fact that there was this $200 limit, it is interesting to note what happens when you apply rules to one level of government that are not applied to another level of government. The thing that immediately comes to my mind when I look at this is an organisation called Progressive Business. For those who know, Progressive Business is in effect the fundraising arm of the Labor Party in this state. People pay thousands of dollars to have a meal with a particular minister.

Mr Wynne interjected.

Mr WALSH — I am not sure, Acting Speaker, who has paid thousands of dollars to have dinner with the Minister for Local Government. I am sure they would have had a very enjoyable time and a very intelligent conversation, but they would have had direct access to the minister. So one of the issues there — —

Mr Wynne — On a point of order, Acting Speaker, I ask you to yet again draw the honourable member's contribution back to the bill, because he has strayed a bit far and wide in raising matters in relation to Labor Party organisations. I ask you to draw him back to the bill.

Mr WALSH — On the point of order, Acting Speaker, I do not agree with the assertion put forward by the Minister for Local Government. I think local government and the Labor Party in Victoria are intrinsically linked. How could I make a contribution without putting the two together?

The ACTING SPEAKER (**Mr Ingram**) — Order! I uphold the point of order and call the member for Swan Hill back to the substance of the bill.

Mr WALSH — Thank you, Acting Speaker. I was saying, the new definition of gift disclosure is a very good change in this legislation. As it is with our roles as members of state Parliament, the role of local councillors is to be very active in their community and to attend as many community functions as they can fit into their diary so they get a feel of what is going on in their community. This particular restriction made it very difficult for them to be part of their community and then to vote around the council table.

The coalition is not opposing this legislation. As our shadow Minister for Local Government said in her contribution, quite a few things in this bill are probably well overdue, and no doubt there are other things that should be done. I hope the Minister for Local Government has taken those on board. I look forward to his summing up, when no doubt he will again take the very good advice offered by the shadow Minister for Local Government.

In conclusion, the Minister for Local Government should have consulted with and listened to the shadow Minister for Local Government, who has had vast experience as a councillor, as a mayor and as a commissioner.

Mr Wynne — As opposed to my good self?

Mr WALSH — She has a lot of knowledge with which to assist the Minister for Local Government to do his job, particularly from a country point of view. I acknowledge the Minister for Local Government was a Lord Mayor of the City of Melbourne. However, Melbourne stops at the tram tracks, as this government constantly reinforces by its actions. Given that the shadow Minister for Local Government has such a vast experience of country issues, I am sure that the minister would benefit from her knowledge.

Mr PERERA (Cranbourne) — I rise to join all members of the house who are supporting the Local Government Amendment (Offences and Other Matters) Bill. Unlike the previous speaker, I will concentrate on speaking on the bill. I think members on both sides and their constituents would have appreciated that at least the previous speaker spoke on the bill for 1 minute.

Opposition members were misrepresenting facts during question time and have continued to do so during this debate. They have been claiming that Labor councillors have been caucusing. I do not think they have substantial evidence to prove that. If they look at the

voting patterns in councils in the south-east such as Casey and Frankston, they will see that they clearly indicate that Labor councillors are not caucusing.

This bill is part of the Brumby government's ongoing process of legislative reform in local government. The bill primarily deals with a particular need to update the penalties in the Local Government Act. This is another reform aimed towards improving the governance of local government, which is a vital part of Australia's three levels of representative democracy. These measures will restore public confidence in local government and its elected councillors.

The bill amends the offences and penalties in the Local Government Act 1989 and makes a number of other amendments as well. The penalties in the Local Government Act were set out in 1989 when the legislation was originally enacted, and changes are now required. Life has moved on; we are facing new challenges. Some penalties are clearly out of step with similar offences in other acts. They are inadequate as deterrents and fall short of community expectations. This is not ideal for local government democracy. Many other penalties are out of step with standard penalty levels specified in the Sentencing Act.

Some matters in the bill have arisen out of communication with councils and peak bodies. This has been a consultative process. Most of the significant changes are in relation to electoral matters.

When this bill becomes law in the state of Victoria those who will be adversely affected will be the law-breakers, not the law-abiding majority of councillors. That is what this bill is about. The bill is not discriminating on the basis of the political allegiances of councillors. The bill will treat the Brimbank City Council in the same manner it does the Glen Eira City Council. Glen Eira, where the council was sacked for misconduct, is not an area where Labor has strong representation, and it would not be expected to have Labor councillors. Members opposite would conveniently like to forget about that episode. Unfortunately some members of the opposition completely forgot to speak about anything directly related to the bill since they were preoccupied with gaining cheap political points.

As part of these reforms, the penalty for providing false information on the voter rolls is being increased from 10 penalty units to a maximum of 120 penalty units. The penalty for interfering with a person's free exercise of their political rights is being increased from 1 penalty unit to a maximum penalty of imprisonment for one year or a fine of 120 penalty units. The penalty for providing a false nomination is being increased from 20 penalty units to a maximum penalty of two years imprisonment or a fine of 120 penalty units. The penalty for interfering with postal votes is being increased from 10 penalty units to a maximum penalty of two years imprisonment or a fine of 240 units. These are fundamental breaches that place roadblocks on the functioning of a representative democracy. These breaches will eventually result in people voting in a ward in which they are not eligible to vote or standing as a candidate in a ward when they do not qualify to stand in that particular ward.

Interfering with a person's free exercise of their political rights, whether in attendance voting, postal voting or any other form, is a serious threat to the fundamentals of universal franchise. Voting in place of dead persons or voting in place of others are serious offences and increases of penalties are justifiable.

The two offences in the Local Government Act are proposed to be increased to level 6 penalties. This means they become indictable offences that would generally be heard by a higher court. Bribery in connection with an election is a serious criminal matter. The penalty will be increased from 20 penalty units to a maximum of imprisonment of five years or a fine of 600 penalty units.

Although these are not widespread, they are very serious offences in a western democracy. In other parts of the world some form of bribery and misconduct can be prevalent. I would like to relate a personal story. In the late 1960s in Sri Lanka when my father stood for the local council, the wealthy desiccated coconut mill owner lined up against him. Early in the morning he — the mill owner sent all his workers to various places to collect coconuts for the mill, and he made sure that they would not return until the closure of the polling booths. I am sure that money would have changed hands close to the election day as well. That was a commonly known secret at the time in that part of the world. In a ward where about 500 votes were polled, my father lost by 14 votes.

The misuse of a position by a councillor or a member of a special committee for personal gain or to temporarily harm or benefit another person is a serious breach of public trust. The prescribed maximum penalty will increase from 100 penalty units to imprisonment for five years or a fine of 600 penalty units or both. These increases will trigger councillors to think twice and assess the worthiness of such acts that will imperil not just their political career but their whole life.

The bill is an excellent piece of legislation to enhance democracy and public confidence in Victoria. I congratulate the minister and the Brumby government for introducing this bill to restore democracy in Victoria. I commend the bill to the house.

Mr BROOKS (Bundoora) — It is a pleasure to speak on the Local Government Amendment (Offences and Other Matters) Bill 2009, and in particular in support of the provisions in the bill that bring a range of penalties into line with community expectations and into line with the Sentencing Act.

It is important that people who wish to participate in local government understand the seriousness of contravening the provisions in the act. I refer to an example from my time in local government before being elected into this place. During an election people were distributing unregistered how-to-vote cards at a polling place. Luckily the returning officer at that polling centre quickly rectified the situation, but it was a bit of an eye-opener for me in terms of people's willingness to blatantly contravene the regulations that govern the holding of local government elections. It is good that some of the penalties that apply are being beefed up, and I particularly note that the amendment in clause 13 deals exactly with that sort of circumstance. It amends the penalty for such an offence so that it will increase from 10 penalty units to 60 penalty units, which would see someone fined at today's rate at about $7000 for contravening that particular prohibition.

This government has acted to improve accountability in local government, and I refer specifically to the conflict-of-interest provisions that were recently introduced. This government — and I commend the Minister for Local Government, who is at the table listening to this debate — has acted in the best interests of the whole sector of local government and has taken tough decisions without political bias while respecting the democratic function of local government.

I noted recently a media release from the shadow Minister for Local Government criticising the government and this bill for not amending the penalties under section 55D of the principal act. Section 55D prohibits a council — and I make the clear distinction between 'council' as opposed to 'councillors' — from publicising and distributing electoral matter during an election period. It seems to have escaped the notice of the opposition that a fine on a council is a fine on the ratepayers, so of course the government is not going to penalise ratepayers for the actions of a council organisation.

Part of the problem is that the opposition does not have a clear policy on local government. It does not have a policy document on local government. It does not have a chapter in a policy document on local government. In fact, it does not have a single word of policy on local government. This government supports an effective, accountable and vibrant local government sector, and I urge all members to support this bill.

Mr WYNNE (Minister for Local Government) — In summing up the Local Government Amendment (Offences and Other Matters) Bill 2009 I thank the member for Swan Hill particularly for his great contribution and his indication of the extensive track record of the shadow Minister for Local Government. We share some similarities in our local government careers, hers in the country and mine in central Melbourne. The only difference was I was never a commissioner, and that is an experience I hope I do not have to take up in the future. Nonetheless the member for Shepparton made a very good contribution to the debate. She has considerable expertise in this area as well, and in summing up I will address some of the concerns she has raised with me.

Firstly, this is a contemporary revision of offences and penalties. As members have indicated in their contributions, many of the offences and penalties have not been reviewed since 1989. It is good to ensure that we have contemporary offences and penalties which more appropriately equate with other acts, particularly acts within the criminal code.

More generally, there are a number of other important amendments that go a long way to addressing some of the concerns that have been raised by the local government sector. The shadow minister indicated in her contribution that she and her colleagues have consulted extensively around local government. So have I, particularly on the issues around the not-for-profit sector and the taking of hospitality and the potential for conflict that arises from that. It is generally agreed by both sides of the house that the amendments in relation to the not-for-profit sector and the ability for councillors to accept hospitality from those organisations are welcome. The amendment will make a significant difference to the potential capacity for conflict that may have arisen for many councillors, not only in the metropolitan area but also those from rural Victoria as indicated by the very strong representations I have had, and I appreciate the fact that both sides of the house have welcomed that.

The conflict-of-interest provisions have now been in place for pretty much a year. The government has indicated it will be undertaking further consultations

across local government, which will involve the peak bodies, the professional associations and local government more generally, to carefully look at and consult with local government on how the conflict-of-interest provisions are operating and to see if there is any need for amendment going forward.

As has been the hallmark of this government, we have a respectful, robust and mature relationship not only with the peak bodies of local government but with the local government sector more generally. We go out and talk to local government on the basis that we are a partnership. We are prepared to listen to their legitimate concerns, take those concerns on board and make amendments as necessary, as is attested to here by our amended provisions to the not-for-profit sector and the taking of hospitality by councillors.

I look forward to that work being undertaken in the near future. It would be my expectation that we would be looking to have any necessary amendments scheduled for the first half of next year's legislative program. That work will commence shortly.

In relation to some issues that were raised by the member for Shepparton around section 55D, the government clearly shares the concerns of the opposition regarding any potential breaches of the Local Government Act. That would be a self-evident point. As the member indicated, the bill does not impose new penalties for breaches of the Local Government Act. Section 55D prohibits the publication or distribution of electoral materials by a council during an election period.

I am very much aware of the Municipal Electoral Tribunal decision in relation to Latrobe City Council; that matter has been brought to my attention. As the member would be aware, this provision imposes a requirement on the council rather than on a natural person, and therein lies the interesting policy dilemma. The bill does not impose a penalty because, self-evidently, any fine would be imposed on the council itself and would inevitably be paid out of public funds and, as the member for Shepparton would concede, that would be an impost on the ratepayer. Nonetheless, the act does specify a penalty for a councillor who misuses his or her position for personal gain, which may apply to a breach of section 55D in some circumstances.

