PARLIAMENT OF VICTORIA

PARLIAMENTARY DEBATES (HANSARD)

LEGISLATIVE ASSEMBLY

FIFTY-SIXTH PARLIAMENT

FIRST SESSION

Thursday, 17 September 2009

(Extract from book 12)

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By authority of the Victorian Government Printer

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Professor DAVID de KRETSER, AC

The Lieutenant-Governor

The Honourable Justice MARILYN WARREN, AC

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Minister for Mental Health, Minister for Community Services and Minister for Senior Victorians	The Hon. L. M. Neville, MP
Minister for Industry and Trade, and Minister for Industrial Relations	The Hon. M. P. Pakula, MLC
Minister for Roads and Ports, and Minister for Major Projects	The Hon. T. H. Pallas, MP
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Cabinet Secretary	Mr A. G. Lupton, MP

Legislative Assembly committees

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

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

Joint committees

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Heads of parliamentary departments

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

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

Parliamentary Services — Secretary: Dr S. O'Kane

MEMBERS OF THE LEGISLATIVE ASSEMBLY

FIFTY-SIXTH PARLIAMENT — FIRST SESSION

Speaker: The Hon. JENNY LINDELL

Deputy Speaker: Ms A. P. BARKER

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

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

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

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

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

Leader of The Nationals:
Mr P. J. RYAN

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

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

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

CONTENTS

THURSDAY, 17 SEPTEMBER 2009

CONTENTS

Thursday, 17 September 2009

The SPEAKER (Hon. Jenny Lindell) took the chair at 9.35 a.m. and read the prayer.

Dr Napthine — On a point of order, Speaker, in regard to the accuracy of the *Hansard* record for Wednesday, 16 September. The Minister for Women's Affairs made a members statement, and I clearly recall listening to this statement in which she said there were only two Liberal women in the House of Representatives. At the time I thought it was an interesting comment because it is inaccurate — there are in fact three Liberal women in the House of Representatives from Victoria — and I believed that the Minister for Women's Affairs had made a fundamental mistake with her numbers.

However, when I read *Daily Hansard* this morning I found that the number which I recall hearing as two has been changed to three, and I ask: why has a clear statement by the minister, which was inaccurate and wrong, been changed and who changed it? I ask you, Speaker, to listen to the audio recording and make sure that the *Hansard* record reflects what the minister said and the mistake the minister made. I ask you to inquire, Speaker, as to why this change to the *Hansard* record was allowed, who made the change and why they are trying to cover up their errors.

The SPEAKER — Order! I will follow up the issue with the manager of Hansard.

Honourable members interjecting.

The SPEAKER — Order! The member for Narre Warren North, who is interjecting, does not even have the courtesy to sit in his proper place.

Mr Stensholt — On the point of order, Speaker, I have also been looking at the *Hansard* record for the last couple of days, particularly in regard to the questions which have been asked. On the day before yesterday there was some discussion about possible quotations, but yesterday the Leader of the Opposition asked a question, and I know he has been in this house for quite a long time and is a man of experience, so surely he understands that he should not seek information that is readily available. I suggest respectfully, Speaker, that it might be useful for you to circulate to members rulings from the Chair in order to help members frame their questions so that they will not offend against the normal practices and procedures of the house.

The SPEAKER — Order! I am sure all members acquaint themselves on a regular basis with both the standing orders and the rulings from the Chair, which are reproduced and updated every six months. I would expect every member of Parliament to do so. There is no point of order.

Honourable members interjecting.

The SPEAKER — Order! I will not have such discourtesy shown to the Chair in this chamber. I ask the member for Burwood and the Leader of the Opposition to leave the chamber and to have their discussion outside unless they can stay in the chamber and show some courtesy to one another and to the Chair and other members.

Honourable members interjecting.

The SPEAKER — Order! The member for Bass is always free to leave the chamber.

BUSINESS OF THE HOUSE

Notices of motion: removal

The SPEAKER — Order! I wish to advise the house that under standing order 144 notices of motion 35 to 42, 128, 178, 224 and 225 will be removed from the notice paper on the next sitting day. A member who requires the notice standing in his or her name to be continued must advise the Clerk in writing before 2.00 p.m. today.

PETITIONS

Following petitions presented to house:

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.

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

By Dr SYKES (Benalla) (108 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 DELAHUNTY (Lowan) (78 signatures) and Mr CRISP (Mildura) (18 signatures).

Students: youth allowance

To the Legislative Assembly of Victoria:

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

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

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

By Mr CRISP (Mildura) (55 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) (67 signatures).

Clarke Road, Springvale: refuse transfer facility

To the Legislative Assembly of Victoria:

This petition of certain residents of Victoria draws to the attention of the house that permit application no. PLN 08/0410 has been made to the City of Greater Dandenong to construct a refuse transfer station at 98-100 and 168–222 Clarke Road, Springvale. The petitioners believe that concrete crushing, landfill and refuse transfer facilities are not appropriate uses for the Clarke Road site.

The petitioners therefore request that the Legislative Assembly of Victoria take the appropriate action to defeat the abovementioned application for the benefit of Springvale South families.

By Ms MUNT (Mordialloc) (65 signatures).

Students: youth allowance

To the Legislative Assembly of Victoria:

This petition of residents of Victoria draws to the attention of the house the proposal by the federal government to change the youth allowance independence test and also to change the living-away-from-home allowance.

The petitioners register their opposition on the basis that the 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 proposed changes to both allowances and call on the state government to vigorously lobby the federal government to ensure that a tertiary education is accessible to regional students.

By Mr JASPER (Murray Valley) (131 signatures).

Tabled.

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

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

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

The SPEAKER — Order! I ask members to take their seats. It is very difficult to conduct the business of the house with the general chitchat and impolite, discourteous, disrespectful behaviour that is shown by members. When members are standing in aisles and talking across the chamber it is very difficult for other members to follow where we are in formal business.

I will go back to the member for Benalla, because I believe he was wanting to have a petition considered on the next day of sitting. However, it is difficult to do that while there is that level of conversation, members walking around the chamber and members standing in aisles having discussions.

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

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

PUBLIC ACCOUNTS AND ESTIMATES COMMITTEE

Report 2008–09

Mr STENSHOLT (Burwood) presented report.

Tabled.

Ordered to be printed.

Auditor-General's reports 2007–08

Mr STENSHOLT (Burwood) presented report, together with appendices and transcripts of evidence.

Tabled.

Ordered that report and appendices be printed.

DOCUMENTS

Tabled by Clerk:

Members of Parliament (Register of Interests) Act 1978 — Summary of Returns June 2009 and Summary of Variations Notified between 25 June 2009 and 15 September 2009 — Ordered to be printed.

Workplace Rights Advocate, Office of — Report 1 July 2008 to 10 June 2009.

BUSINESS OF THE HOUSE

Adjournment

Ms NEVILLE (Minister for Mental Health) — I move:

That the house, at its rising, adjourn until Tuesday, 13 October 2009.

Motion agreed to.

MEMBERS STATEMENTS

Health: awards

Ms NEVILLE (Minister for Mental Health) — I was delighted to join the Minister for Health last night for the presentation of the 2009 State Nursing and Midwifery Excellence Awards. Awards in the specialist mental health, drug and alcohol and aged care fields acknowledge the wonderful contribution by nurses in these often difficult and challenging areas of work. This year's award for excellence in aged care nursing went to Fiona Quigley, nurse unit manager, St Vincent's Health. Fiona manages Auburn House, a transitional residential care nursing home for people with dementia or mental health diagnoses that provides engaging ways to respond to the elderly and enhance and enrich their lives. The award for excellence in mental health, drug and alcohol nursing went to Fiona Reed, nurse unit manager, adult inpatient mental health unit, Peninsula Health. Fiona has been instrumental in a number of significant mental health projects that have had a substantial impact on the way mental health care is provided at Peninsula Health.

The Victorian Public Healthcare Awards were awarded recently. As Minister for Mental Health I was delighted to have two minister's awards presented. The award for outstanding achievement in mental health care was presented to Professor Bruce Tonge from Southern Health for his lifetime contribution to child and adolescent mental health. The award for outstanding team achievement in mental health care was presented to the Austin Health Centre team for trauma-related mental health. Congratulations to all our award winners. I thank them for their contributions to the health and wellbeing of all Victorians.

Energy: emission trading scheme

Mr CLARK (Box Hill) — The Victorian electricity industry and electricity consumers face enormous unnecessary threats from the flawed transitional arrangements of the Rudd government's proposed emission trading scheme (ETS). These threats include weakening the solvency of Latrobe Valley generators so much that they will be unable to enter into forward contracts to sell their electricity, resulting in higher and unstable prices for retailers and consumers, and that they will scale back their maintenance spending, putting supply reliability at risk.

As respected commentator Robert Gottliebsen has put it:

> … Canberra's policy … is a total disaster because it will result in four or five years of chaos … one by one the Latrobe Valley producers are stopping long-term maintenance … That means there will be extended breakdowns and blackouts … as Victoria drags power in from the rest of Australia. There will be bidding wars for power which will cause huge spikes in power prices.

The Brumby government has had a detailed assessment of these threats undertaken by KPMG, and I call on the government to publicly release this assessment so all Victorians know the threats they are facing that the government has kept secret.

Instead of standing up for Victorians and calling on the Rudd government to make sensible amendments to its transitional arrangements, both the Minister for Environment and Climate Change and the Minister for Energy and Resources have been calling for the federal ETS to be passed in an unamended form. The sooner a well-designed national emission limitation scheme is up and running, the sooner Australia will start to make the broad adjustments needed to reduce emissions. However, the necessary and inevitable costs of an effective ETS will be demanding enough. Victorians should not be hit with unnecessary additional costs and disruptions due to the Rudd government's flawed design.

Marysville Village: community facilities

Mr HARDMAN (Seymour) — On Saturday, 12 September, I attended an event at the Marysville Village to officially open facilities for the community and, more importantly, to recognise the important contribution of the generous corporations, volunteers and community and church organisations which have helped make the Marysville Village a more comfortable place to live.