In light of the Municipal Electoral Tribunal's decision, I have asked my department to advise me on the operation and enforcement of this provision. We are well aware of this issue. I thank the member for again bringing it to my attention. We are grappling with this issue; it has complexity. Do you fine a council when that fine will ultimately fall back on the ratepayer? How you address that question involves a level of complexity. We are seeking to address it, and I indicate to the member for Shepparton that if we can get that matter sorted, we may seek to consult with her about a potential amendment when the bill gets to the upper house.

In relation to the other matter that the member for Shepparton raised, which concerns the potential conflict of interest in relation to the Municipal Electoral Tribunal and the subsequent vote taken by the Latrobe City Council, I can indicate to the member for Shepparton that this is a matter that Local Government Victoria is aware of. Without providing the member for Shepparton with a running commentary, I am prepared to say to her that the matter is being looked into. If I can leave it at that point, I hope that will satisfy the concern the member has raised with me.

The matter of exemptions from the conflict-of-interest provisions if councils are in court was raised by the member for Mildura. As one who has to travel the state, I was up in Mildura and consulting with our colleagues in local government there. There are very good folk — —

Mr Walsh — You could have come on the train if you had replaced it.

Mr WYNNE — The member for Swan Hill is talking — —

The ACTING SPEAKER (**Mr Ingram**) — Order! The minister should not respond to interjections, and the member for Swan Hill should not interject.

Mr WYNNE — The member for Swan Hill is talking about closing rural railway lines — I mean, seriously!

Mr Walsh — Is this on the bill?

Mr WYNNE — Heavens, I am under some duress here, Acting Speaker.

The member for Mildura raised a concern in relation to the timing pressures on council decisions if a council fails to have a quorum. I had an extensive consultation with the Mildura Rural City Council whilst I was up there a couple of months ago, and it raised this issue with me directly. One of the concerns was that some of the councillors did not understand clearly enough when they had a conflict of interest.

It was brought to my attention that one of the councillors left the council chamber on the basis of a

perceived conflict of interest because they were a member of a bowling club and the council was dealing with a budget allocation for a different bowling club. This person held no office whatsoever; they just happened to be a member of a bowling club. They said, 'No, I've got a conflict of interest because I am a member of a bowling club', while not holding any office within either of those organisations. Clearly the councillor had no conflict whatsoever. That was one of those issues.

Another way this can be handled is by dealing with the budgetary matters sequentially so that you ensure you do not fall inquorate. We have advised through Local Government Victoria how you can manage some of those issues.

Amendments made last year allow councillors to apply for an exemption without having to move a motion at a council meeting, which should alleviate some of the concerns of the member for Mildura. These application processes do not apply to the new provisions in this bill. This provision relates to non-councillor members of special committees only in exceptional circumstances, such as those in the Murrindindi situation. It is widely understood to be an important provision that the government has put in place to deal with the extraordinary circumstances that we found with the section 86 committee at the Murrindindi council and the potential conflict of interest of non-council members. There has not been a significant increase in requests for exemptions for councillors since the new provisions have been enacted, but we will monitor that as we go forward.

This is a terrific bill. It provides a contemporary overview of offences and penalties. It also deals with the capacity for local councils to provide rate relief for housing associations, and that is fantastic. I will not wax lyrical about housing associations, except to say that this is an alternative not-for-profit housing sector of which we are trying to build up the asset base and capacity. As members know, we will be allocating somewhere in the order of $750 million to $800 million to two housing associations over the next two years to build housing right across the state, right across regional Victoria and metropolitan Victoria as well. This is going to make a big difference to the supply of public and social housing. Having the extra incentive in this bill where there is the capacity for councils to provide rate relief for housing associations — and many of them are very interested in having that capacity — is a great initiative and one that is very much welcomed by local government. It now provides the certainty to local councils that they have the capacity to do that, whereas in the past people have sought to look for other ways to provide incentives for housing associations to come into their area.

The bill is good news for housing associations, which is fantastic; it is good news in terms of the contemporary overview of offences and penalties; and it is good news in terms of the conflict-of-interest provisions, which we have smoothed out. We will be undertaking further consultation with peak bodies, professional associations and local councils around the conflict-of-interest provisions and how they are operating a year in. We committed to do that when we introduced the bill. I commend the bill to the house and wish it a speedy passage.

Motion agreed to.

Read second time.

Third reading

Motion agreed to.

Read third time.

PERSONAL PROPERTY SECURITIES (COMMONWEALTH POWERS) BILL

Second reading

Debate resumed from 13 August; motion of Mr HULLS (Attorney-General).

Mr CLARK (Box Hill) — The Personal Property Securities (Commonwealth Powers) Bill is a bill to refer legislative power to the commonwealth to enable the commonwealth Parliament to enact a national personal property securities (PPS) scheme. This is a significant issue for Australians in many aspects of their lives. Securities over personal property are important both in consumer finance and in the finance and commerce of business — in many different facets of everyday life.

Personal property securities can include those that are explicitly entered into and those that operate without express agreement by virtue of various principles of law in order to secure the interests of parties in goods and other personal property. Personal property, in the ordinary sense of the word, refers to any property other than land. In the sense included in the legislation it refers to property including a licence other than land or an excluded statutory right.

The bill refers power to the commonwealth to make laws on matters to which the proposed commonwealth

bill relates, but only to the extent of enacting the proposed commonwealth bill, and that is set out in clause 6(1) of the bill. Clause 6(2) refers power to the commonwealth to make laws on what are defined as:

> … referred PPS matters in relation to personal property (other than fixtures and water rights) …

but only to the extent of making express amendments to the commonwealth bill as enacted.

Clauses 6(3) and 6(4) separately refer similar power to the commonwealth in relation to fixtures and to water rights, and there is the capacity for those referrals to be proclaimed to come into operation on different days.

Clause 7 allows the referral of powers to be terminated by proclamation on a date or dates not less than 12 months after the relevant proclamation.

Clause 4 defines 'referred PPS matters' to be matters of security interests in personal property including recording, registering and enforcement of security interests, but not so as to exclude or limit the operation of a state law relating to the creation, holding, transfer, disposal et cetera of a state's statutory right, or limitations or prohibitions concerning interests in state statutory rights, including the forfeiture or transfer of property interests. That is set out in clause 4.

Clause 5 then defines 'security interest' to be an interest created by a transaction that secures payment or performance of an obligation and also the interests of a transferee under a transfer of a monetary obligation, or of writings that evidence both a monetary obligation and a security interest in, or a lease of, specific personal property, or a consignor who delivers goods, or a lessor or bailor of goods.

The proposals for a national scheme have their origins in April 2006, as the August 2009 report of the Senate Legal and Constitutional Affairs Legislation Committee makes clear. April 2006 marked the release of an options paper by the Standing Committee of Attorneys-General, and after that the cause of a national PPS scheme was taken up by the Honourable Philip Ruddock as Attorney-General under the Howard government.

Given that, it is a particularly brazen attempt by the Victorian Attorney-General to seek to claim credit for the national scheme in his media release of 11 August. In fact it is a preposterous attempt to freeload on someone else's hard work, and hard work is hardly something of which the Victorian Attorney-General would ever be accused. His attempt at claiming credit is made even less credible by the fact that the earliest instance that he cites of his commitment to a national PPS scheme is the inclusion of references to personal property securities in his justice statement 2 which was released in October last year, well after the first exposure draft of the bill had been released by the commonwealth in May 2008.

On this side of the house we strongly support the principle of a national PPS scheme, because as the Australian economy becomes more integrated and as commercial transactions increasingly extend beyond the boundaries of any one state there are enormous potential advantages in uniformity of law and in the ready registration and enforceability of security interests across Australia.

However, it is one thing for a measure to be good in principle; it is completely another thing to get it right in practice — and the Labor Party, at both state and federal levels, has repeatedly demonstrated a chronic lack of the real-world practical understanding that is necessary to implement complex and detailed reforms. We have seen that with emission trading, we have seen it with industrial relations changes and we have seen it with smart meters.

In the case of the national PPS scheme the commonwealth government seems to be on the crazy, abridged, almost impossible time lines that show every potential of being driven by the excessive demands for which our current Prime Minister is notorious, demands for observing time lines that are provoking widespread concern and complaint even from parties that strongly support a national PPS scheme in principle.

The history of some of the remaining issues surrounding the proposed commonwealth legislation is well set out in the report of the Senate Legal and Constitutional Affairs Legislation Committee of August 2009. It gives some indication of the very tight time lines involved. At page 1 of the report paragraph 1.3 records that the bill currently before the commonwealth Parliament was introduced in the House of Representatives on 24 June this year. On 25 June this year the Senate referred the provisions of the bill to the committee for inquiry and report by 7 August. The committee presented a short interim report to the Senate on 7 August seeking to present its final report on 17 August, but it was given a further extension on 13 August to 20 August — an incredibly tight time line for such a complex piece of legislation.

The committee, in chapter 2 at paragraph 2.2, gives further history following on from the April 2006 options paper about there being a national consultation process with the department releasing three further

discussion papers in November 2006, March 2007 and April 2007, with the first exposure draft of the bill being released in May 2008. After significant amendments a further exposure draft was released in November 2008.

Previously the Senate committee conducted an inquiry resulting in a very detailed report in March this year with a wide range of recommendations for improvements. As paragraph 2.7 of the committee's August 2009 report sets out, the commonwealth government tabled a response to the committee's first report on 8 June this year indicating acceptance of all but one of the committee's recommendations as well as a number of the opposition's recommendations. However, the committee goes on to record that although the government indicated it accepted the committee's recommendation that the commencement date of the scheme be extended by at least 12 months to May 2011:

> … the final version of the legislation was introduced before advice from stakeholders had been taken into account. The committee had expected that the final draft would be available for a longer period before being introduced.

At paragraph 2.10 the committee said:

> In the committee's opinion, this process has been somewhat foreshortened and has led to the committee still holding a number of unresolved concerns about the bill which are discussed in the following chapters. The process has also led to many further complaints from stakeholders about the haste with which it is being pursued, including the time that the committee was able to allow for the preparation of submissions. The bill was very substantially restructured and rewritten since the exposure draft, and a number of new sections introduced, and there appears to have been little if any further consultation initiated by the department with stakeholders on the new draft. A number of these stakeholders again raised serious concerns about their capabilities to come to terms with the bill in the time allowed for consideration, and have also claimed that there are still errors in the bill and unresolved issues.

Paragraph 2.11 states:

> There has been no adequate explanation about why the committee's recommendation to take more time to finalise the bill was not accepted.

Later on in the report, at paragraph 4.8, the committee said:

> In short, without going into the particulars, the committee believes that some of the potential problems identified in the submissions simply reflect differences of opinion about policy, but there are also numerous concerns about other aspects of the bill that are based on one or more genuine concerns about how provisions will operate.

Later on, paragraph 4.11, the committee referred to the fact that:

> … important changes are expected to be made to acts including the Corporations Act and the Shipping Registration Act —

consequential upon the principal legislation. The committee ended up recommending that the bill be passed subject to a commitment from the commonwealth government that it would:

> … thoroughly consider all concerns brought to the government's attention about the bill until 30 September 2009, including the concerns raised in the submissions —

to the Senate inquiry, and that it would:

> … provide greater transparency by making public its response to the concerns raised and by providing as much information as possible …

The report also states that the commonwealth government would need to commit to:

> … include in a consequential amendments bill to be debated in the Senate cognately with —

the main bill, intended: —

> … to take effect immediately after the commencement of the 2009 bill all changes to the bill identified as a result of concerns raised with this committee.

The reason the committee recommended an amending bill to follow on from the principal bill is that the wording of the principal bill has already been enacted in the New South Wales Parliament in the form introduced by the commonwealth, and that in effect provides the template set of words to which other state referral legislation will relate. The Senate committee's view was that that bill needs to be passed in its current form but then immediately amended before it actually comes into effect.

In chapter 5 the Senate committee canvassed a number of detailed concerns about problems with the legislation and quoted widely from a submission from what the committee refers to as the combined law firms, which are four of the major law firms in Australia — Allens Arthur Robinson, Blake Dawson, Freehills and Mallesons Stephen Jacques. The submission states:

> This is not a comprehensive list. We are concerned that, in view of the amount and significance of the changes, and the limited time, there are many other points that we and others will have missed, similar to those mentioned … below. This is significant legislation which will fundamentally change private commercial rights and financing practice.
>
> …

> … It is critical to get it right the first time, there is no urgency, and we strongly urge the Senate committee to repeat its initial recommendation to take time to get it right.

Without going into great detail about the particular concerns raised by the committee, I cite by way of example its reference to paragraph 14(2)(c) of the commonwealth bill, which is the meaning of 'purchase', 'money', 'security' and 'interest' in relation to collateral intended for personal, domestic or household purposes. It points out that one of the provisions of that paragraph would mean:

> … that an existing general security over all current and after acquired property (such as is commonly given by a small business to a bank for an overdraft) is given priority over the security of a subsequent financier of non-serial numbered consumer goods (such as an electrical goods store which finances the purchase of a large television).

While the point is a technical one, the consequences are quite significant because they determine who out of competing financiers will have priority in relation to their security and therefore determine the exposure different parties will incur and the ability of business, including small business, to efficiently and effectively raise finance.

In paragraph 5.17 and subsequently the committee talks about the issue of so-called 'flawed assets', such as a debt or other contractual right owed to the grantor which is conditional on the satisfaction of another obligation. Again there is an issue about a clash of priorities. The committee report then refers to a long list of concerns raised in a submission, which the commonwealth Attorney-General's Department agrees warrant further consideration. They include issues such as priority time and control, turnover trusts not successfully excluded from vesting provisions, transfer of collateral despite prohibition in security agreement, relocation of collateral, Office of the Privacy Commissioner's issues and many others. The description of these sounds very dry, but they have potentially significant real-world consequences.

There is also a minority report by the Liberal senators on that committee. That report reached very similar conclusions to the majority report but I think it is particularly helpful in making clear some of the practical consequences that can flow if this legislation is not implemented correctly. They said on page 34 of their minority report:

> 1.7 Liberal senators are particularly concerned that consultation with small and medium business has not been adequate, although it must be acknowledged that this not necessarily through any fault on the part of the department. However, the bill will, if passed, pose significant risks for some businesses and individuals if they are not aware of its implications. For example, the committee asked the representatives of the four law firms about issues relating to the registration of security interests for the farming community. Mr Loxton of Allens Arthur Robinson used the example of a farmer delivering a shipment of hay to a bulk exporter:
>
> > …the view is that, if the farmer is delivering the hay in advance of payment and has a contract with the buyer that the farmer will retain title to the hay until he or she is paid, that is security interest as defined and something the farmer will need to register in order to be protected.
>
> 1.8 On the same point, Mr Lowden of Freehills elaborated that it would no longer be enough for the farmer to simply rely on an invoice, and if they did, there was a risk in some circumstances that they could lose title to their goods, without payment …

In other words, a farmer doing what farmers have always done in terms of delivering hay to an exporter will find they have to register their security interest. In order to be able to do that, they will have to get additional documentation they would not have previously required from the person to whom they deliver it. These sorts of risks are multiplied right across the economy.

The Liberal senators concluded:

> 1.15 Liberal senators emphasise that it is not their intention to obstruct this important reform, but only to ensure that the government 'gets it right'.

They are absolutely right in that emphasis. It is an emphasis that we on this side of the Victorian Parliament share.

In addition to the many valuable submissions that were made to the Senate inquiry, we have been assisted by a range of comments we have received from various parties, including the Australian Finance Conference, which strongly supports a national PPS (personal property securities) system in principle although it is still working through some of the technical aspects; the Victorian Bar Council, which has considerable concerns about conceptual and drafting problems that need resolving; and various individual practitioners.

Let me briefly refer to some of the concerns that have been raised with us. It may be possible for a number of those concerns to be resolved simply by further explanation; however, it may be that some of these concerns require amendments to the bill before this Parliament as well as to the commonwealth bill.

One of the key issues raised with us is how commonwealth and state legislation will affect international shipping, in particular what are known as maritime liens, such as salvage liens. These liens can

arise independently of any transaction. A lien can burden Australian ships or vessels, and ship or vessels of other countries visiting Victoria can be enforced by actions in rem in the Victorian Supreme Court or in the Federal Court under the Admiralty Act 1998 of the commonwealth. There is a question of whether personal property under clause 3 of the Victorian bill would include a vessel. If so, is Victoria purporting to refer this matter under section 4.1 of the act if it does not have jurisdiction over admiralty matters? Regardless of that issue, there is a question of whether a lien is a security interest under clause 5.2 of the bill or a licence possibly under clause 3 because it is transferable.

These are all very important issues for international shipping. These concerns have been supported by a reference in the August 2009 issue of the *Maritime Law Association of Australia and New Zealand News* which indicates various members of that body have formed a subcommittee to prepare a response to the Attorney-General — who I think is the commonwealth Attorney-General. It says:

> We anticipate recommending amendments to the bill to 'carve out' admiralty issues.

This significant issue remains to be resolved, certainly at the commonwealth level and possibly at a state level.

A range of other inconsistencies between terms used in the Victorian bill and the commonwealth bill and other issues about the continuing application of state laws in some circumstances have been raised with us. The question has been posed to us whether clause 4.2 of the bill means that a warehouseman's lien will continue or not. There is a question about what will happen to the rights on the disposal of uncollected goods. What is the position going to be as to whether a security interest includes or does not include a solicitor's lien over a client's papers?

Another issue which has been raised with us concerns the drafting of clause 5(1), which says:

> … a security interest in personal property means an interest in relation to personal property provided —

in various ways. This might sound a fine point, but this practitioner has put to us there is a difference between a security interest in personal property and a security interest in relation to personal property.

The Victorian Bar Council has raised a number of concerns about the drafting of the Victorian bill. It has provided us with a copy of a submission that, as I understand it, it previously provided to the Department of Justice. It notes the bill includes a number of defined terms such as 'land security interest' and 'licence' which are not covered by the definition of 'security interest' in relation to the commonwealth bill. Its key point is that if our bill is to refer to terms that are defined in what it refers to as 'the tabled text' — the commonwealth bill is tabled in the New South Wales Parliament — then those terms should be defined in the same way or at least conform with the definitions in the tabled text in the Victorian bill.

It says its preliminary view is that the following matters should be addressed in the bill: that the words 'or chattel' should be deleted from the definition of land in clause 3; that the words 'monetary obligation' should be replaced by the word 'accounts' in clause 5(2)(a); that the words 'under a PPS lease' should be added at the end of clause 5(2)(c); and that the word 'licence' in the definition of 'security interest' in clause 5(3) should be replaced by the words 'statutory licence or licence arising under any law of the state' so as to conform to the tabled text. These may sound like obscure legal points, but from my own prior experience as a legal practitioner and indeed with a range of issues that have and continue to come to my attention in my current responsibilities as shadow Attorney-General, I can vouch for the fact that errors, inconsistencies or anomalies in drafting can have serious and expensive practical consequences for ordinary citizens, so it is important that we get these matters right.

The Victorian Bar has expressed particular concern about what it terms the 'haste and priority' that is being given to the proposed changes to general law and statute law as set out in the commonwealth legislation. It is its view that that legislation is being fast-tracked and that insufficient time is being given to stakeholders to consider properly the effect of changes on present law and practices. A lot more time is required, and the bar's preliminary view is that the commonwealth bill will require substantial redrafting.

I also want to refer to another set of issues that has been raised by the Scrutiny of Acts and Regulations Committee (SARC). As usual, it has done a diligent job in examining the legislation. I note that the member for Murray Valley, who serves diligently and effectively on the committee, is present in the house. In *Alert Digest* No. 10, SARC refers to advice from the Honourable Helen Coonan, chair of the Senate Standing Committee for the Scrutiny of Bills, about the inclusion of a number of clauses in the commonwealth's Personal Property Securities Bill and the commonwealth committee's concern about parallel heads of scrutiny that are the province of SARC in this Parliament.

The SARC report refers in particular to what are known as Henry XIII clauses, which enable regulations or subordinate instruments to change responsibilities or entitlements conferred by the principal act. There are also potentially infringements regarding the issues of wide discretion or delegation of powers and reverse onus of proof. SARC determined to ask the state Attorney-General whether he was satisfied that the inclusion of those provisions in the commonwealth bill is appropriate and justified in each case, because once Victoria has referred these powers to the commonwealth, as proposed by this bill, what then happens will be largely outside our control. The least we can do is make sure that it starts from a position that is acceptable to us in Victoria. I note that *Alert Digest* No. 11, which was tabled in the house earlier today, does not contain a response from the Attorney-General on these issues, so we are still awaiting that response.

In its charter report SARC raises a number of other concerns, including that the main automatic protections for grantors' privacy depend on the passage and content of regulations made by the Governor-General under clause 303 of the proposed commonwealth legislation, which will define the information that is to be provided to register financial statements and provide certain restrictions on searches and search criteria. The committee said:

> The committee is concerned that the making and content of any regulations, as well as the conduct of the registrar of personal property securities in operating the register, may not be subject to the charter's operative provisions.

This is yet another example of how the Attorney-General, in his blind enthusiasm to embrace the trendy and popular, has failed to think through the consequences of his charter in relation to cooperative national legislation and referrals of power, such as those proposed in the bill before us.

SARC said it would write to the Attorney-General seeking further information about whether the regulations for the commonwealth legislation will be scrutinised for their compatibility with human rights; whether they will be interpreted pursuant to section 32 of the charter; whether a court will be able to make declarations of inconsistent interpretation pursuant to section 36(1) of the Victorian charter if they cannot be interpreted consistently with a human right; whether the Governor-General will be subject to division 4 of part 3 of the charter when she makes regulations that are supported by the referred power in clause 6(1); and whether the register of personal property securities will be subject to division 4 of part 3 of the charter when it is administering laws made pursuant to Victorian referral in clause 6(1). These are all very good questions, and I will be keen to see the Attorney-General's response.

Our view on this side of the house is that the bill should pass through the Assembly but that we should await the resolution of the various issues I have raised before the bill is dealt with in the other place, where hopefully it can be passed with or without amendment. There are issues at the commonwealth level about the problems already acknowledged as needing to be changed by the commonwealth department, which may be accepted by the commonwealth Parliament as a result of the further consultations, the report of the Senate Standing Committee for the Scrutiny of Bills or any other amendments that may be made by the Senate. We should see those outcomes before we finalise our bill.

As the Liberal senators point out in their minority report, this legislation has very important implications, and it is important that we get it right.

Mr STENSHOLT (Burwood) — I rise to support the Personal Property Securities (Commonwealth Powers) Bill. The aim of the bill is to provide the commonwealth with the power to implement a single national register for personal property securities.

The member for Box Hill has spoken at some length about various elements of the bill, including some of the issues raised by the Scrutiny of Acts and Regulations Committee, including the Henry VIII provisions and other aspects. I am advised that the Attorney-General has written to SARC and I am sure we will be informed of the response to that letter in the near future. The member for Murray Valley may well be able to tell us more.

What is personal property? Personal property is defined in the bill as any property other than land. It includes tangibles such as goods, crops and livestock, and intangibles such as licences, investment instruments, negotiable instruments and accounts. It even includes yachts; but I am not too sure about the ships aspect which the member for Box Hill has raised.