A new facility has fully equipped kitchens, a reading room-library, a snooker table, television lounge and outside leisure facilities. I thank all who have contributed to bring all this together. Special thanks go to Kim Wilkie, a former federal Labor MP, who has worked tirelessly in the months since the fires to create an attractive village for the people and the general community's recovery.

Kinglake Football Netball Club

Mr HARDMAN — On Saturday afternoon I went to the Kinglake Lakers grand final match against Olinda. I wish to congratulate the Kinglake Football Netball Club, known as the Lakers, for a great season that culminated in it making the grand final. The Lakers have provided hope to many people who have struggled to get their lives back in order following the Black Saturday bushfires.

The Lakers gave people something in common and something to talk about that was different to the ordeals that all local community members are going through. Congratulations to the Lakers, and I thank all of its supporters and volunteers who have helped make the recovery of the Kinglake area that much more bearable.

Gas: heater regulations

Mr WALSH (Swan Hill) — The Brumby government's banning of the installation of new bayonet points that support unflued gas heaters in residential properties is a major blow to the heating needs of the people of the Swan Hill electorate. Several plumbers in my electorate, including Leigh Hardingham of Donald, have contacted me to express their dismay at the latest regulation change that disadvantages country Victorians. Despite many promises from the Brumby government, natural gas has not been rolled out in country Victorian areas. With the locking up of the box ironbark forests and now the red gum forests along the Murray River, firewood is harder to get and getting more expensive. This leaves liquefied petroleum gas as the only option for many to heat their homes. Electricity is more expensive and, I would have thought, not as environmentally friendly as gas.

Flued gas heaters cost more to buy, more to install, more to run and more to service. This is another example of the Brumby government changing a regulation without any thought of the consequences, particularly on country Victoria. Industry representatives estimate there are 180 000 country Victorians who currently use unflued gas heaters, and many of these are low-income houses. Country Victorians already pay more for electricity and cylinder

gas in those particular towns. The Brumby government has robbed country Victorians of the cheapest and most environmentally friendly option to heat their homes.

McAdam Park, Barrabool

Mr CRUTCHFIELD (South Barwon) — I would like to inform the house of a significant sporting victory by three clubs within my electorate of South Barwon, the sporting members of which have for decades been treated as second-class citizens. The sport is recreational off-road and motocross riding. Otway Trail Riders, Sporting Motorcycle Club and Geelong Motocross Club have for several years tried to save their sport by raising the necessary funds to purchase the world-renowned and iconic Australian motocross facility that is McAdam Park, Barrabool, in the Surf Coast shire.

With community, local government, private sector, state government and Motorcycling Australia support, the facility was saved at the 11th hour before the deadline on 7 September. This means that we as a region have secured a regional facility for three individual sporting clubs, and hundreds of local families and riders can now continue holding major local, state and national championships and educating local riders on responsible riding, as they have historically done. It means riders, both young and old, now a have a legal, safe and controlled riding facility, where they can be educated on responsible riding techniques, train and compete.

This sporting victory was possible because of a number of clubs, individuals and organisations battling over several years to secure McAdam Park and save their clubs and sport from extinction in my electorate and region. These people include but are not limited to Sporting Motorcycle Club president Brian Kavanagh, past president Peter Ovens, and the committee; Geelong Motocross Club president Frank Cambria, and the committee; Otway Trail Riders president Scott Randall, and the committee; Barwon Recreational Motorcycling Council chairman Peter Lindeman, and the committee; and, lastly, Motorcycling Australia's chief executive officer David White. Congratulations to all involved in saving McAdam Park, an iconic venue of motor sport. May the sport of off-road motorcycling be treated as a legitimate sport.

Crime: incidence

Mr TILLEY (Benambra) — Over the past week residents of Benambra and the wider Victorian community have witnessed this Labor government duck questions about its culpability for the appalling crime levels around Victoria on the occasion of its 10th anniversary. This has led me to wonder what 10-year anniversary present the government had prepared for the residents of Benambra.

Assaults and sexual assaults in the Wodonga area have gone up 30 per cent since 1999. Assaults in the Alpine shire are up by 48 per cent; in the Indigo shire they have gone up by 83 per cent over the same period. Overall, crimes against the person have gone up in the Wodonga area by 30 per cent, in the Alpine shire by 14 per cent and in the Indigo shire by a whopping 110 per cent. From a statewide perspective since 1999, homicide is up by 10 per cent, rape is up by 3l per cent, assaults are up by a staggering 69 per cent and weapons offences up by 56 per cent.

I am told that on one's 10th anniversary the traditional gift is tin. What an apt material to describe this government's commitment to law and order! Its commitment to being tough on violent thugs on our streets is tinny and non-existent. Its commitment to providing adequate front-line police resources is tinny and non-existent. This Labor government has left law and order in this state to rust, rot and break down. What we need is more police out from behind their desks and on the beat, more police visibility, a minister and a Premier who are accountable for the performance of our police force and a clear zero tolerance to crime.

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

Ballarat: federal stimulus package

Mr HOWARD (Ballarat East) — Last week I was pleased to meet with coordinator-general Tony Canavan in Ballarat to visit several sites where works are under way on projects funded by the federal government's stimulus package. These included multipurpose centres at the Delacombe and Mount Pleasant primary schools. We also visited a housing project in Ballarat North, a level crossing at Wallace and classroom refurbishments at Gordon Primary School. The school community representatives and the housing residents we met at these sites were very excited and positive about these projects, and the building firms involved were also able to speak positively about the many local jobs supported by these construction contracts.

Glenlyon: hall upgrade

Mr HOWARD — I was pleased to visit Glenlyon last week to advise community members of the $90 000 state government grant which will see the kitchen at the

Glenlyon hall upgraded. The Glenlyon community has worked well over many years to run many community events from the Glenlyon hall, most notably the Glenlyon Fine Food and Wine Fayre. The community was able to commit over $30 000 towards this hall upgrade project, and the Hepburn Shire was able to commit $5000. The total funding is $130 000. This partnership between the state government, local government and the community will clearly be of much benefit to the Glenlyon community for many years to come.

Water: charges

Mr HODGETT (Kilsyth) — I demand the Minister for Water listen to the residents of my electorate of Kilsyth and introduce a reasonable fee scheme for water bills which takes care of those who vigilantly save water. People are doing it tough in Victoria but the Brumby government continues to slug them with excessive, expensive water charges, while the water minister proclaims and boasts that water prices will double by 2012.

One of many angry residents in my electorate has said:

> As a local ratepayer residing in Kilsyth, I am absolutely outraged by my current … water bill. There is three people within my household and our actual water bill for water usage is $18.88, incredibly low for three people.
>
> We conserve water within our day-to-day living to the maximum … but to be asked to pay an extra $179.73, nine times the actual water bill in charges … is an outrageous amount. It's no wonder the low-income earners are losing homes or really doing it tough financially …
>
> Seriously I believe, like many whom I have discussed this with it should be based on a percentage in line with water usage …
>
> … do the right thing and get slugged nine times the bill …
>
> … if the … government … had of done something 10 years ago we would not be in the current situation.
>
> …
>
> … government can be elected … and booted out, it's about time these individuals start listening to the mainstream society and what they are saying … try to imagine what it is like for all the people living on a wage under $50 000 with kids, bills et cetera …

Another resident states:

> I'm so disgusted at these charges for a single person —

a pensioner —

> … I have no trust or confidence in our water minister …

There is no reward for Victorians who save water. Victorians should be entitled to the basic service of affordable water, and the Brumby government should charge them a reasonable amount and only for water they actually use.

South Croydon Football Club

Mr HODGETT — Congratulations to South Croydon Football Club for its magnificent victory over Mulgrave in the Eastern Football League second division grand final.

Livingstone Primary School: theatre production

Ms MARSHALL (Forest Hill) — On the evening of 3 September I attended my sixth Livingstone Primary School theatre production, which this year was themed Beauty and the Beast. The principal, Kathy Jones, does such a wonderful job each year. It is an event I truly look forward to, and I always have high expectations based on the incredible effort that has gone into past performances. Whilst other members were not able to attend, I can say that this was a production each and every one of them would have thoroughly enjoyed. Everything from the costumes to the backdrops was mind-bogglingly good.

The cast overflowed with talent and enthusiasm, and I give special mention to Katerina Balis, Joshua Chook, Nicholas Diong, Joe Francis-Redman, Olivia McNally, Shannon Connelly, Bailey Henwood, Natasha Craig, Rachel Hocking, Kate Casterson, Michael Mullett, Jayden O'Connor and Kate Burt. Acknowledgement must also be given to the co-producers, Louise Simpson and Chris Wright; the amazing Carolyn Dixon for her backdrops; musical director Juliette Keating, assisted by Lorrie McMullin; and the astonishingly creative costume designers, Linda Kelly and Chris Wright — plus all their little helpers.

The performances by the students were captivating. The only sad point for me was at the end of the night when all the students from prep to grade 6 were taking their final bows and I realised that I had first seen the sixth graders standing in front of me seven years ago when they were little preppies. Time had moved on way too quickly.

I thank the entire school community — students, parents and teaching staff alike — for their invitation and warm welcome on what was the most memorable Livingstone Primary School production yet. Congratulations and well done.

Belinda Wriedt

Ms MARSHALL — I am pleased to draw to the attention of the house the musical talent of Vermont Secondary College student Belinda Wriedt. Instrumental music students from across the state came together again this year to compete in the annual Ballarat Instrumental Competitions, which were held from 24 August.

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

Water: irrigators

Mrs POWELL (Shepparton) — Irrigators in the Goulburn system have received advice from Goulburn-Murray Water that they now have 7 per cent water allocation. They started the season with zero allocation, and the situation in northern Victoria is now grave. People in country Victoria are angry that the Brumby government continues its ridiculous proposal to take water from the food bowl of Australia to supply Melbourne when there are other options which it has failed to implement. Dairy farmers are receiving less per litre of milk than it costs them to produce it, and irrigators and farmers will be in dire straits if it does not rain substantially in the next week.