This bill covers personal property securities (PPS), which is an interest in personal property that secures a payment or performance of an obligation without regard to the form of the transaction or the identity of the person who has title to the property. There is a range of definitions in clause 3, and in clause 5 there are definitions of the meaning of 'security interest' in personal property. A security interest in personal property will also be created by a transfer of an account or chattel paper, a lease of personal property for a term of more than one year, and a commercial consignment.

This bill is part of a move towards a national system for the registration and regulation of security interests in personal property and will help to simplify the legal and administrative maze faced by many consumers and small businesses. While it may sound at first blush to be fairly arcane, if you start to run into problems in purchasing a motor vehicle it is no longer arcane; quite frankly it is very real to many consumers. The provisions of this bill will be important to such people.

There is a maze of legislation throughout the states and territories. There are some 70 commonwealth, state and territory acts regulating personal property securities. The law and the practice in this regard is highly complex and varies depending upon the legal form of the grantor — for example, whether it is a company or an individual or some other entity. Our legal friends are always very creative in the new entities they create.

It also depends on the state or territory in which the personal property is located and the legal form of the personal property securities, whether they are fixed or floating charges or chattel mortgages, finance leases, commercial consignments including retention of title arrangements, and pawns. It also depends on the nature of the personal property. I mentioned a motor vehicle before but it could be an investment instrument or even livestock. As I also mentioned, it could be a yacht.

The most common form of personal property securities is a personal loan secured against a motor vehicle, with which most people would be familiar. It can cover other arrangements. Businesses are able to offer machinery and inventory as security. They can offer not only present inventory but also future inventory. It means they can borrow money against all the property they currently own or may own in the future, which includes future inventory they may have as well. It is a quite complex system.

There has been a lot of consultation through the Standing Committee of Attorneys-General over the past three years, and a lot of progress has been made in achieving a national unitary PPS framework and register. The Victorian bill is a facilitative bill as it will allow the commonwealth PPS bill to apply as law in Victoria. It reflects model referral legislation drafted by the Australasian Parliamentary Counsel's Committee for all states. New South Wales, as the first referring state, has already passed and commenced its referral legislation in the form of the New South Wales Personal Property Securities (Commonwealth Powers) Act 2009, which was passed on 19 June this year.

The commonwealth bill was introduced into the commonwealth Parliament on 24 June 2009. However, it cannot be enacted until all the states and territories have passed their referral legislation. It is meant to be a national system. It will have some advantages because it will remove the duplication of commonwealth, state and territory regimes and will help to dramatically reduce costs. There will be a national register for registering these security interests for which there will be 24-hour access.

The commonwealth government has budgeted approximately $114.7 million for implementation of the PPS reform, which includes the legal framework, the establishment of the PPS register and the office of the PPS registrar. People will want to know what is going on and a call centre will be set up for user assistance. The commonwealth government has undertaken preparatory work and so far has expended nearly $19 million on the reforms. However, there will be fee revenue to offset the implementation costs.

There is currently a similar system operating in New Zealand. The member for Murray Valley will be very interested in the fees that are being charged in New Zealand; I know he has a passionate interest in small business. In New Zealand a fee of $3 is levied. However, if you want to register a lien on the Victorian register of stock, wool and crops, it will cost $34. As members will see, there will be massive savings under the new system. If you want to place an encumbrance on a motor vehicle, at the moment it costs somewhere between $5.70 and $6.40. This system will cut that fee in half; it is really cutting red tape.

However, if you want to register a charge over company shares on the register operated by the Australian Securities and Investment Commission, it will cost $135. That compares with the system in New Zealand, which we are seeking to replicate in Australia, where the fee is $3. If a mortgage over a ship is registered on the commonwealth register, it would cost a lot more: it will be $416, not $3.

There are a lot of savings to be made under the new system for business. Like the member for Murray Valley, I am also quite passionate about cutting costs for small business and ensuring that small business is able to operate with a degree of certainty and economy and with a degree of flexibility and freedom in pursuing its business. As this bill is made into law in conjunction with all the other states, a national system will be formed which will help small business and which at the same time will help consumers — for example, in terms of encumbrances over motor vehicles it will be very practical and very helpful. Therefore I commend the bill to the house.

Mr JASPER (Murray Valley) — I have listened to the debate on this bill and I have listened with a great deal of interest to the contribution by the member for Box Hill who, in typical fashion, has provided an excellent overview of the legislation and an excellent explanation as to the impact of the legislation in relation to uniformity across Australia on a range of legislation.

I also listened to the contribution of the member for Burwood. It is true that I am very keen to see that we look at these issues and try to reduce the costs as far as red tape is concerned. But importantly we need to look at the difficulties experienced in operating between the states and between the states and the commonwealth; I will refer to that later. I also noted the comments made by the member for Burwood when he referred to the report of the Scrutiny of Acts and Regulations Committee, *Alert Digest* No. 10, which was also referred to by the member for Box Hill. I will come back to that later in my contribution.

In relation to the contribution made by the member for Burwood, yes, the Scrutiny of Acts and Regulations Committee wrote to the Attorney-General on issues of concern raised in connection with this legislation. The member indicated we may have received a response from the Attorney-General. I confirm to the house that as of yesterday when we had our latest meeting we had not received a response from the Attorney-General. Otherwise it would have been included in *Alert Digest* No. 11, which is currently before the house.

However, I listened with a great deal of interest to the detailed information provided by the member for Box Hill. In principle the coalition in opposition is not opposing the legislation, but certainly we have great questions about it and, as indicated by previous speakers, about the minority report from the federal level and the practical implications of the legislation.

I also want to indicate that from our point of view the Scrutiny of Acts and Regulations Committee has limitations in being able to investigate legislation that may have come about through the operations of COAG (Council of Australian Governments) where we are looking to get uniformity in legislation across Australia. There are limitations to the investigation we can undertake in relation to the legislation, and indeed in our being able to offer commentary, when we do not know the absolute legislation which will be passed through the other houses of Parliament and the federal Parliament. That was referred to by the member for Burwood when he indicated that we would need to wait to see how far we could go in getting uniformity from the other states and then look at the legislation becoming law.

Basically the purpose of the bill is to transfer responsibility for personal property securities (PPS) from the states to the commonwealth by establishing a single national law, reducing anomalies, costs and confusion and increasing certainty for lenders and borrowers. It is part of a national business regulatory law reform agenda agreed to by COAG and will allow for a uniform system of registration and regulation of security interests in personal property. It was first raised by the Standing Committee of Attorneys-General in 1992. Examples of personal property include motor vehicles, machinery, office furniture, crops, livestock and intellectual property such as trademarks and patents. Around 70 commonwealth, state and territory acts govern PPS interests, and there are a number of registers established under the different acts. The bill will establish a single national law and a single national online register, reducing anomalies, confusion and costs and increasing certainty for lenders and borrowers.

I note also that, crucially, water rights are not included. The water subcommittee of the COAG Working Group on Climate Change and Water has agreed that security interests in water rights should be excluded from the PPS scheme. Tradeable water rights could be included in future if governments were to agree that a PPS register was the best way of regulating security interests.

That gives a general overview of the legislation, but certainly concerns were expressed by the member for Box Hill. The Victorian Bar Council has raised some concerns about inconsistencies in terms used in the Victorian and commonwealth bills. Other concerns relate to potential confusion over continuing application of state laws. It is also noted that the Senate Legal and Constitutional Affairs Committee recommended that the commonwealth government consider a range of concerns and introduce an amending bill, and the Victorian government should perhaps be urged to ensure that the necessary amendments are made to the Victorian bill.

These are the sorts of concerns which we have in reviewing the legislation before the Parliament. There are major concerns when we look at trying to get uniformity of this legislation and uniformity in the operation of the legislation. We look to the other states of Australia and the commonwealth government in trying to get absolute uniformity in the legislation.

I have been very much involved in bringing to the house concerns relating to border anomalies. The northern border of my electorate is the boundary between Victoria and New South Wales, and over the years I have spoken on this issue in the Parliament in

seeking to eliminate the huge anomalies between the two states. This legislation should be able to move us further in the right direction in seeking to eliminate anomalies.

I have sought the elimination of anomalies particularly in the motor industry. Some years ago VicRoads went online with the transfer of motor vehicles. People who were operating a business in the motor vehicle industry on the border between the two states but were operating in, say, Albury instead of Wodonga found they could not transfer vehicles to their registered name in Albury because of changes to the online system. The Minister for Transport at that time, the Leader of the House, took this up on my behalf, and the government put through amending temporary regulations so those people operating in New South Wales could transfer Victorian-registered cars into their names and to their New South Wales addresses. These sorts of issues could be addressed by this legislation.

I am interested in the Border Anomalies Committee, the work that has been done in more recent years and the meetings which took place in 2006 in Echuca, in 2007 in Albury, in 2008 in Mildura, and just a month ago in Albury again where border anomalies were discussed and action was taken to eliminate a range of anomalies. We have seen the work that has been done in recent times — for instance, the integration of the Albury Base Hospital and Wodonga Regional Health Service into an integrated service. We have seen progress in joint policing initiatives across the border, dual taxi ranks operating in Albury and Wodonga and better coordinated policing and justice issues. That is just to name a few areas where work has been done in looking at coordination in border anomalies and the elimination of those anomalies.

In the limited time I have left I want to mention the difficulty with fishing licences, which has been a major issue in recent times. It was indicated that although this has been going on for decades the reciprocal licensing arrangements were to be agreed to earlier this year, but that has not happened. This is an area we should be looking at, and perhaps this sort of legislation will help to eliminate the large range of border anomalies between the two states. Indeed this would operate throughout Australia.

In my last few minutes I want to mention the Scrutiny of Acts and Regulations Committee. Members should read the SARC *Alert Digest* No. 10 report which was provided to Parliament, particularly as it relates to comments made by the federal committee about difficulties in the Henry VIII clause of the commonwealth bill. The senate committee was not satisfied with the explanatory material provided with the bill and sought further explanation from the commonwealth Attorney-General. Other issues were raised in this report which we have brought to the attention of the Attorney-General, seeking his response, which we have not received at this stage.

Issues have been raised about the effective operation of this legislation. We are not opposing the legislation, but we indicate there should be continuing moves to achieve uniformity between the states and the commonwealth to reduce the problems that occur for many of us operating along the borders between the states. This will assist the Border Anomalies Committee, which was abandoned in 2004 but re-established in 2006 following my representations to the then Premier, who agreed it should be continued. We see this as being satisfactory progress.

Ms BEATTIE (Yuroke) — It gives me pleasure to speak on the Personal Property Securities (Commonwealth Powers) Bill. The objective of the bill is to enact personal property security legislation to refer certain powers to the commonwealth Parliament to enable the operation of a new national personal property securities — PPS, as we now know it — scheme to operate here in Victoria. It will enable the future closure or modification of certain state-administered registers that record security interests in specific types of personal property — I will go into some of the different types of property at a later stage in my contribution — and enable the future consolidation or amendment of Victorian laws that govern the creation, transfer or extinguishment of interests in personal property, including security interests.

A national system for the registration and regulation of security interests in personal property will not only help simplify the legal and administrative maze that is sometimes faced by consumers and businesses but will also help reduce costs. The member for Burwood outlined some of the costs that are much cheaper in other jurisdictions. The reforms will simplify the current regulatory system, which includes more than 70 separate laws administered by at least 30 government agencies across Australia; there will be one piece of commonwealth legislation and a national online register. With 30 government agencies and 70 separate laws, you can well imagine the administrative maze that is faced by some consumers and small businesses. The reforms will remove the duplication of commonwealth, state and territory regimes, which will dramatically reduce the cost, confusion and red tape currently faced by small businesses and consumers.

One of the key benefits of the reforms will be the 24-hour access to a searchable and comprehensive national register. This will ensure that when consumers are purchasing personal property, such as a motor vehicle, they will be able to identify whether the vehicle is subject to any security interests. We have all heard stories of people who have bought a motor car only to find when another party comes to claim the car at some later stage that it has been owned by somebody else. It will also mean greater legal certainty for banks and other financiers over the security interests they currently take over a borrower's collateral, and it will free up business capital. Reforming property securities law is a key commitment of the Brumby Labor government's justice statement 2.

I want to talk about some of the consultation that has taken place. The Law Institute of Victoria was consulted over a draft of the referral bill and it made no substantive comments on the state bill. During the development of the policy proposal there was also extensive consultation with the banking and finance industry and with insolvency practitioners, the legal profession, consumer associations, privacy organisations — which are very important — academics and interested government organisations.

In the short time available to me, because I know many other speakers want to talk on this bill, I will talk about some of the personal property covered by the bill, which can be a wide range of things. What immediately comes to mind for most of us is our property and perhaps our motor vehicle and, for those who are lucky enough to own one, a boat. But it also covers other things. Members of the house will know that I am keen on flying. Many of my friends, I will say probably quite foolishly, have put all their collateral into owning a plane. Their wives often complain that they cannot sleep or cook in the plane, but they have chosen to invest their life savings in a plane. Although for many of us there is a narrow focus on the immediate property we own, there are other people with many esoteric interests, such as boats and planes.

The member for Burwood mentioned machinery, patents and trademarks. There is also currency, which we are all hearing a lot about at the moment, and of course the retention of title documents. But the bill does not cover household domestic property under the value of $5000.

As I said, I know that a lot more speakers want to talk on this bill, so I will leave it at those few remarks. I commend the Attorney-General and consumer affairs department on the work they have done on this bill.

Mr THOMPSON (Sandringham) — The opposition has a number of concerns about the Personal Property Securities (Commonwealth Powers) Bill 2009. The principal purpose of the bill at the outset is to refer legislative power to the commonwealth to enable the commonwealth Parliament to enact a national personal property securities scheme.

It should be noted that the Senate Standing Committee on Legal and Constitutional Affairs has recommended that the commonwealth government consider a range of concerns about the commonwealth bill and that it introduce an amending bill to give effect to changes arising from that consideration. The areas of concern include doubts by various securities law experts about the conceptual basis of the proposed commonwealth approach; inconsistencies between terms used in the Victorian bill and those in the commonwealth bill, as raised in discussions with the bar council; and potential confusion arising from the continuing application of state laws — for example, in relation to a warehouseman's lien, disposal of uncollected goods, a solicitor's lien over a client's papers and other matters.

The issues of a warehouseman's lien and the disposal of uncollected goods still arise in Victoria in a range of contexts in relation to the storage of goods. They come up throughout metropolitan Melbourne on an increasing basis, with goods being lodged with various storage places and issues arising over what rights people have in relation to their lien over the goods for payment and how they might deal with them.

Another concern is how the commonwealth and state legislation will affect international shipping — for example, a maritime lien such as a salvage lien. The opposition has some other issues of concern with the drafting of the bill.

The bill has a number of provisions, which include the referral to the commonwealth of the power to make laws on the matters to which the proposed commonwealth bill relates, but only to the extent of enacting the proposed commonwealth bill. The bill refers to the commonwealth the power to make laws on referred personal property securities matters relating to personal property other than fixtures and water rights, but only to the extent of making express amendments to the commonwealth bill as enacted. It separately refers similar power to the commonwealth in relation to fixtures and water rights, with the capacity for those referrals to be proclaimed to come into operation on different days. It allows the referral of powers to be terminated by proclamation on a date or dates not less than 12 months after the relevant proclamation.

The bill defines 'referred personal property securities matters' to be matters of security interests in personal property, including recording, registering and enforcement of security interests but not so as to exclude or limit the operation of a state law relating to the creation, holding, transfer or disposal of a state's statutory rights, limitations or prohibitions concerning interests in state statutory rights, including the forfeiture or transfer of property interests and other matters.

The opposition is concerned that elements of the bill are highly technical. No doubt parliamentary counsel has considered the matter carefully and the legislative officers have turned their minds to a range of matters, but there is further no doubt that they will be following very carefully the process of the commonwealth in relation to this matter, including the Senate Legal and Constitutional Affairs Committee's final recommendations, and how as a consequence of their reflections we may end up considering this bill at a later time when it comes before the house for further amendment.

Mr SCOTT (Preston) — It gives me great pleasure to speak on the Personal Property Securities (Commonwealth Powers) Bill 2009. As has been touched upon by previous speakers, the context of this bill is that these reforms are intended to harmonise and streamline regulatory frameworks for legally recognised and enforceable security interests taken over personal property. As has been discussed, personal property can include such things as motor vehicles; planes, which I noticed were discussed by the member for Yuroke; other goods such as livestock and ships; and also goods which are not so tangible and which often are not thought of as property in the same way, such as intellectual property; licences such as patents and trademarks; and other things such as retention of title documents, office equipment and crops. Personal property covers a large range of items.

This bill is intended to deal with the current situation where there is a lack of harmonisation and a particularly unwieldy system of regulation of personal property. This bill will simplify the current regulatory system, which as it sits is overly complex, involving over 70 commonwealth, state and territory acts and a number of different commonwealth, state and territory registers of interest. The bill will refer to the commonwealth, which will involve the creation of a register that will operate on a real-time basis, 24 hours a day, 7 days a week. This will bring this area of personal property securities into line with other areas of public policy whereby information is provided on an easily accessible searchable database. If you look at access to things like land titles and other forms of public administration, which once required lengthy delays, paperwork and applications to different regulatory authorities, you find there is now a general shift within government to ensure that information is available in a timely and suitable manner. I think that is a laudable development we should commend.

In relation to any referral to the commonwealth it is important to understand the context and whether the referral is desirable or not. Usually one of the good tests of this is whether the regulatory framework is workable and whether similar unitary frameworks exist in comparable countries or whether competitive federalised systems exist in which there is competition for ideas between different federal systems. My understanding is that in other comparable jurisdictions there are similar single regulatory frameworks. Places like the United States of America, Canada and New Zealand have, so to speak, single, one-stop-shop registers on which security interests in personal property can be lodged, searched and enforced. This cuts out duplication and, as was discussed earlier, unwieldy regulation streaming across a number of jurisdictions.

This is a sensible reform. It is part of an ongoing process of commonwealth-state reforms whereby, if possible and where it is in the interests of the public, regulatory frameworks are held at the most suitable level of government. There also is obvious logic in dealing with these issues in one regulatory framework, as of course money and goods are fungible in many cases and can be dealt with across state boundaries. Often state boundaries are fairly arbitrary in these cases, and it is necessary to preserve the best interests of the public by ensuring that the regulatory framework is as light and dextrous as possible and meets the needs of both consumers and providers.

I understand this bill has been subject to reasonably extensive consultation with the banking and finance industry, with practitioners in areas such as insolvency, with the legal profession, with consumer associations, with privacy organisations and with academics and other interested parties. This process included the release of three policy discussion papers with two consultative draft bills through 2007–08, a commonwealth senate committee inquiry in early 2009 and other consultation.

This bill has come before us as part of an extensive process concerned with generating the best regulatory framework and the best legislation possible. This bill is a typical example of the sort of cooperative federalism which we have engendered in Australia. I understand there might be a few other speakers who wish to speak

in the limited time available, so I will simply commend the bill to the house.

Mr CRISP (Mildura) — I rise to make a contribution to the debate on the Personal Property Securities (Commonwealth Powers) Bill 2009. The purpose of the bill is to refer legislative power to the commonwealth and enable the commonwealth Parliament to enact a national personal property securities scheme. The provisions are extensive but there are a couple of areas that are relevant to my electorate, and I would like to discuss those in the time we have. They are to do with consignors, consignees and delivery of goods. The particular concern I have with this bill is how this commonwealth legislation will fit Victoria's circumstances and the potential for confusion arising from the continuing application of state laws to the warehouseman's lien, disposal of uncollected goods and solicitor's lien over client papers, and how the commonwealth and state legislation will affect international shipping in respect of maritime liens and salvage liens.

There are also some issues with what is personal property and what is not. As we have a deregulated grain industry, there are concerns about what will happen when growers sell grain to grain traders and how that fits within this legislation, and whether there are any opportunities under this legislation to further improve the lot of grain growers who, in selling their grain have to manage an increased risk within a deregulated market.

There is also an additional problem in the wine industry, where farmers sell their grapes to wineries with payment terms over a 9-month or 10-month period. In these tough economic times and for other reasons there has been a number of significant failures in the wine industry. This has left growers who have delivered their product to a winery without any payment for it. That concerns us because it causes considerable hardship. There is also a line of thought out there that some wineries appear to be failing just after a vintage has been delivered. Growers, therefore, have gone to the considerable expense of growing the crop but have not received any payments at all. Whether wine grapes are personal property or not and whether any advantages can be gained in this legislation are matters that need to be explored, because many rural farmers cannot carry the risk of growing food and not being paid for it.

The horticultural code of conduct offered some hope for horticulturists caught in this same issue of food products that they carry liability for yet are not paid for. Those are considerations that are very much on the minds of rural people. Some of the issues we have are whether there will be room in this legislation and in the commonwealth legislation to provide some protection.

Business interrupted pursuant to standing orders.

ADJOURNMENT

The DEPUTY SPEAKER — Order! The question is:

That the house do now adjourn.

Planning: Doncaster Hill activity centre

Ms WOOLDRIDGE (Doncaster) — I call on the Minister for Housing to postpone the commencement of the social and affordable housing development on Tram Road, Doncaster, until members of the Doncaster community have been appropriately consulted and their views have been taken into account. Four days ago this government announced, with the barest of details, plans to build 98 social and affordable housing units in the Doncaster Hill precinct. The paucity of detail of the announcement has already raised suspicions that this government, true to form elsewhere, is likely to steamroll ahead with this project, with very little consideration for the input of Doncaster residents.

Regrettably I believe this housing development will be yet another chapter in the sorry saga of planning under the Brumby government. This government has a shocking track record of removing the rights of locals to have a say in major developments. It has shown scant regard for the community's views and involvement.

Firstly, the government proposed new residential zones, removing third-party objections. Then it sought to remove the Manningham City Council's right to make planning decisions by bringing in a development assessment committee to take over major planning decisions. Local residents have also been up in arms about the complete lack of consultation or even information related to the building of new supported accommodation in Doncaster East. As if this were not enough, last week there were suggestions of charging residents to object to proposed developments in their own neighbourhood. This government marches on, thumbing its nose at the rights of the people in this community.

Now recent government amendments, under the banner of the federal stimulus package and promoting government-funded education facilities and social housing, have removed councils' planning powers in relation to those projects. Members of the community are also excluded from having a say on large social

housing developments. The community is unlikely to have a say about the design, the appropriateness of the location or the impact it will have on local residents and the local community. How the leopard has changed its spots! As Leader of the Opposition Mr Brumby said:

> There is massive concern and unrest at the dictatorial use of planning powers by the Minister for Planning to override community interest and concern.

He also said:

> The Victorian planning process is being undermined and replaced by a system of ministerial discretion … It should permit consultation, negotiation and independent adjudication on proper planning principles.

In contrast to those fine words our Premier and this government now ride roughshod over Victorians. The rights of our community to have our views heard, considered and taken into account are being eroded by a government which is out of touch and uncaring. Additional social housing is needed in our community, but the minister should let residents be heard on this important matter. He should let them have a say. He should not do this at the expense of community consultation.

Batesford Reserve youth and community hub: funding

Mr STENSHOLT (Burwood) — I wish to raise a matter for the Minister for Community Development. The issue I ask the minister to act on is to support a community support grant application made by the City of Monash for the Batesford Reserve youth and community hub in Chadstone. For years we have been publicly campaigning for new facilities that put together the social services and also provide new service opportunities for the local community in Ashwood and Chadstone. This area has had a very active neighbourhood renewal program over the last four or five years. We have been able to get strong support and develop the Amaroo neighbourhood house and the Power neighbourhood house, but the residents and community organisations recognise there is a further need for a modern community hub.