The government continues to tell Victorians it will only put water savings down the north–south pipeline. This is not true. The government is poaching two lots of 10 000 megalitres of water from the Eildon water quality reserve, a total of 14 000 megalitres from the Wimmera-Mallee system, 10 000 megalitres from the Thomson River and the Gippsland Lakes area, as well as savings that were promised for the Murray River and the Snowy River.

Scientists have predicted that in the future the weather will be hotter and drier. The Minister for Water acknowledges there should not be a reliance on water from storages. The Goulburn River, which this government continues to see as a water source, is the most degraded of all rivers in the Murray-Darling Basin.

The government is modernising the irrigation system in the Goulburn Valley. It says that the replacement of the Dethridge wheels will achieve substantial water savings. Unfortunately there is a problem, which has been confirmed by Goulburn-Murray Water, with the new and very expensive magnetic flow water meters which measure the water farmers receive.

I ask the Premier to honour his environmental promises and his promises to irrigators, which are that water savings would only — —

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

Camp Ashraf, Iraq

Mr CARLI (Brunswick) — I join with international human rights organisations, including Amnesty International, in condemning the violence of the Iraqi forces that occurred on 28 July 2009 at Camp Ashraf.

Camp Ashraf was set up over 20 years ago. It houses dissidents from Iran and members of the people's mujaheddin organisation. They have and deserve protection from Iraqi forces as required under international law. Iranian members of my community showed me videos of what occurred. Iraqi forces used batons, riot shields, water cannons and, eventually, even guns against unarmed residents of the camp. It seems in the attack as many as 11 Iranians died, possibly as many 450 were injured and 50 remain in detention.

Along with the international human rights community, I call on the Iraqi authorities to investigate what occurred and conduct an independent inquiry to ensure those who are responsible for the deaths and destruction are identified. I call on Iraq to ensure that there is no forced expulsion of these people to Iran where they could suffer torture and death as a result of their politics.

West Gippsland Healthcare Group: awards

Mr BLACKWOOD (Narracan) — I take this opportunity to congratulate the West Gippsland Healthcare Group for winning the Premier's regional health service of the year award. The award was presented at the 2009 Victorian public healthcare awards night last Thursday. The health-care group was highly commended for its quality-of-care report and received a commendation from the Premier for its response to the Black Saturday bushfires.

West Gippsland Healthcare Group is involved in a broad range of health-related business activities. The high standard of service delivery in every aspect of its business has underpinned its award-winning success. The West Gippsland Healthcare Group employs over 1000 people and has 220 volunteers supporting its activities. It has a very high standing in our community and is recognised and appreciated for its high-quality delivery of health services. This is evidenced by the ongoing generosity of the community with bequests,

donations and auxiliary fundraising providing $2 million over the last three years.

However, the population growth of the area is putting great pressure on the ability of the health service to maintain its high standard of service delivery. Coping with huge increases in demand is extremely difficult. A lack of funding support from the Brumby government is making it almost impossible for demand to be met within an acceptable time frame. Of even more concern is the pressure this is putting on the staff, the executive management team and the board of management. However, despite these difficulties the health-care group has managed to win this prestigious award. It has been a team effort and vindicates the dedication, commitment and professionalism of every member of the West Gippsland Healthcare Group.

Royal Botanic Gardens, Cranbourne: Australian Garden

Mr PERERA (Cranbourne) — On Fathers Day I had the pleasure of joining the Minister for Environment and Climate Change to officially open the extension of the visitor centre cafe at the Australian Garden in the Royal Botanic Gardens in Cranbourne.

The Australian Garden in Cranbourne is undoubtedly one of Victoria's great treasures; it is a garden for our times. The opening of the new visitor centre and cafe extension is an integral part of the second stage of the Australian Garden. Excavation work on the second stage and completion of the award-winning Australian Garden began in early June. The works will complete the award-winning landscaped native botanic gardens and add 9 hectares that will feature garden displays and include an extended visitor centre. Costing $30 million and funded by the Brumby Labor government and philanthropic and private donations, the second stage of the Australian Garden has been designed by Taylor Cullity Lethlean with Paul Thompson. It is due to open in late 2011.

Sport: Cranbourne electorate

Mr PERERA — I take this opportunity to commend all residents in the electorate of Cranbourne who participated in sport, the best way to keep fit and healthy, during the 2009 season. I also commend all the supporters, families, and volunteers who have given their time and energy to following a sport during the season. If you are celebrating a great season with your team mates, please do not overdo it. Look after yourselves, your team mates and your supporters.

City of Knox: community facility funding

Mr WAKELING (Ferntree Gully) — I wish to draw the attention of the house to the application by Knox City Council to Sport and Recreation Victoria's 2010–11 community facility funding program — minor facilities. The council has made three submissions to the funding program. The first request for funding relates to floodlight improvements at the Ferntree Gully Recreation Reserve, which will allow for greater use of the ground for sporting and community events. The increased use of the ground will also enable more youth involvement as well as helping to grow and foster the Ferntree Gully Football Club. The second request is for improved storage facilities at the Knox Park Athletics Centre in Knoxfield. The third is for administration and storage facilities for the Knox skate and BMX park at Gilbert Park in Knoxfield. Both of these improvements will ensure that the community is able to fully utilise the existing recreation facilities. I ask that these applications be given the serious consideration they deserve.

Rail: Ferntree Gully station

Mr WAKELING — A number of residents have raised concerns regarding the growing spate of violence at the Ferntree Gully railway station. Whilst attacks are occurring during the evening, I am concerned at the growing number of daylight incidents. The station is currently being upgraded to premium status — a great outcome after many years of campaigning with the local community. However, it is clear that the Brumby government still needs to commit more front-line police to areas such as Ferntree Gully to make our communities safer.

Rowville Colts and Ferntree Gully Colts: premiers

Mr WAKELING — Last week I had the pleasure of watching two local Colts teams win their respective Eastern Football League division grand finals. I pay tribute to the Rowville Colts for their success in second division and the Ferntree Gully Colts for taking out the fourth division grand final. There is certainly some great talent on both sides who will go on to represent their respective senior clubs well into the future.

Bundoora Italian Senior Citizens Club

Mr BROOKS (Bundoora) — The Italian community's contribution to modern Australia is well documented and duly celebrated. Today there are more people in Australia with Italian ancestry than any other non-Anglo background, and the northern suburbs of

Melbourne is home to a vibrant Italian community, many of whom either migrated to Australia themselves or are the children of those who migrated during the great post-war migration era.

A focal point for the Italian community in my electorate is the Bundoora Italian Senior Citizens Club, which will celebrate its 20th anniversary this year. This group, which has always met at Bundoora hall in Noorong Avenue, Bundoora, has played an important role in providing older Italian community members from the Bundoora area with an excellent social forum.

I have had the pleasure of visiting the Bundoora Italian Senior Citizens Club on a number of occasions, either at its regular meetings or at one of its special events such as the Mothers Day and Fathers Day lunches and dances. Club members are able to relax and enjoy a game of bocce or cards, and there are also organised bus tours to various places of interest. Importantly the club is a place where people can catch up with others in their native language.

The club was originally established by Mr Augustine Mammarella, and its membership has grown to 245 this year. On behalf of the local community I commend Mr Mammarella and all of the members of the Bundoora Italian Senior Citizens Club who have served on its committee over its 20 years, including the current president, Ms Maria Biondo, for their efforts in ensuring the success of this great social club. I also wish the club well for its 20th anniversary celebration, which will take place on 8 October. I hope it continues to serve Italian seniors citizens in the Bundoora area for many years to come.

Local learning and employment networks: funding

Mr DELAHUNTY (Lowan) — As shadow minister for youth affairs I have major concerns for our country youth following the new funding model for Victoria's local learning and employment networks (LLENs), whose task is supporting 10 to 19-year-olds — it was 15 to 19-year-olds — who are at risk of educational disengagement. The funding model is disproportionately tilted towards city-based networks at the expense of those in regional Victoria. The federal government has increased its funding allocation for LLENs. However, millions of dollars which should have gone to regional areas has been diverted to the city by the state government. The total new federal funding represents an average increase of 69 per cent, but a number of LLENs based in regional Victoria received well below that average.

There are two LLENs in my electorate. Wimmera Southern Mallee LLEN received an increase of 26 per cent, while Glenelg Southern Grampians LLEN received just 32 per cent. This is in stark contrast to many city-based LLENs, which have had their funding increased by up to 153 per cent. This inequity will see country communities disadvantaged as this federal enhancement funding, which is distributed by the state, will not make up for the loss of the local community partnerships funding in December. Some LLENs will have a reduction in funding of nearly 50 per cent. This will mean our youth will not be serviced, offices will be closed and staffing levels cut. The lack of adequate funding allocated to country-based LLENs is appalling and will directly impact on our youth, who have already been hit hard by the changes to youth allowance. The Labor government is being insensitive to our youth in regional Victoria and sending a message that they are less worthy of assistance and support with education, training and employment than their city counterparts. Victoria is bigger than Melbourne.