At the time of the last election we were able to secure a $130 000 commitment from the Labor government for a local community facility to provide enhanced services there. It was initially planned to be situated near Jordan Reserve, where there is a maternal and child health unit and a child-care facility. Investigations through the council with the community determined that it was not quite the right site. With a lot of consultation a new location was found at Batesford Reserve. Earlier this year the state government provided $30 000 towards a planning study.

I was very pleased to join with the federal minister, Anthony Albanese — and we on this side of the house believe in a stimulus package — and the local federal member, Anna Burke, when the Rudd government provided $4 million of stimulus money for the community hub. Now the City of Monash — and I support it and ask the minister to act on this — is asking the Victorian government to increase the amount committed at the time of the 2006 election through the community support grant to make it $150 000. I ask him to approve this grant application and ensure this wonderful community development can go ahead.

Overall the project will cost more than $6.4 million, which will include $4 million from the federal government, as I have mentioned, $1.3 million from the Department of Human Services for the MonashLink community health facility and more than $100 000 for the neighbourhood renewal program. This will provide wonderful facilities and a one-stop shop for local health, family, youth and training services. It will also provide adult learning and community activities through the University of the Third Age and the Gateway Local Learning and Employment Network.

A permanent home will also be provided for the tenants group for Ashwood and Chadstone. There will be a shared space for people of all ages to meet, relax and enjoy their local neighbourhood, and I ask the minister to approve the grant.

Liquor: licences

Mr JASPER (Murray Valley) — I raise a matter for the attention of the Minister for Consumer Affairs, and I am delighted he is in the house to listen to my contribution. I call on the minister to take action to review the proposed massive increase in liquor licence fees and importantly to recognise the adverse affects this will have on the industry. I refer in particular to the across-the-board imposition of charges on those licence-holders operating in country Victoria.

Whilst the liquor bill is before the upper house, the critical issue is that the proposed regulations for these increases are currently the subject of a regulatory impact statement. The minister will be aware that in 2008 the revenue provided from licence fees was about $5 million. Including the increases last year, for 2009 that goes to about $15 million, and the huge current increases that are proposed through the regulatory impact statement and by regulation will see revenue to the state government of about $35 million.

We need to recognise, firstly, that there is a problem in some areas. There are hot spots that need additional policing and additional work to control those areas. One of the general concerns I have is with the extended trading hours, which are causing enormous problems. It is one of the major issues, but my main concern is the massive increase in fees.

Last Friday at Numurkah, which is at the western end of my electorate of Murray Valley, I met with a group of publicans and others interested in the charges. There were about 40 publicans there, and I can tell the minister and the house that they were angry. They were upset with the imposition of these charges. Many of them are from small hotels, and they are seeing a massive increase in their charges. I want to quote a couple of those increases, because I think the minister will recognise their importance. If we look at the Tungamah Hotel, which is a small hotel in my electorate — and last Saturday Tungamah won the grand final, I might add — we see its licence fee has grown from $950 to a proposed $5325. That is for the small Tungamah Hotel. The Strathmerton Hotel, which is in another small community, is paying $970 this year. Its proposed increased free is $3195.

These massive increases cannot be handled by smaller hotels on the basis that they operate on some extended trading hours. If they operate until 1 o'clock in the morning, which they might do on 10 or a dozen times through the year according to the circumstances, they pay the same fees as someone who may be open to 1.00 a.m. for 100 days or more through that particular year, suffering the same increase in their fees.

We want the minister to review this and have a look at the massive increase across the board, but particularly we ask him to look at country areas and small country hotels that need his assistance in changing these increases.

Road safety: hybrid cars

Mr TREZISE (Geelong) — I raise an issue for action tonight with the Minister for Roads and Ports. The issue I raise relates to the danger hybrid cars pose for pedestrians on our roads, especially the blind and visually impaired. For the information of the house, hybrid cars — that is, cars powered by both petrol and electricity — can run silently, and a blind person relying on, amongst other things, sound to detect the movement of a vehicle is left very vulnerable when a vehicle moves silently. Therefore I ask the minister to recognise that hybrid cars are a newly emerging hazard for blind and visually impaired pedestrians. I ask that the minister request VicRoads to investigate and consider factors in addressing this safety problem.

Last Thursday night, 10 September, I had the pleasure of attending the annual general meeting of the Geelong branch of Blind Citizens Australia, and I was invited to speak on road safety as it relates to blind people. In researching my speech I quickly came across the concern about hybrid cars running silently on our roads and the real danger that a hybrid car poses for blind and visually impaired pedestrians.

In addressing this issue Blind Citizens Australia has developed a strong position on the matter. Without reading verbatim the organisation's position, in summary it is seeking that governments at all levels provide funding for research, monitor statistical and anecdotal evidence of this issue, provide education to hybrid car drivers and adopt an evidence-based model for improving the safety of blind and visually impaired people.

In raising this issue I firmly believe that responsibility for the issue does not entirely sit with governments at any level. It also sits with the manufacturers of hybrid cars, and they need to recognise the problem. I note that it was only last week that Australia's first manufactured hybrid car rolled off the assembly line at Toyota at Altona, and I congratulate Toyota on this achievement. As we know, Ford and Holden will soon be following suit, which we also welcome. As I said, there is an identified safety issue for the blind, and the responsibility also sits with those manufacturers. At the moment I am concerned that manufacturers are at the other end of the spectrum and are promoting hybrid cars. The fact that they run silently would, at face value, be a plus for a car, but as I said before, it poses a safety problem for visually impaired and blind people.

From my brief research of the issue I note that a bill is currently before the American Senate addressing the issue and that the Japanese government, through its ministry of transport, has formed a panel of road safety experts to report back on this important matter. This is an important matter, especially for people who are blind and visually impaired, and therefore I look forward to the minister's action.

Minister for Local Government: performance

Mr K. SMITH (Bass) — The issue I raise tonight is for the Premier. I ask the Premier to consider the future of the Minister for Local Government and to consider the actions of this lazy minister in his current position.

Today we have had a report from the inspector of municipal administration, Bill Scales, who has recommended the suspension and dismissal of councillors from the Brimbank City Council. But what is new about this? The minister knew of this corrupt and hopeless council four years ago. The Premier knew because it was part of his electorate when he was an upper house member, and he would have been aware of the involvement of members of the ALP and ministers of this government. The minister and the Premier would have known of the Theophanous brothers' influence over the council, and they also would have known of the involvement of Cr Kathryn Eriksson, the wife of Andrew Theophanous, who was in the position of deputy mayor of this corrupt council, and also of Justin Madden, the Minister for Planning, and Hakki Suleyman.

It is not as if the minister does not know about local government. He was mayor of the City of Melbourne, and what a disaster it was during that period when there were unprecedented spending and overruns that cost the ratepayers dearly. Then he got his current position as a minister in the Bracks and Brumby governments to take local government to its lowest level in the history of Victoria. This is a minister who will lose his seat to the Greens at the next election, along with the Minister for Education and the member for Northcote. He is terminal, but the Premier keeps hanging onto this walking disaster who is only being propped up by his left wing socialist factional leaders.

The Minister for Local Government knew about Brimbank. He knew about Geelong and Cr Saunderson, who was another one of his ALP mates. He knew about Kevin Bradford and the member for Narre Warren North destabilising Casey council by undermining the chief executive officer, Mike Tyler. He knew about George Droutsas in Whitehorse. He knew about Monash and the allegations of the councillor over in that area as well. He knew about Hume council and Cr Abbouche and the $5000 corrupt deal. He knew about Cr Bill Ronald from Cardinia. He knew about Moreland. He knew about Port Phillip. He knew about Frankston council with Viney's mates and Rogan ward. He knew about Ballarat and the corrupt practices — —

The DEPUTY SPEAKER — Order! I caution the member for Bass to take care he is not impugning other members in particular.

Mr K. SMITH — All right. He knew all about Ballarat and the corrupt practices there, and he just covered all of these things up because they were Labor-controlled corrupt councillors. He ignores complaints. Why? Because they are his Labor mates.

Mr Stensholt — On a point of order, Deputy Speaker, I understand under standing orders that imputations against another member can only be made by virtue of a substantive motion, and I request that this be done.

The DEPUTY SPEAKER — Order! I have asked the member for Bass to take care in the manner in which he is raising the matter.

Mr K. SMITH — I was, thank you, Deputy Speaker. I wonder why the Premier keeps this incompetent minister on, particularly as he is one of the three MPs who walked out on the Premier at the state Labor conference that brought about the dumping of the ALP opposition leader at the time. I ask the Premier to sack this incompetent Minister for Local Government who worked for 15 years as a councillor — —

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

Flowerdale Tennis Club: synthetic playing surface

Mr HARDMAN (Seymour) — I wish to raise a matter for the Minister for Sport, Recreation and Youth Affairs. The action I request is that the minister provide funding to the Flowerdale Tennis Club through the minor grants scheme. The Flowerdale Tennis Club's request for a grant of $60 000 through that scheme is supported by the Murrindindi shire. The minister's approval of the grant would enable the Flowerdale Tennis Club to provide fantastic facilities for its community. The Flowerdale Tennis Club provides the only sporting opportunity Flowerdale community members have. The Flowerdale Tennis Club has played a major role in the recovery of the Flowerdale community.

The Flowerdale Tennis Club has been granted $100 000 from the federal and state government grants for sporting clubs impacted by the bushfires, but to build the courts that it requires for its community it needs a total of around $250 000. That will enable it to develop four new synthetic grass surface courts that will cater for this growing club, which provides an opportunity for fitness and being active and a chance to connect and share with others who have experienced the same trauma and to generally get together and socialise.

The Flowerdale Tennis Club has grown dramatically. Some of the facts and figures are that it has 70 club members, eight club teams with four players per team and a large reserve list of players. They play four nights

each week. Fifteen other players receive weekly coaching but feel they are not yet ready for competition. They have not had coaching there before, but they now do, and 32 players are receiving that coaching at the moment. The club also has a district junior competition coming up.

The contribution of that club to the community's wellbeing is appreciated by everybody. It will save a lot of money into the future as the members of that community will have the opportunity to participate. It is the only such opportunity that exists in Flowerdale, and if the minister approves this grant, it will provide a long-lasting benefit for that community. One of the other benefits that will come from the synthetic grass surfaces is that people of all ages will be able to play. The hard surface courts they have at this point in time are not suitable for older people as they are a bit hard on the joints. Approving this grant would provide a significant benefit, and I urge the minister to approve the grant.

Planning: Crib Point bitumen plant

Mr BURGESS (Hastings) — I wish again to raise a matter for the Minister for Planning. The action I seek is for the minister to urgently reconsider his decision to allow a bitumen storage facility to be built at Crib Point. This is an issue that the local community has been desperately fighting against for more than four years. After the incredible commitment so many individuals and organisations have shown to protecting Crib Point, Bittern and Hastings from this Brumby government assault, it is disgraceful that the minister has approved the proposal against all advice.

The proposed facility will severely damage both the natural environment and the general amenity of the Crib Point area. There will also be a massive influx of B-double and B-triple trucks onto a road network that is already stretched beyond capacity, with no reasonable provision for upgrades. This project will impact directly on the communities of Crib Point and Bittern and indirectly on the communities of Balnarring, Hastings, Tyabb and Somerville through the heavy vehicle traffic it will generate.

The community should not be locked into this life-and-death struggle against the Brumby government to stop it imposing a bitumen facility on it. The community had that fight before the last election, and it won. It won a written promise from the state government that it would not allow this project to go ahead. Just three days before the last election the state government wrote to every resident of Crib Point and Bittern promising that it would not allow this bitumen plant to go ahead. Immediately after the election the state government showed its total disregard for the people of this area by breaking that promise.