Ellena Higgins

Ms MUNT (Mordialloc) — It was recently my pleasure to have Ellena Higgins from Mentone Girls Secondary College for work experience. The following is what she would like to say to the Victorian Parliament:

> I would like to highlight the plight of battery chickens. Chickens are intelligent birds, yet battery hens are among the most abused animals on the planet. A chicken, when treated well, is able to scratch around, look for natural foods, lay an egg in a quiet spot and stretch its wings. Battery chickens are not able to do this. They are kept in large sheds with artificial lighting and they never see sunlight. Their cages are piled on top of each other, sometimes even seven cages high. These cages are about half the size of the wingspan of a full-grown hen. They can contain up to seven chickens per cage, leaving them with no room to stretch their wings or walk around. Hens stand on wire floors that damage their feet, and some will have claws that have grown around the wire, making them unable to move or get food and water. Their eggs fall from the cage onto a conveyer belt, which takes them away without the chicken being let out or moved.
>
> During autumn chickens will moult and not give eggs for two to three months. Chickens are starved during this time so they will lay sooner. Many chickens do not survive this process. To stop chickens pecking at each other they cut off a third of their beaks at a young age using a hot guillotine. This is extremely painful for the chicken, and the nerves in the beak take time to repair, leaving the chicken in pain for months. Once a hen is unable to lay any more eggs they will send them off to the slaughterhouse.
>
> …
>
> Hens suffer greatly from this mistreatment. Some will die during the procedures used to make them lay more. Many develop osteoporosis, and 56 per cent will have suffered some

sort of fracture by the time they are killed. Something must be done to stop the suffering of these animals.

Crime: incidence

Mr McINTOSH (Kew) — The incidence of violent crime requires the government to treat the matter seriously. The first and most important step is for the government to acknowledge that we have a problem with violent crime in this state. It is of profound concern that on two recent occasions the Premier has rattled off a number of fallacious statistics that he thinks demonstrate that Victoria is a lot safer under his government. The reality is all he has to do is go to Victoria Police statistics to understand that we have a significant problem with violent crime in this state.

Even if you take the rate per 100 000 people, it is clearly demonstrable that the state has a problem. In Victoria the rate of assault per 100 000 people has increased a significant amount to 627. Indeed the incidence of crimes against the person per 100 000 head of population is 819.

Most importantly, we have a problem not only in the central business district but elsewhere around the state. I am sure the Minister for Local Government is concerned about the increase in both assaults and crimes against the person in the city of Yarra. Likewise, people in the electorate of Albert Park would be concerned about the increase in rates there.

Mr Nardella interjected.

Mr McINTOSH — Right, indeed, in relation to Melton. I am sure the member for Melton should be concerned, and places like Geelong, Ballarat and Bendigo and other regional centres — —

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

Burke Road North–Lower Heidelberg Road, Ivanhoe East: pedestrian crossing

Mr LANGDON (Ivanhoe) — I am not an avid reader of fiction, but as I read yesterday's *Daily Hansard* for the Legislative Council I could well have been mistaken for one. Mr Guy, a member for Northern Metropolitan Region, spoke about the need for a pedestrian crossing on Burke Road North from south of the roundabout at Lower Heidelberg Road. At least this part is not fictional, and for that I give him credit. However, the rest I think must be a political romantic comedy, particularly his rendition of Cr Mulholland and her activities and his support for them.

The truth about pedestrian crossings in the area is that I have been the strongest advocate for them. I have been responsible for the installation of at least five or six pedestrian crossings during my term. The last one was in Lower Heidelberg Road north of the cutting and Banksia Street; it took me absolutely years to get that crossing because the council was slow to give support to it. Even its own documentation said I was the only one advocating for it, not council itself.

I return to the crossing Mr Guy has raised. I support that crossing. I had a meeting with Cr Mulholland and local residents a number of years ago but one local resident wanted to take council to the Supreme Court if the crossing went ahead. The council retreated at a thousand miles per hour and has never proceeded with it. I am very pleased to support the local residents who now want a crossing to be installed. It is desperately needed and I support them. But this stuff about council being actively involved in pedestrian crossings is pure fiction. We need action, not fiction.

Geelong Football Club: 150th anniversary

Mr EREN (Lara) — Recently I was honoured to be invited to attend the Geelong Football Club's 150th year celebrations. It was an outstanding night, and I was truly flattered and humbled to be able to attend and literally be in the same room as those legends of the greatest football club of all. It was the biggest night in the history of the Geelong region, and thanks must be given to the organisers who put on such a successful and memorable event.

That old saying of 'where there is a will there is a way' certainly was the case when it came to this event. It was a mammoth effort to fit 1400 people into a marquee on the Geelong waterfront but to their credit the organisers were determined to hold this event in Geelong and they did. And what a magnificent event it was. You could hardly tell we were in a marquee. It was just as if we were in a 5-star conference centre on the Geelong waterfront.

The highlight of the night was the presentation of grand final medals to the 1951, 1952 and 1963 premiership players who were able to receive them. The look on the faces of these sporting heroes was pure gold; they appreciated it so much. It was great to hear from past greats such as Fred Flanagan. Unfortunately Polly Farmer could not make it, but nevertheless he sent a message which was read out, and it was fantastic. Sam Newman and Doug Wade also provided a lot of entertainment; I do not think there was a dry eye in the place due to laughter by the time those two finished.

The speech from Daryl Somers, the no. 1 ticket-holder, was very entertaining. Then there were some serious speeches by current Geelong players and staff, such as coach 'Bomber' Thompson and — —

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

Robyn Wilson

Mr NARDELLA (Melton) — I congratulate Robyn Wilson for organising a public rally last Saturday on Long Forest Road to try to get on and off-ramps at Hopetoun Park Road. She is doing a terrific job, and I support the local residents out there.

The ACTING SPEAKER (**Mr Howard**) — Order! The time for members statements has expired.

LAND LEGISLATION AMENDMENT BILL

Second reading

Debate resumed from 16 September; motion of Mr BATCHELOR (Minister for Community Development).

Mr JASPER (Murray Valley) — I am joining the debate on the Land Legislation Amendment Bill to speak on one particular clause. Members of the opposition have spoken on this bill and have presented details relating to the main provisions of the bill. Going back some years it was the practice in this house to go into committee: if you spoke in the second-reading stage, it was about general provisions; but when the house went into committee members spoke about particular clauses and any concerns they may have had on which they wished to comment. It has been the practice in recent years to debate much of the legislation at the second-reading stage unless there are amendments proposed by the government or the opposition. This has come about because of the movement of bills through the house and the need to get legislation through by 4 o'clock on a Thursday. I want to refer to a particular clause in my contribution to the second-reading debate because I believe there will not be a consideration-in-detail stage for this bill.

Clause 75 of the bill relates to the qualification for registration of surveyors, and it provides for mutual recognition. Members in the house will be aware of my contributions on debates over many years in which I have spoken about the difficulties caused by the border anomalies experienced by people who live along the border between Victoria and New South Wales.

A Border Anomalies Committee was established in 1979 but it has had a chequered career, which I have mentioned in debate in this current sitting period. Work on border anomalies was undertaken in the 1980s. In the 1990s the issue went onto the backburner and was not of great interest to the government. In 2004 the then Premier, Steve Bracks, wrote to me and said he was going to abandon the Border Anomalies Committee.

Following my representations to Premier Bracks in 2005, a border anomalies organisation met at Echuca in 2006, at Albury in 2007, at Mildura in 2008 and only a couple of weeks ago at Albury to further discuss these issues. The critical point is that we need to have support for the elimination of border anomalies across the board and particularly at the highest level, the Premier's department. The Premiers' departments in both Victoria and New South Wales are now actively involved in seeking to eliminate major border anomalies, and a lot of work has been undertaken in that regard.

There are probably up to 1500 anomalies along the border between the two states. Consistent action is required. We are now seeing more action being taken because it is being driven by the two Premiers' departments in an effort to eliminate these anomalies.

Clause 75 refers in particular to qualifications. The removal of border anomalies is normally effected in three ways: mutual recognition between the states, the provision of reciprocal rights or amendments made to legislation. However, on many occasions uniform legislation is introduced by the federal government and that is followed by the introduction of legislation in the states and territories.

A lot more needs to be done in this area. The classic example I mentioned earlier in the session was in the area of health. The health services in Albury and Wodonga are being combined into one health service for Albury-Wodonga. It is an excellent step forward but it has taken a lot of work to bring it to fruition.

I return now to clause 75, and I want to quote from the explanatory memorandum, which says:

> This clause amends section 5(c) of the Surveying Act 2004 to remove the implication that surveyors recognised in other states must pass an examination set by the board in order to be licensed to practice in Victoria. A new note is inserted at the foot of section 5 of the Surveying Act 2004 to refer to the application of the Mutual Recognition (Victoria) Act 1998 and the Trans-Tasman Mutual Recognition (Victoria) Act 1998.

As a result of that amendment, surveyors will not have to pass examinations in order to practice in Victoria. If they are licensed in other states or in New Zealand, they

will be able to practice with qualifications gained outside Victoria under the Mutual Recognition (Victoria) Act 1998. This is a major step forward. However, we need to press for more action by government in relation to the huge number of border anomalies in the areas of health, transport, legal affairs, business, boating laws, industry — just to name a few.

One recent anomaly which has caused a lot of interest and concern is the reciprocal rights for fishing licences. This has been a major issue for those living along the border between the two states. If someone is fishing in the Murray River, they need a New South Wales licence. But if someone goes up into a Victorian arm — say the Ovens River, which joins the Murray River at Lake Mulwala — they need a Victorian licence. There is a demarcation dispute over where the border is. We saw this situation through the 1980s. Moves were made to try to eliminate that problem. Victoria agreed to a mutual licence, but New South Wales said, 'Unless you can recompense us for what we would lose from Victorians buying a New South Wales fishing licence, it will not occur'. And it did not.

Through the 1990s little happened, but in the last couple of years there has been work on this. When the Border Anomalies Committee met in Mildura in August and September last year it agreed that fishing licences would become a mutual recognition issue by early 2009. When I attended the meeting in Albury a couple of weeks ago, I raised the issue of the fishing licences, and the committee indicated it has not been able to get agreement yet from New South Wales for that to happen. I hope that does move along and that we get uniformity and reciprocal rights for fishing licences.

In relation to section 75 I welcome the fact that there is mutual recognition so far as surveyors are concerned. I believe surveyors should be recognised right across Australia. Perhaps with the move being taken in Victoria we will see action in other states which will ensure that once surveyors are qualified they can go into any state or territory throughout Australia — and New Zealand in this case — and their training as a surveyor will be recognised. I welcome that. I hope it will result in training which is undertaken in one state being recognised in other states.