To be very clear about this, this project brings nothing to the Crib Point community. Even though the Minister for Planning, Minister Madden, has suggested that the project would provide a significant number of local jobs, even the proponent, Boral, has admitted that there will be no more than one or two continuing jobs at best. Minister Madden has also claimed that this facility will correct the national shortage of bitumen, a claim that has been dismissed as ridiculous by manufacturers in the industry. By approving Boral's proposal not only has the Brumby government broken a written election promise but it has ignored a face-to-face, door-to-door survey which showed that 97.5 per cent of all residents surveyed were opposed to the project.

One must wonder who this government is governing for. It ignored the fact that the locally elected planning body, the Mornington Peninsula Shire Council, unanimously rejected the project and that the committee that was hand-picked and appointed by Minister Madden after he called the project in also recommended against it. There is an existing industrial port area just 10 minutes away which would be more appropriate, yet the Brumby government approved the facility for Crib Point. What is really going on here? Is this really about one bitumen storage facility? Would the Brumby government break an election promise and go to so much trouble for such a comparatively minor project? An old adage that I have always found useful is if a story is confusing, there is usually information missing. What information is missing here?

The government must come clean with the Crib Point, Bittern and surrounding communities about what grubby backroom deal has been done here. It is yet another good reason Victoria so desperately needs an anticorruption body that can investigate the state government's dealings. It is not good enough in this day and age that virtually the only body in Victoria that cannot be investigated by anyone is the Brumby government. I ask the minister to reconsider his decision to approve this destructive project.

Millers Road, Altona North: pedestrian crossings

Mr NOONAN (Williamstown) — I wish to raise a matter for the Minister for Roads and Ports. The action I seek from the minister is that he considers some minor safety upgrades to the pedestrian crossings along the west side of Millers Road at the West Gate Freeway interchange in Altona North.

The on-ramps and off-ramps that give access to and from the West Gate Freeway from Millers Road currently carry a high volume of traffic, including heavy vehicles from the nearby industrial estates in Brooklyn, Altona North and Yarraville. Whilst this traffic seems to move safely through the intersection, a case can be made for some minor upgrades to the four separate pedestrian crossings along Millers Road between Paringa Road to the south of the interchange and Primula Avenue to the north. In particular, the West Gate on-ramp from Millers Road nearest to Paringa Road has no road markings across to the centre pedestrian island. This lack of road markings means that on a high-volume corner traffic movements seem to be given first priority and pedestrian crossings seem somewhat haphazard. Once pedestrians are on the traffic island there is little or no protection for them, and they are often required to wait for the traffic lights to change to complete a safe crossing. Some type of steel barrier on the traffic island would be worth investigating, particularly to protect pedestrians from left-turning vehicles accessing the West Gate on-ramp from Millers Road.

On the northern side of the West Gate interchange, where vehicles use the West Gate off-ramp to access Millers Road, there are two sets of pedestrian traffic lights. These are both relatively safe, but they could be enhanced by installing some barriers on the pedestrian island. This is again significant because a high number of heavy vehicles use this intersection to access a range of destinations in the inner west.

In addition it has been brought to my attention that a number of vehicles using the left-hand slipway onto Millers Road fail to stop at the pedestrian traffic lights. This is of particular concern given that about 20 students from the nearby Annunciation Primary School in Brooklyn make a daily two-way trek along Millers Road and across these two major intersections which provide access to the West Gate Freeway. The principal of Annunciation Primary School has spoken to me about the concerns that some parents hold regarding this busy stretch. We know that children aged 16 years and younger account for 14 per cent of all pedestrian fatalities, so primary schoolchildren are in a high-risk category.

We also know that the government has committed under the Arrive Alive strategy to improving road infrastructure to protect the lives of pedestrians. Indeed in my electorate of Williamstown we have seen the installation of 40-kilometre-an-hour speed signs outside almost all of my local primary and secondary schools. Therefore I am seeking some further assistance from the minister by considering some minor safety enhancements at the pedestrian crossings along Millers Road in Altona North at the West Gate Freeway interchange.

Housing: Ferntree Gully

Mr WAKELING (Ferntree Gully) — I wish to raise a matter of grave concern with the Minister for Housing. The action that I seek is that the minister start consulting with the Ferntree Gully community regarding the construction of a public housing unit development within my electorate.

It has become apparent over recent weeks that the Brumby government is keen to trample over the opinions of Victorians by seeking to construct a raft of public housing developments without any effective consultations with affected communities. This situation is true of communities in the eastern suburbs such as Ringwood and Doncaster, and it is now true of Ferntree Gully.

In December 2005 the Brumby government oversaw the closure of the Ferntree Gully primary school located on the corner of Dorset Road and the Burwood Highway. Since that time the Brumby government has refused to answer every question I have raised in regard to the future of this site. It has refused to involve the community in any meaningful discussions about the potential uses for the site. Again and again I have asked the government on behalf of my community for answers, and repeatedly it has refused to respond.

The government has now decided to construct 87 units to be used as social housing on the site, without adequate community consultation. Many of these units will be developed in three-storey buildings. The government has not sought to adequately consult with the Ferntree Gully community. It is clear that this government does not want to hear the views of those who either live or work in Ferntree Gully. The members of this arrogant Brumby government believe they know best as they sit in Spring Street dictating planning outcomes for Melbourne's eastern suburbs.

The development is to be paid for by the federal government's stimulus cash, continuing the litany of badly planned, rushed projects that are now being forced on communities throughout the country without adequate consultation. The state government has been very secretive in the way it has handled this process. It recently wrote a letter to Knox City Council requesting feedback within three weeks. As a former councillor I have dealt with a range of significant housing developments throughout the Knox community. Our community expects due process to be afforded to any

housing development, public or private, before any decision is made to proceed to construction.

I recognise there is a need for additional social housing in the Victorian community to address the needs of those Victorians who are struggling to obtain accommodation. However, the process adopted by the Brumby government is not the solution. You cannot make such a significant planning decision on the run. These decisions require appropriate time to allow affected communities to have their say. We only get one opportunity to do such a development correctly. The government's approach has been secretive, and it has treated my community with contempt.

The government appears determined to rush this project, with scant regard for the views of residents. I urge the minister to ensure that the views of members of the Ferntree Gully community on this development are heard and to take action by immediately engaging appropriately with the local community, affected agencies and the Knox council on this important proposal. Additional social housing is needed in Melbourne. However, the Premier must ensure that communities such as the Ferntree Gully community are provided with the opportunity to be consulted on this very important issue.

The DEPUTY SPEAKER — Order! The member for Ferntree Gully is raising this matter with the Minister for Housing, not the Premier.

Retail tenancies: regulatory harmonisation

Mr PERERA (Cranbourne) — I raise a matter for the attention of the Minister for Small Business. I refer to the national retail tenancy working group that was formed in July last year to report to the Small Business Ministerial Council on greater national retail tenancy consistency and regulatory harmonisation.

Mr McIntosh — Speaker, I direct your attention to the state of the house.

Quorum formed.

Mr PERERA — The action I seek is for the minister to ensure that this working group develops a national core disclosure statement for landlords that is to be adopted by other states. This harmonisation can assist businesses by improving the consistency of lease information across jurisdictions. The form and content of disclosure statements varies between each jurisdiction and can impose significant costs on businesses operating in more than one jurisdiction. I note that Victoria's retail tenancy regime is the best in Australia. It is up to date, and Victoria is the only jurisdiction to have a small business commissioner. Since 2003 the small business commissioner has assisted both tenants and landlords by investigating complaints and mediating disputes, with a success rate of around 75 per cent for the settlement of disputes before or at mediation. These are services many businesses need, especially small businesses within the electorate of Cranbourne. However, in this tough economic climate our small businesses — of which Victoria has over 500 000 — need certainty more than ever. A nationally consistent retail tenancy disclosure statement will reduce information imbalances, unwind constraints on efficient decision making and thereby reduce costs.

I urge the minister to ensure that the national retail tenancy working group develops a national core disclosure statement that is agreeable to other jurisdictions so as to reduce costs on small businesses in these challenging economic times. This will be a great measure to support small business, which is the engine room of the economy.

The DEPUTY SPEAKER — Order! I will now deal with the issue raised by the member for Bass. Under standing order 118, the making of imputations of improper motives and personal reflections on members of the Assembly or the Council other than by substantive motion is disorderly. I also refer to Speaker Delzoppo's ruling on reflections on a member. The Speaker ruled a certain matter to be inadmissible at the end of a 30-minute period for raising matters during the adjournment debate because it had not been obvious at the time the matter was raised that it reflected upon a member of the house and because matters that reflect upon members can only be raised by way of substantive motion. The Speaker then directed the minister to ignore the matter. I therefore rule that the matter raised by the member for Bass is inadmissible.

Mr McIntosh — On a point of order, Deputy Speaker, the member for Bass may have made reflections about other people. You made a ruling at the time and he desisted from that. However, he had a legitimate question to be asked of the Premier about the suitability of the minister to serve in the position.

The DEPUTY SPEAKER — Order! I refer to Speaker Delzoppo's ruling, in which he reflected upon an issue being raised at the end of the time allowed for the raising of matters. That is what I have done.

Responses

Mr BATCHELOR (Minister for Community Development) — I want to thank the member for Burwood for his ongoing caring attitude towards the people of his electorate. The member for Burwood works incredibly hard to ensure that the people of Burwood have facilities that help to strengthen their community. It is really fantastic to hear of another wonderful piece of community infrastructure that is being built in the member's electorate, this time with the assistance of the Rudd government and its stimulus package. I hope those opposite do not share the opposition of their federal counterparts to the stimulus package and to initiatives such as this. We hope they are supporting the development of community infrastructure through this stimulus package.

As the member for Burwood explained, the Brumby Labor government has already committed $130 000 to this wonderful facility. Local council has come back to the government and asked for an increased amount in the form of a community support grant. This application is impressive, as outlined by the member for Burwood tonight. The new Batesford Reserve youth and community hub will complement existing council-owned community infrastructure at the Batesford Reserve. The member for Burwood outlined in great detail the benefits that will go to the community, particularly for young people. He outlined his concern for young people.

The proposal is to place this new facility adjacent to a community sports facility. This will enhance access for young people to both the services that are provided there and to various recreational opportunities. The services which are intended to be provided at this youth hub include counselling, community health and neighbourhood house activities as well as education and training programs. It is a community hub.

I understand the partners, which include tenant agencies, have formed a stakeholder group to advise the council on the development of the hub. Already the council has held a number of community information sessions and has had discussions on the draft design, which is a truly community planning initiative. We congratulate the council for that because we know that community consultation that is undertaken in this fashion draws out from the community not only its support but also its creativity. That is the sort of action that this government wants to support.

The process has to be right. The project at this stage is a community-strengthening project; it is about community strengthening activities. It is about setting the right type of community cohesion. To assist this we have already provided a $30 000 planning support grant to the council. The council has used this in the fashion we had hoped and intended through a preparatory community engagement process which has led to an improved design of this hub; it has led to meeting the sorts of things that the community would like; and it has led to the support of individual members of the community. This grant has led to the development of the feasibility study; it has led to the initial cost plans for the hub; it has led to support from the federal government; and it has led to the Department of Health and the Department of Human Services supporting the project. This all encourages us to look towards the advocacy from the member for Burwood. We will do that when I am considering this grant in the future.

The activity of the member for Burwood could not be in greater contrast or stark relief to what has been happening in this Parliament tonight. All night we have seen members of the Liberal Party absenting themselves from this house. They have got themselves together in little huddles, in crisis meetings, to talk about the problems of their parliamentary leadership.

Honourable members interjecting.

Mr BATCHELOR — All night!

The DEPUTY SPEAKER — Order! We will have a little bit of order at 10.37 p.m. I ask the minister to respond to the matter raised by the member for Burwood.

Mr BATCHELOR — Whilst the member for Burwood has been working in this chamber looking after the disadvantaged members of his electorate, the Liberals have been in crisis meetings all throughout this sitting day. They have been working on and plotting the downfall of the Leader of the Opposition. The lights have been burning late on the third floor of 104 Exhibition Street. People are out to get the member for Hawthorn. As the member for Burwood worked through this parliamentary night, where were the Liberal Party members? They were not in the chamber; they were not in their offices; they were not in the dining room; they were not in the library; they were not in their party room — —

Mr McIntosh interjected.

Mr BATCHELOR — They were not even in the bar. You might have been!

The DEPUTY SPEAKER — Order! I have asked the Minister for Community Development to respond

to the matter raised by the member of the Burwood. I will ask him one more time to do this.

Mr Jasper — You will go on all night.

Mr BATCHELOR — I might too. As the member for Burwood looked after his constituents and was working hard for them and working to assist the building of community facilities, the Liberal Party was tearing itself apart trying to get rid of the member for Hawthorn. It has been advancing its own position, undermining its leader, and it stands condemned.

Mr ROBINSON (Minister for Consumer Affairs) — The member for Murray Valley has raised an issue about the proposed new liquor licensing fees. The government makes no apology for attempting to restructure the licensing system as it has operated in Victoria for many years. The important point to make is that under the changes that are proposed by the government, which are of course subject to the passage of the bill in the upper house — and we will work on the assumption that the upper house will approve the bill that is before it at the moment — the Brumby government is committed to the industry paying its way for the first time. That means the direct costs of monitoring or managing the licensing system as it operates in Victoria should be paid not by taxpayers paying a subsidy but by the industry.

The material we have put out for the first time details the actual real cost of running this system. I will make it clear to the member for Murray Valley that up until a couple of years ago, as he said, the cost to licensees — there are some 19 000 licensees across the state who were contributing — in fees was less than $10 million. At that point it was costing something like $15 million to administer. You conclude — —

Mr Burgess interjected.

Mr ROBINSON — The member for Hastings might believe that taxpayers should pick up the tab for the licensed industry in Victoria, but very few Victorians would agree with him.

One of the government's recent initiatives is the introduction of the compliance unit, which will result in a much greater level of inspection of licensed premises across the state and a much greater degree of compliance with the law. The cost of running just the compliance unit is estimated to be $10 million. That is before you look at the cost of the functions of the director of liquor licensing, which is estimated to be $5 million, and the cost of that part of the work of Victoria Police that is dedicated to the licensed industry, which is something like $20 million a year going forward. All of this is outlined in the regulatory impact statement. When you look at those costs — and they add up to $35.8 million or thereabouts — you have a choice: you can say that people not associated with the industry should just pick up the tab or that the industry should pay its way. We have a simple view on this — that is, that the industry should pay its way. That is the way fees have been set in Victoria for many years.

One of the complaints that has been raised about the proposal is that we are forcing on regional Victoria a solution to a problem that emanates only from Melbourne and is confined to its central business district. I make the point that that is clearly wrong. Even a cursory glance at the clippings I get week by week shows the extent of the problem. It is a Victoria-wide problem. Antisocial activity in relation to licensed premises occurs across the state. Look at the article in the Warrnambool *Standard* this week headed, 'Drinks ban — council clamps down on alcohol in public places'. The *South Gippsland Sentinel Times* says:

> Innocent Leongatha residents have suffered at the hands of mindless partygoers for the second time in a matter of weeks.

The Warrnambool *Standard* also reported on a case where the court sent a stern message about an outbreak of violence in which a person who had been drinking with friends at the Hampden Hotel was assaulted at the local service station. A Liberal member for Western Victoria Region in the other place, David Koch, is quoted in a different article in that newspaper as having said:

> There has been an accentuation of alcohol and drug-related violence in regional Victoria which is … a flow-on …from what we have seen —

elsewhere. He acknowledges it.

The *Sunraysia Daily* reported under the headline 'Teenage scuffle' that:

> Police are investigating a teenage alcohol-fuelled scuffle outside the Irymple hotel on Saturday afternoon.

The *Border-Mail* says:

> The licensees of a Benalla hotel have been given a $7500 fine after being caught serving alcohol after hours three times in two years.

The *Warragul and Drouin Gazette* reports under the headline 'Police warn of no tolerance at EDFL' that:

> Police have issued a stern warning to patrons at the Ellinbank and District Football and Netball League grand finals at Cora Lynn on Saturday that misbehaviour will not be tolerated.

That article also discusses the problems involved with the enforcement of liquor licensing regulations.

An article published in the *East Gippsland News* is headed 'Bairnsdale's alcohol shame'. I quote from an article in the *Wimmera Mail Times* just this week:

> Horsham acting inspector Bob Thomson said the Wimmera did have issues with violence at licensed venues.
>
> 'Of course, we don't have the large issues that Melbourne has, regarding violence, although we do have issues of assaults and behaviour which can be attributed to licensed premises in the Wimmera'…

The message is clear from that limited number of excerpts — and it is repeated time and again — that this is a statewide problem. What the government is saying is there has to be a solution that deals with this in a sustainable way, so it has proposed reforms to the licence system. For the first time we are introducing a risk-based system. That is what we said we would do, and it is what we are doing.

I disagree with the member for Murray Valley insofar as he says there are no winners out of this and that everyone is losing. In fact for the first time we have created a licence called the cafe and restaurant licence, which is the first step in differentiating between premises on the basis of risk. For many years venues in that category, regardless of whether they finished early or late, were charged on the same basis as every other sort of venue — that is, simply on the basis of hours of operation. If you were Guy Grossi and you ran one of the state's pre-eminent restaurants trading until 5 or 7 o'clock or whatever in the city, you would pay something like $6500 for a restaurant licence — effectively for running a restaurant. The evidence from the Allen Consulting Group report, as well as everyone's intuition, is that running a cafe or restaurant is far less risky than running a pub or nightclub, but the licence system — —

Mr Jasper — What? Even at Tungamah?

Mr ROBINSON — Yes, a restaurant in the city would be lower risk than a pub at Tungamah — absolutely.

Mr Jasper interjected.

Mr ROBINSON — Absolutely. I hope I am making that quite clear.

Mr Jasper interjected.

The DEPUTY SPEAKER — Order! The minister will not respond to interjections and the member for Murray Valley will not offer them.

Mr ROBINSON — We have introduced, for the first time, a basis of risk in sorting out the categories, in particular with cafes and restaurants. What we have said in respect of other licences, particularly the general and on-premises licences which would cover those establishments that the member for Murray Valley has talked about, is that they will have components. Allen's research shows that antisocial activities are linked proportionately, firstly right across the state — —

Mr Jasper interjected.

Mr ROBINSON — The member should read the Allen report and look at the evidence that has been assembled in that report: as hours of operation and patron numbers are extended and increased, the risk of antisocial activity increases as well.

Mr Jasper — They are paying the same as the big ones.

Mr ROBINSON — That is correct — just as restaurants were previously paying the same as pubs. The member says we should not talk about licensed premises in the state of Victoria.

The DEPUTY SPEAKER — Order! I have asked the minister not to respond to interjections.

Mr ROBINSON — The member for Murray Valley actually comes a bit closer to understanding where the government is going on this, and indeed in an indirect way is endorsing the government's moves. There has been a debate running in Wangaratta for some considerable time. He alluded to this in his contribution when he said he was concerned about the late hours of operation — into the early morning — of venues. That is part of the issue. If pubs choose to stay open for much longer, they will pay a lot more under our model.

Mr Jasper interjected.

Mr ROBINSON — I will come to that in a minute. The principle of pubs that open longer and cater for more people paying more than pubs that shut at 11.00 p.m. and cater for smaller numbers is a sound principle going forward. It is a much better system than the blunt instrument which has been used for decades in Victoria in determining licensing arrangements. The member for Murray Valley referred to some venues which operate for extended hours on only a very limited number of times in a given year.

It has actually always been the case that licensees in that circumstance can apply to the director of liquor licensing for a limited number of what we call extended permits. They are able to apply to the director for her to

use her discretion to extend a closing time — it might be 11.00 p.m., 1.00 a.m. or 3.00 a.m. — and say that they want a limited number of arrangements or permits where they could trade for additional hours to deal with local circumstances, such as a local jazz festival, football finals or things like that. That has always been an entitlement for licensees under the system that we have had in Victoria. The fact that not many have chosen to do that, for whatever reason, does not mean that that provision has not been there. It has been there. That is certainly something the government, through the director and the department, will be working to advise licensees of.

There are of course other things. Some people have issues with patron numbers. I had one example put to me of patron numbers of 105 on the licence and the licensees saying, 'We rarely get anywhere near that'. Under our model going forward, they would have the opportunity of going to the director and saying, 'We want to scale that down to 99'. The difference under our model is that they will pay a lot less for patron numbers of 99 than they would for 105. That again has always been an entitlement to them under our licensing system but now it will actually provide a cost incentive for them to do so. There will be opportunities for licensees to restructure licence arrangements to work with the director. There is a hardship provision that we have talked about previously. Those things are available to licensees.

The essential principle that the Brumby government believes in is that the industry should pay the real costs of running itself. I just want to finish on this note. A regulatory impact statement has been put out and the opportunity exists for people in the industry, members of Parliament and others to contribute to that. I hope that the member for Murray Valley will contribute to that.

When you think about it, one side of Parliament here is actually serious about changing things. The licence restructure goes along with the other initiatives in the past 12 to 18 months: things like designated areas and banning notices; an increase in the penalties that are applicable; an increase in the powers of the director of liquor licensing; the introduction of Victorian planning provision 52.27 that goes to cumulative impact; the late-night licence freeze which was introduced and then extended through the inner city area; and the announcement of the Anzac Day trading restrictions which will come into effect next year. We have already done the licence fee — —

Mr Jasper — On a point of order, Deputy Speaker, I take exception to the comment made by the minister that I could put in a submission on the regulatory impact statement. I happen to chair the regulation review committee. It would hardly be in order that I would put a submission into that committee.

The DEPUTY SPEAKER — Order! There is no point of order. The minister, to conclude his answer to the member for Murray Valley.

Mr ROBINSON — The member for Murray Valley could certainly encourage others to put in contributions.

The DEPUTY SPEAKER — Order! The minister, to conclude his response to the member for Murray Valley.

Mr ROBINSON — In closing, the compliance directive, the promotions ban power, the ad campaign, the design guidelines, the applications noticeboard and the increased frequency of NightRider buses — all of these things — will sit alongside the new risk-based model system to seriously tackle the scourge of antisocial activity. Against all of that the other side has offered one initiative, and that is to ban wine sales at school fetes. One has to ask: which is the more serious party in tackling these issues?

The member for Doncaster raised for the attention of the Minister for Housing an issue relating to the Tram Road social housing development. That matter will be passed on.

The member for Geelong raised for the attention of the Minister for Roads and Ports the issue of hybrid car safety in relation to blind and visually impaired pedestrians. That matter will be passed on.

The member for Seymour raised for the attention of the Minister for Sport, Recreation and Youth Affairs a funding application by the Flowerdale Tennis Club. That matter will be passed on.

The member for Hastings raised for the attention of the Minister for Planning an issue in relation to the Crib Point bitumen storage facility. That matter will be passed on.

The member for Williamstown raised for the attention of the Minister for Roads and Ports issues regarding pedestrian crossings in the vicinity of Millers Road, Altona North and his request for upgrades; that matter will be passed on.

The member for Ferntree Gully raised for the attention of the Minister for Housing concerns about a public housing unit development in his electorate. That matter will be passed on.

The member for Cranbourne raised for the attention of the Minister for Small Business the work of the national retail tenancy working group, particularly its efforts to develop a national disclosure standard for leases. That matter will also be passed on.

The DEPUTY SPEAKER — Order! The house is now adjourned.

House adjourned 10.52 p.m.