I will mention one particular case. The Wangaratta District Base Hospital has a nuclear medicine facility. One of the doctors there indicated he is qualified in Victoria and once every couple of months has to go to Albury to work at the base hospital there. Because he is licensed in Victoria, he has to have another licence in New South Wales to be able to handle nuclear medicine in that state. These are the issues that need to be addressed.

I welcome this clause; let us move on to see if we can get mutual recognition in many other areas and eliminate these anomalies that are causing a lot of trouble for people, particularly those living on the border between Victoria and New South Wales.

Mr SEITZ (Keilor) — I commend the minister for introducing the Land Legislation Amendment Bill 2009, because it will further eliminate some red tape and complications in land transfers. In Victoria we are fortunate to have one of the best land title systems in Australia. The system started in Victoria and has been adopted across Australia and by many other countries, because it is very clear, concise and helpful.

However, we still have some legacies left from before the current land title system was introduced. This bill clarifies that situation, as was pointed out in the second-reading speech. For example, in the city of Kingston anomalies have occurred over forgotten parcels of land. There are still issues with the identification of Crown land, the various titles and who actually owns the land. Sometimes land has been annexed, such as a corner of Crown land that is used by a farmer for grazing. Eventually the land has had a fence built around it. It could be that a country football ground is on Crown land but there has never been a title to it. When the club decides it wants to put a building on the land and spend money on it, it has to go to the County Court to clarify the title.

This bill will make some of those old legacy issues simpler. Any title issues will now be able to be heard by the Magistrates Court, which is a cheaper process for everybody concerned. The waiting list for the Magistrates Court is not as long as for the County Court.

The bill covers matters that are very important and affect a lot of people. One of the issues people are still grappling with concerns subdivisions and roads. In recent years amendments have been passed by this house which have clarified issues around new subdivisions, but there are still problems around who actually owns the roads and the laneways in old subdivisions. According to the acts which were passed in the 1920s, 1930s and 1940s, they were actually the property of the subdivider. The land with the road, the nature strip and the footpath has never been put on a title by the local government covering the area or by the state government.

In modern days we have to buy land from people in order to put a highway or a road through, but it is still the case that when council wants to close a laneway within a subdivision, it first of all has to get possession and get the title before proceeding. Maybe these days people living in those subdivisions do not need access to the laneways, but in the 1920s or 1940s, people would have used the laneway to access their property. These days if councils offer to sell laneways to the building owners, it is a very lengthy process and sometimes takes two or three years.

There are a number of laneways in my electorate, particularly in the St Albans area, that are neglected and have been left derelict because it is not clear who is the owner and who has to maintain them when it comes to cutting the grass, cleaning up the rubbish that has been dumped there and so forth. The local council usually gets the blame and takes responsibility for doing it, but in fact the council is not the owner. There is a lengthy process involved in becoming the owner by adverse possession. Again this bill will clarify that and make it easier and simpler for people. That is very important. These might seem to be minor issues for some people but they are a headache and an expense to the council. When the council does offer the land for sale to the neighbours or the abutting owners, the neighbours wonder why they have got to pay so much money for 1 or 2 square metres, or 1.5 square metres if you take half from each side, or whatever.

We also have public lands that were set aside in the old days as waterworks easements and now have been declared surplus to the water authorities' use. A title registration will be able to be obtained so the department can sell those parcels of land. It is a long process and usually some of these issues come to light when the community or the abutting owners in the suburbs say, 'This land is not being maintained and I would like to fence it in and use it and keep it tidy'. Previously, the process of obtaining the title and registering it — so the land is able to be transferred to the new purchaser and they can make a bid for it — cost more than the value of the land. I am talking about the days before the land prices skyrocketed, as they have in the last two years in my region. Prior to that it was a concern.

As recently as this week I have had people coming into my office and complaining about laneways and the maintenance of them and asking who the land belongs to. If it is council-owned land, then is it up to council to seal the roads, clean and maintain them and put in streetlights. People are particularly conscious of this because the City of Melbourne is highlighting its laneways and making big use of them and making them attractive for business, the general community and tourists.

In this bill we are certainly falling in line more with the national government by adopting a continuous system that is comparable to other states. An important aim of this bill is to streamline the system and ensure that it is easy to transfer land and to know who the successor at law of the land is. With the changes in boundaries of different municipalities and different areas, being able to trace that ownership is a very important issue. As I am sure you know, Acting Speaker, some country areas and farms have perpetual titles that are still on those systems, and for those who want to transfer to the Torrens system it will now be a lot easier to go to the Magistrates Court, and a lot less expensive to transfer properties and titles and to amalgamate those properties under the modern system. It makes it a lot easier for your successors to be able to transfer the land, deal with it and sell it in the future.

The other thing I want to raise is moving with the modern times. The computerised registration of titles and other activities which we can now do online are all helpful, because with the old perpetual titles you had to search for the records and you had to provide all the details of those records, which made the process quite expensive and difficult.

Lastly, I welcome the differential in fees for being registered as a surveyor, making it possible to use the title of your profession. Subject to the consideration of the board, you can pay a differential rate of registration fee. I would have welcomed this in my profession as a plumber, as I am sure the member for Bass would have — we gave up our registrations as plumbers because the registration fees were too expensive. We had to pay the fees and we were not practising the profession. The differential fee structure is a welcome thing, allowing people to use the initials next to their name and still say that they are surveyors but pay a lesser fee, which is an associated fee that is allowed in this proposed legislation. With those few comments, I wish the bill a speedy passage through the house and congratulate the minister for bringing it in.

Mr CRISP (Mildura) — I rise to make a contribution on the Land Legislation Amendment Bill 2009. The Nationals and the Liberal Party are not opposing this bill. The purpose of the bill is to amend the Transfer of Land Act 1958, the Subdivision Act 1988 and the Surveying Act 2004 as to the application of those acts and to amend the Geographic Place Names Act 1998 as to the appointment of a registrar of geographic names, to provide greater flexibility in the

appointment process, and to make minor amendments to the Forests Act.

In those major provisions, section 7(2) of the Geographic Place Names Act 1998 is amended to provide that a registrar of geographic names can be appointed up to five years, increased from three, which I think is useful.

Clause 75 of the bill removes the border issue when surveyors from interstate and New Zealand want to register here. There will be no need for them to sit an exam in Victoria, and I think this is extremely useful. A great deal of cross-border work has to be done with professionals to allow the flow of professionals across borders and thus allow employment to be pursued with ease by professionals. It helps us attract professionals into country areas if they can operate with ease on both sides of the border or come from another state. We still have a lot of work to do on this. I note the Parliament has done work with health professionals and others, but there is still a long way to go.

The area that I would like to spend a little time on relates to one of the provisions which is to amend the Forests Act 1958 by amending section 52(1) to provide that the minister may grant permits for up to 20 years for specified purposes. I am going to spend some time on this matter because we need to address an issue that is very relevant to my electorate.

Vic Eddy, who is an extremely experienced forester in red gums in the Mildura region, has drawn to my attention an area of managed private forest. The forest has been very effectively managed on private land. The owners have managed to harvest when the trees are under stress and then in a wet period have had regeneration. The difficulty they face is the long period between allowed harvesting. Bureaucracy now stands in the way of the owners thinning the current stand of red gums, which are under stress and need thinning to maximise their commercial value. Some of the complications involve the way the owners need to get a permit from local government to do this. Local government refers that planning application to the Department of Sustainability and Environment and others.

This private forest, which has had two previous harvesting periods this century and was in reasonable nick until this drought — as it was on the other two occasions it was harvested — is now considered to be a stand of significance, and it has been referred to the regional vegetation plan. That is something that the catchment management authority (CMA) is meant to manage, but I understand that it does not have the regional vegetation plan ready for the river red gum area where these trees are located. Thus the whole thing defaults to a stalemate. Also, the council cannot issue a permit unless that reference is in place or the forest has been continuously harvested.

There are some advantages of the harvest program on this particular property. Unless we get significant rain quickly — and it is an ageing stand of red gums that will significantly thin naturally — the trees will die off and their only use will be as firewood, which will see the carbon returned to the atmosphere within 12 months. If the trees can be harvested while green, they will find their way into timber products that will see the carbon returned to the atmosphere over a much longer period: if the timber is used in furniture it will be an extensive period before that occurs, and if it goes to railway sleepers, which are vitally needed, it will be 25 to 50 years. What we are looking at is all the things that we think are good rather than ending up with something that is bad. If this forest is not managed properly it will be reduced to firewood and the carbon will be returned to the atmosphere within 12 months.

The permits are up to 20 years, as specified. I think if we are going to go ahead and manage these private forests, as they have been successfully managed in the past, that 20 years needs to be extended for private forestry. Following some rains, which we hope will come, and some river flows that will come, there will be regeneration in these forests, but they will not be ready to be harvested for probably another 30 or perhaps 40 years. I believe the 20-year permits for specified purposes should be much longer, particularly for river red gums, so that we can avoid being referred to DSE, CMAs and that merry-go-round of complexity. The bill will make enormous changes, and The Nationals in coalition are supporting those changes.

Ms KAIROUZ (Kororoit) — It gives me great pleasure to contribute briefly to the Land Legislation Amendment Bill 2009. It is great to hear that the opposition is not opposing this bill. Each year Land Victoria registers approximately 700 000 land transactions, which represents an average of $60 billion of private property annually. In addition, there are approximately 2 million title searches each year, and 8000 plans of subdivision registered annually. I am pleased to say that quite a few of those subdivisions are occurring in the western suburbs. One of them is in my electorate of Kororoit. That is happening because of the support Victorians have received from the Brumby government's first home buyers scheme, where they have been able to purchase for the first time. This is often the largest purchase they make in their lifetime.

The amendments made in this bill are non-controversial; they are minor, administrative and fairly straightforward. The bill amends the Transfer of Land Act 1958, the Subdivision Act 1988, the Surveying Act 2004 and the Geographic Place Names Act 1998 to modernise and to improve the operation of these acts. It is also to repeal redundant or outdated provisions and to make any consequential amendments as a result of these amendments.

The bill also makes miscellaneous amendments to the Forests Act 1958 to reflect the role of the minister in granting licences and permits under the act. The Transfer of Land Act 1958 prescribes a system of land ownership in Victoria. Parts of this act are redundant or unnecessarily complex. Search certificates and stay orders, which carry over from colonial days and do not contemplate modern methods of instant communication, will be repealed.

The bill amends the Transfer of Land Act in a manner consistent with the objectives of justice statement 2, which states that a review will 'identify and implement the reforms needed to update' relevant property law. The amendments to the act are relatively minor and technical in nature. These amendments clarify aspects of the act in order to resolve issues that have affected customers, including homeowners, property developers, investors, financial institutions and also the registrar of titles over a number of years. The proposed amendments amend the Transfer of Land Act in the following broad areas: definitional changes, improvements to customer service, clarity for users, operational consistency; and removal of redundant and out-of-date provisions.

The changes to the Subdivision Act 1988 are largely technical and clarifying in nature. We see no objections to these changes. We do not anticipate any objections to amendments to the Surveying Act 2004, because they are also minor in nature, but they are necessary to provide the Surveyors Registration Board of Victoria with flexibility when licensing surveyors.

The Surveying Act 2004 was implemented on 1 January 2005 following a major review and a rewrite of the Surveying Act 1978. Following the implementation of the act a number of minor amendments were identified, and this bill will implement those amendments.

The Surveying Act 2004 implemented annual licensing for surveyors. This replaced the lifetime licensing regime that was in place under the Surveying Act 1978. Whilst the introduction of annual licensing had been well accepted by the majority of the profession, there was some unrest amongst some non-practising and retired surveyors because they argued that they should pay a lesser registration fee. This bill amends the 2004 Surveying Act to allow different fees to be set for different categories of surveyor, so they are quite happy with that.

As I said before, the bill also amends the Geographic Place Names Act 1998. This will enable the registrar of geographic names to be appointed for a longer period of time. The bill will enable an appointment not exceeding five years, which is an increase from three years.

The Land Legislation Amendment Bill 2009 includes miscellaneous amendments to the Forests Act, and we certainly do not see any objections to that — or we have not heard of any objections to that — because basically the amendments will clarify that the minister has authority to grant permits and licences under section 52(1) of the act.

The proposed statements, as I said, are consistent with the objectives of justice statement 2, which states that a review will identify and implement the reforms needed to update any relevant property law.

As I said earlier, no objections were anticipated at all. We do not see any controversial or major changes in this bill. All are quite minor and quite technical, so I think it is a fairly straightforward bill. I am glad to see that the opposition is supporting the bill. I commend this bill to the house and wish it a speedy process.

Mr WELLER (Rodney) — I rise today to speak on the Land Legislation Amendment Bill 2009. The purpose of the bill is to amend the Transfer of Land Act 1958, the Subdivision Act 1988 and the Surveying Act 2004 as to the application of those acts, and to amend the Geographic Place Names Act 1998 as to the appointment of a registrar of geographic names, to provide greater flexibility in the appointment process, and to make minor amendments to the Forests Act 1958.

It is a great pleasure to speak on this bill given that most people at some time in their life will have to go through the transfer of land when they buy a house or, in the case of many of my constituents, a farm. It is an interesting statistic that each year Land Victoria registers approximately 700 000 land transactions and this represents some $60 billion of private property transacted annually.

Indeed we would want to make it a simpler process, finetuning and cutting back some of the time lines. Our side of politics fully supports making it easier for business. I note that in the gallery we have the man who

signs the transfer of water from the Victorian Water Register, Chris McRae. I might say I look forward to the time when we simplify the processes for transfer of water. Many farmers have been frustrated with the transferring of water, particularly when it is transfer of water interstate or out of the Goulburn-Murray Water district to either along the Murray or into the lower Murray area, the Sunraysia area, so we look forward to the simplification of the transfer of water so that it is not holding up farmers as it does currently. There have been many frustrations over the last 12 months or two years. Since the water was unbundled in 2007, many farmers have come into my office with many complaints, and we look forward to that being simplified as well.

I will now go to the bill and look through some of the clauses. In clause 3 where it speaks about the courts, I definitely support getting it into the appropriate court. This is a very good move. It cuts back on some of the time lines and also would be a cheaper experience as well if it is in the appropriate court, and we fully support that.

Clause 13 is another interesting clause. It gives the registrar a discretion as to whether to produce a certificate of title where the person entitled to receive the certificate requests that no certificate be produced.

Obviously in this day and age — we are no longer in the paper age — it makes sense to leave things on computers. It is just catching up with the times, so that is another very common-sense approach.

The member for Murray Valley spoke about border anomalies. We are very supportive of clause 75 which takes away the requirement for surveyors when they come to Victoria from other states to sit an exam. Our side of politics would look forward to more initiatives like this right across the board.

I met the Echuca–Moama carers group some months ago now. The issue that they raised, which is one I had never thought of, was that if you live in Moama and you are a carer and you have power of attorney and you take the person you are caring for to the hospital in Echuca, you have to have another power of attorney. You have to have a power of attorney because you live in New South Wales, and when you enter the medical system in Victoria, you then have to have a power of attorney in Victoria. I think this is an area that we need to rectify. It is another bit of red tape that carers do not need.

Ms Allan — You're the new Kenny!

Mr WELLER — That is me. We are very caring on issues that affect our electorates along the Murray. We just need to highlight them so that the people on the other side can enact and listen. We need to get the government to understand that there are issues here if you live along the border that need to be cleared up. We thank it for the fact that the surveyors will no longer have to sit another exam, but there is a lot more to be done, and we look forward to it being done promptly.

Section 105 speaks about the Forests Act 1958. The minister may grant permits of up to 20 years for specified purposes. I support this — that the minister do this — but we need to make sure it is an open and transparent process so that everybody knows the process and everybody knows what is there. It gets very difficult when we on this side of politics cannot get an answer and we have to go to freedom of information, so we would want to make sure that this is an open and clear, transparent process so that everyone can find what the minister has given permits for and there are precedents there, and businesses wanting to deal with the state forests can know on what grounds they are meant to be dealing and what precedents have been set.

With those few words, we are not opposing the bill and we wish it a speedy passage.

Mr DONNELLAN (Narre Warren North) — It is an honour to speak today on the Land Legislation Amendment Bill 2009. As the member for Rodney so sensibly said, it is a common-sense bill dealing with administrative matters, but it deals with those things which remove red tape more than anything else. Having worked in the property industry for some years, I can remember going to Queen Street many years ago when everything was reliant on paper and you would spend hours waiting for small bits of paper to come down from the Titles Office, and a lot of the ones I was looking for were quite hard to find.

In 2006 we moved on that. We introduced — although a lot of it had already been done — the full implementation of the electronic system. This bill deals with an ongoing process of improving that system, in large part.

If you look at the number of transactions we have each year, you see it is about 700 000, which is a lot of transactions. That is about $60 billion worth of transactions being undertaken. There are about 2 million title searches processed and 8000 plans of subdivision registered each year. Title searches used to take a long time. Unless you had a good title searcher or you had a good friend in the titles office, it took a long time to get those titles. Because there are so many

searches and other transactions, it is important that the land administration system is efficient.

As mentioned by previous speakers, the definition of 'court' is amended to 'court of competent jurisdiction'. We are not dealing with resolutions and matters in higher courts; we are dealing with these matters in the Magistrates Court, which hopefully will mean — and I think it will — that they will be dealt with in a cheaper, faster and simpler manner and that the cost of litigation, if people wish to litigate, will be minimised. The bill also provides clear time lines of up to 30 days for all transactional matters, whereas currently a varying number of days — I believe from 14 to 35 — are specified as the time lines to deal with these matters.

A mortgage title used to be required for the purpose of updating addresses. You would flip over the certificate of title and you would see on the back, for example, the name of Mr and Mrs Black and their address and so forth. Under this bill if you want to update your address because you have moved or whatever, proof of identification will be required, but there will be no need to produce a certificate of title.

The bill also makes it mandatory that street addresses be provided at the time of registration of a plan of subdivision. It is ridiculous that people might be able to lodge a plan of subdivision and then have to wait 30 days before they lodge the street name. In other words, if an emergency occurred in one of those subdivisions and the street had no name, what are you going to do? Send the ambulance out to a street nearby? The bill deals with that by making it mandatory to provide street names.

Overall the bill provides for greater compatibility with the new electronic conveyance system, which we introduced in 2006, and that is important. I understand New South Wales is looking at working with us on this as well, and hopefully there will be a national system for the registration of titles, which would make a whole lot of sense and make it a lot easier for everybody involved in the property industry and the like. That is a positive move forward.

This bill deals with some housekeeping matters and removes the red tape. It is a good bill, and I commend it to the house.

Mr EREN (Lara) — I am pleased to speak on the Land Legislation Amendment Bill 2009. It is refreshing to see the opposition showing a new level of cooperation this week. It is good to see that cooperation with its support of this bill.

The government has an efficient system of land administration, and the amendments in this bill will seek to further enhance the current system. I have spoken in this place many times about what a wonderful place Victoria is to live, work and raise a family. We are seeing an extraordinarily high number of people coming to Victoria. That is clearly because of the practices of this government and the policies it sets. As a result of this population growth — and I have said it before — Geelong is obviously one of those areas that is booming. Armstrong Creek is a development which will see something like 50 000 to 60 000 people moving into the area over the course of the next 5, 10 and 15 years.

Buying a home is the most important financial decision one has to make. I am informed that each year Land Victoria registers approximately 700 000 land transactions, which equates to about $60 billion worth of private property transactions, so it is a lot of bickies. It also does 2 million title searches and approximately 8000 subdivision plans each year. The incentives provided by both state and federal governments with the first home buyer schemes have seen a boom in people buying their first homes. These figures are quite large, and therefore it is vital that we have an efficient land administration and registration system to support the volume of transactions occurring each year.

This bill seeks to improve and amend the Land Legislation Amendment Bill 2009, the Transfer of Land Act 1958, the Subdivision Act 1988, the Surveying Act 2004, the Geographic Place Names Act 1998 and the Forests Act 1958 to further enhance the land administration system. The wide variety of amendments to the Transfer of Land Act 1958 will make the act more clear, concise and up to date. The amendments will see clarifications in definitions, time periods for transactional matters and the underlying intention of the act, as well as a simplified method of updating the register where a successor at law is established.

In addition, this bill contains several amendments to improve the accuracy of the title register and makes several aspects of the act redundant. These amendments are vital in order to modernise this act. The proposed amendment to the Subdivision Act 1988 will save time and money in relation to subdivision title searches and the dispatch of emergency services.

There is another speaker after me, so I will be brief. I want to congratulate the government on putting such a bill before the house, and I wish it a speedy passage.

Dr NAPTHINE (South-West Coast) — I rise to speak on the Land Legislation Amendment Bill. I want to draw my remarks to clause 90 of the bill. I wish to make a brief contribution on behalf of a constituent of mine from Ace Surveys, Michael Hand, who is a land surveyor. He refers to clause 90 of the bill in his letter to me:

> Clause 90 of the LLAB proposes alteration of the Surveying Act 2004 in relation to the members of the Surveyors Registration Board of Victoria …
>
> The clause 90 amendment has been introduced as there is no longer the position of surveyor and chief draughtsman, and there is no surveyor in the titles office with sufficient experience to fill the role on the Surveyors Registration Board. Further, the expertise lost to the titles office cannot be readily replaced, and finding and training a person for the role of surveyor and chief draughtsman, if such a position existed, would take many years. Hence the change in the legislation is necessary.

He refers to the fact that the amendment replaces the reference to the surveyor and chief draughtsman on the Surveyors Registration Board to somebody who is 'in the department'. He says about that:

> The person tipped to be nominated is the present deputy surveyor-general, who is already a very busy person. The surveyor-general's office is already understaffed and under-experienced, and this is affecting the throughput of normal day-to-day matters, like consents to boundaries of Crown land and government road alignments. Putting an additional responsibility onto a person 'in the department' will not help production —

I think he means productivity —

> in the surveyor-general's office.

I wish on behalf of Mr Hand and other land surveyors to place on the record their concern about the loss of expertise in those important areas within the public sector, their concern about making sure that these matters are handled efficiently and expeditiously by the public sector and also the concerns about the downgrading of the position on the board. The person designated on the board currently is a senior person, the surveyor and chief draughtsman, and this will be changed to somebody who is just 'in the department' who may not have the necessary expertise and experience to fulfil that position on the board appropriately.

With my brief remarks I bring forward the comments by Mr Hand, and I ask that the minister and the government take them into account when considering making appointments to this important position.

Mr BATCHELOR (Minister for Community Development) — In concluding the debate on the Land Legislation Amendment Bill 2009 I would like to thank the Minister for Police and Emergency Services and the members for Brighton, South Barwon, Box Hill, Murray Valley, Keilor, Mildura, Kororoit, Rodney, south-west, north-west — —

The ACTING SPEAKER (**Mr K. Smith**) — Order! South-West Coast maybe?

Mr BATCHELOR — Lara, South-West Coast — —

An honourable member interjected.

Mr BATCHELOR — Narre Warren South.

Dr Napthine — He wants to move, we know that — he is after a safer seat.

Mr BATCHELOR — We know what move you want.

We want to thank all these members for their contributions. As members would have heard from the variety of speakers who have spoken on this bill and the diverse range of comments they have made, it is essentially a housekeeping bill that amends a number of related bills dealing with land legislation. A potpourri of comments has been made by members on both sides of the chamber, and of course the government will take notice of those in its further development of land legislation in this state.

We believe Victoria has a world-class system of land administration, and the Brumby government is taking action through this bill to further enhance and strengthen that system. Land administration affects most Victorians at some stage during their lives, mostly during the purchase of a home. This bill will make that transaction a smoother one for them.

The bill reduces costs by amending the definition of 'court' to 'court of competent jurisdiction'. The bill ensures clarity and consistency by amending all time periods to 30 days. The bill also improves the accuracy of the titles register by granting the registrar discretion to consolidate parcels of land where a vesting order is made in adverse possession cases. Finally, the bill assists Victoria's emergency services by ensuring that address information is provided at the time of registration of a plan of subdivision.

These individual and separate actions form the basis of this housekeeping and amending bill. It is all designed to improve and strengthen our system of land administration, and I commend the bill to the house.

Motion agreed to.

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

Third reading

Motion agreed to.

Read third time.

EDUCATION AND TRAINING REFORM AMENDMENT (SCHOOL AGE) BILL

Second reading

Debate resumed from 2 September; motion of Ms PIKE (Minister for Education).

Mr DIXON (Nepean) — The opposition will not be opposing the Education and Training Reform Amendment (School Age) Bill 2009. Essentially this bill sets out to amend the Education and Training Reform Act, and it does that in two main ways. One is by raising Victoria's school leaving age from 16 to 17. Members might remember that when the reform act was introduced in 2006 the school leaving age was raised from 15 to 16. This bill raises it from 16 to 17. It also provides for the minister to make orders to define what is approved education, training and employment in Victoria.

We have this bill as part of a national partnership between all the states and territories and the commonwealth government: the national partnership on youth attainment and transition. One of the goals of that national arrangement is to provide some consistency in school leaving age across the states and territories. But, as we know, there is actually quite a difference across the states and territories as to what the year levels are called and what age students are at in those year levels, and there are varying definitions of what it means to be in approved education, approved training and even employment to a certain extent. This will give the flexibility to the ministers in the various states and territories to provide orders relating to those circumstances in their particular states.

As I said, this bill comes as part of a national partnership. The pot of gold for signing up to this national partnership is $135 million from the federal government over four years. Never stand between a state Labor government and a pot of gold from the federal government — they will sign on the line. They will say, 'Yes, give us the money. Show us your money and we will sign up'. Time and again we have seen this government abrogate its responsibility for leadership in education in this state — in terms not only of leading the new debate into new areas of policy but also of ceding some of its responsibility to the federal government on a number of levels — all because there is a pot of gold. It has been offered by the federal government in every single case. If the federal government is offering money for something, this state government is usually the first to sign on.

This government always thinks it is a great idea. Often, as part of these national partnerships, it signs on for things it would have railed against when it was in opposition, as would members of the federal government and their fellow travellers in the union movement. Labor politicians throughout Australia would have previously railed against many of the initiatives that have been introduced by the Labor federal government. Suddenly they think they are wonderful. However, when we, on this side of politics, raised them, we were seen as the world's worst people. They have now seen the light on the hill. The states have seen the light on the hill in the form of a pot of gold, and they are more than willing to sign up to all of these things they used to rail against. Some of those things include national testing. Goodness me, that was anathema to Labor governments! But no, there is federal money involved in national testing, so the Victorian government has signed up to that.

National curriculum is another hot issue that was anathema to Labor governments and unions throughout Australia. We have signed up to that too, because there is also money involved in that. Teacher pay, teacher pay-related performance and the structure of teacher pay and performance are parts of another national initiative and national partnership this state has signed up to. Over the years Labor members have railed against that. I remember we released a policy on this leading up to the election in 2006. We were the world's worst for doing that. We were told it was disgusting that we were proposing to do that. But here we are and the state government is signing up to it because the federal government is offering a pot of gold. It is wonderful and interesting to see.

Building the Education Revolution is another national program where billions of dollars are being offered to states and territories. Boy, has there been a stampede in the take-up of that money! It has been appallingly handled here in Victoria with absolutely no flexibility. We heard last night — and this was raised in the federal Parliament this year — the member for Rodney talk about a school that has to demolish half of what it has paid for so it fits into one of these off-the-shelf models. The state government said, 'You have got to have one of these models or you will not have anything at all'. What a shocking decision that school has to make. This

is just one initiative in the line of federal initiatives this state government has signed up to.

The state government does not have a plan except to follow where the federal government leads it. It says, 'Where the federal government and Julia Gillard, the Deputy Prime Minister, lead, we will follow, so long as there is a pot of money attached to it'. This is another example.

It is important to note there is absolutely no argument about the definite connection and link between the length of time a young person spends in education gaining qualifications — be it formal education, further education or formal training — and their future earnings and employment prospects. It is very important we keep all young people engaged in education of some sort, whether it be formal schooling, further education or training or, in some circumstances, employment. We really need to keep our young people engaged and in education. This is part of the motivation behind what we are looking at today.

The passage of this legislation will result in raising the school leaving age from 16 to 17. Some exemptions under the previous rule of the school leaving age being at least 16 will remain unchanged. These are short-term exemptions such as sickness, religious festivals, travel and distance education — all of those sorts of things. In terms of distance education, students could probably be exempt from attending a school for a long time. There is no change there.

This partnership demands all 16-year-olds and all students in their 17th year in all states and territories must either be in school, formal training or employment. When you look at students and young people in Victoria, you see some 16-year-olds and 17-year-olds employed, but most of them would be at school or in formal training. There is no real change; it is merely an artificial thing we are doing.

There is a group that does not fit within those three neat parameters. There is a group of young people who are not ready for employment of any sort, even casual employment to a certain extent. They just do not fit into a normal mainstream school for a range of social and intellectual reasons, and they are not ready for formal training. It is easy to say, 'If they cannot go to school and cannot be employed, send them off to training'. But when you go to a TAFE college, TAFE institute or any sort of registered training provider, there is a formal education system. There is assessment, there is testing and there are attendance requirements. It demands some sort of self-motivation and initiative which many students just have not got. It is not the sort of thing you can force a student to do. The student has to be motivated, to a certain degree, to actually undertake that sort of training.

As I said, we have this large and growing group of students who do not fit into any of those parameters. The law will now mean our schools will be left with those students and have total responsibility for their remaining engagement in education. That has been my main concern and it is the main concern that has been raised to me about this bill.

I wish to highlight a couple of examples that have been provided to me. In the Warrnambool *Standard* of 1 September, the principal of Baimbridge College is reported as saying:

> … the government should consider the cost associated with the reform.
>
> Any increase in the school leaving age would require appropriate resourcing to cope with larger class sizes and changing student needs …
>
> Students who leave school early have chosen not to follow the academic path so we need to fund alternative pathways to accommodate them within the school system.
>
> (The state government) should guarantee that any rise in the leaving age is met with appropriate funding to reflect the added costs.

When I asked Mary Bluett, the president of the Australian Education Union, for comments about this legislation, she asked:

> Where are the additional resources to assist schools in supporting engagement and providing a relevant and meaningful education program? Secondary schools are already stretched beyond any reasonable expectations given their budgets. Where are the additional resources to provide staff to track students beyond the current six months?

That is another aspect we are keeping our eye on: where are students going and what are they doing when they leave formal education? They are just two examples of the deficiency in this bill. It would be great if government members or the minister in her summing up would talk about what resources will go to schools to support this growing number of young people who do not fit those three categories.

I have a few ideas about where the state government could find the money to give to schools to work with young people with high needs who are not ready for formal education, schooling or employment. One source could be what I have quietly been told is over $5 million that is currently being spent on the Department of Education and Early Childhood Development's Shine advertisements. I noticed that a Channel 7 weather report was brought to viewers by

Shine. I looked at the *Herald Sun* website yesterday and saw a Shine advertisement there as well. The Sunday news, which I think has the highest ratings, had more of these advertisements. They are feelgood advertisements. They do not provide any information, but there is a lovely song and lots of images of the best schools and the best dressed kids, all happy and smiling, and it costs $5 million. There is an extraordinary amount of money being spent on this advertising campaign. This sort of recurrent expenditure should be going into schools to support the students who will need to be supported as a result of this legislation.

I also note that the Department of Education and Early Childhood Development spent $1.8 million on taxi fares in the last year. What an incredible waste of money!

Ms Morand — That is on taxis for disabled children.

Mr DIXON — The $1.8 million is for bureaucrats. It is shocking how much money is wasted by the department on taxis, advertising, glossy brochures and handouts. You would not believe it. It is a crime. It is appalling. I have mentioned two potential sources of money. I am trying to be helpful here. The government has said it cannot afford to do this, and I am showing it some opportunities to find the money.

Another source of money that is very relevant to this bill is the $336 million that the government has collected in payroll tax on apprentices and trainees. Employers who take on apprentices and trainees are being slugged for doing that service. We want kids to go into training and apprenticeships, but the government is slugging employers to the tune of $336 million. There is some money that could be used to support these schools.

How do we support young students who are not ready for formal education, training or employment? There is a range of wonderful models out there. Some schools run special programs within their own school facilities. They might have a separate class area or building for these young people; a higher teacher-student ratio; specialists coming in to work with students on special programs, personal development or a whole range of other programs. I have seen some fantastic programs. That is one model.

In addition, a range of community Victorian certificate of applied learning (VCAL) courses are being offered. On the Mornington Peninsula, the Peninsula training and employment program is offering a brilliant program for the growing number of students — I think the number has quadrupled over the last 18 months — who cannot or do not handle mainstream school. These students are referred from schools that say, 'We just cannot take these kids any more. We cannot do anything for them'.

They go to this fantastic setting that has been offered by various community VCAL organisations, which try to operate on a mishmash of funding. There is no formalised funding following the students. Theoretically if a student is coming out of school and going to one of these community VCAL providers, the money that the school received from the government for the education of that child should go across to the specialist provider to help defray the cost of their education. However, that is hard to do in reality. Because schools are given a budget at the start of the year, then employ people, organise programs or whatever and set their priorities thinking they are going to see that amount of money, to take that money out of school budgets is not good. However, I think schools have a moral responsibility to fund those students they can no longer handle and are handing over to community VCAL organisations. There is a real need for specialised funding in this area to handle those children.

TAFE institutes also sometimes take over the education of these sorts of students. In fact Chisholm Institute of TAFE at Rosebud has a program called Express, which runs for a term. Students who are finding it too hard to cope with mainstream school but are not ready for employment or formalised training are referred to the TAFE institute, of all places. A first-class program is offered to this group of young people, usually about 15. A number of adult community education providers and community houses offer similar courses. These courses give young people basic literacy and numeracy skills and a lot of personal development skills, and they offer a number of certificate I courses. For the first time in their lives these young people gain a qualification and a degree of success. It is incredible what that does to their self-esteem and their belief that they can go further in education, whether it be undergoing training or going back to school.

There is a general theme that works right across these providers that is very worthwhile. I know it is being reviewed by the department, although we have not seen any outcome from that. We need something that is consistent across the state. Victoria needs a range of models, because one size does not fit all, but we need a consistent funding model for these students so that these programs can be enhanced and formalised to a certain extent to cater for and retain all young people up

to the age of 17 in a realistic way. These young people should either be at school, employed, doing formalised training or undergoing one of these community VCAL-type programs. That is the way to do it.

As I said earlier, it is a growing group of students. Let us see the outcome of the review, and then we will need to see some funding associated with that.

As I have said, I have suggested some sources of money. A slightly cynical examination of this program indicates there might be a couple of unexpected outcomes which will make the federal government look good and the state and territory governments look even better in some of the statistics. If students are theoretically being kept at school or in training, they are not unemployed. Accordingly, youth unemployment is reduced. That is rather cynical, but I am not the only person to say that; a number of people have said this.

On the plus side for the government, it looks as if the retention rates have improved as well, so students are staying at school longer. That looks good, too. We need to look past the statistics and look at what the real motivation is. The statistics should be one thing and we should be thinking about the students: What is best for these students? How do we cater for all students? It is to these questions that my remarks are directed: how do we cater for all these students, especially the growing number of students who are falling between the cracks?

I want to finish off by briefly looking at the retention rates for years 10 to 12, which have been patchy. In 2005 there was a high of 82.7 per cent in government schools. That was down to 81.1 per cent in February 2009. However, last year they dropped as low as 74.2 per cent. If the figures were done now, as they were in August last year, we would find that the 81.1 per cent in February would have fallen away because we lose students at that top end. As I have said, we have to put aside the statistics. We should be looking at the children behind these statistics and how we can keep them in years 10 to 12. These retention rates are very important and are well worth monitoring.

I conclude by saying we will not oppose this legislation, but the bottom line is we have a growing number of students who are falling between the cracks. They are not ready for formal education, formal training or employment. They are a growing number. There is money there for this government; in fact it is signing up to $135 million that can be used to support the schools which are trying to support these students who have to remain at school until they turn 17.

Mr HERBERT (Eltham) — It is a pleasure to speak on the Education and Training Reform Amendment (School Age) Bill 2009. It is a fairly simple bill in many ways. It gives effect to the Victorian government's implementation of a national partnership on youth attainment and transitions which was agreed in early July this year by the Council of Australian Governments. An essential provision of the bill is that young Victorians will now be expected to complete year 10 or an approved equivalent and then undertake education, training or employment — and that important fact was not recognised by the previous speaker — at least until they reach the age of 17.

This bill establishes new expectations of young Victorians. Under this amendment young people will be encouraged to remain engaged with the community for longer to utilise a broad variety of support mechanisms and tailored pathways. It builds on the government's programs.

I would like to comment a little bit on the contribution of the shadow Minister for Education. I know the shadow minister has a genuine regard for education for young people but I guess when we come into the house we have to be a little bit vexatious and a little bit controversial. Clearly, though, there were some things in his contribution that were not accurate.

The first thing we need to acknowledge, when the shadow minister talks about the need to cater for all students, is the parlous state of education when we were elected to government in 1999. Let us be clear on this: whilst we hear the rhetoric of those opposite, in this state at that time we had a massive degradation of our education system. We had a legacy of closed schools, sacked teachers and funding being slashed. Importantly we had a legacy of scrapping any courses that were not academic, any courses that provided alternatives for young people. They all went out the door as soon as the previous Liberal government came into power, and that left a whole range of students, a whole group of young people, without options in the education system.

For that reason, when we were elected to government in 1999, we were faced with a situation where year 12 retention rates were falling through the floor. When we hear those opposite talking about kids on the street and the need for diverse courses, let us put that into the context of a government that has done more to expand those courses and opportunities for young people than any other in this state. When it came into office the first thing the government did was to undertake a major review of the provision of years 11 and 12. We established the Victorian certificate of applied learning (VCAL); we put in a massive funding boost; new

courses were offered; vocational education and training (VET) programs in schools were established; we established the local learning and employment networks to coordinate training and education provision across industry; new accountability mechanisms were put in place; and we decided to find out what was happening with kids who were leaving school.

We introduced the massive On Track system and we now have the managed individual pathways to make sure kids are not falling through the cracks. We wanted to have some hard data, not the rhetoric we have heard from those opposite, on where young people were going when they finish school. We then put in the guarantee of education for all people to age 16, and now we are taking the next step of increasing the school leaving age and education opportunities until age 17. That is backed up by a massive building infrastructure program and massive changes to the types of provision that young people can have in education to make learning more relevant, not just for those who are academically minded but for all students in our schools.

That is a terrific legacy, and this legislation builds on that legacy. I would like to see the opposition acknowledge that. When they rant and rave we should look at the facts, because all of those initiatives were bundled around hard targets to achieve in terms of year 12 retention and acquisition. We did not just engage in rhetoric; we said, 'We are going to really try to lift the bar. We have introduced public targets for everybody and we have put in place programs and funding to try to meet those targets so that young people can have year 12 acquisition'.

We are seeing a good thing with the national partnership. It should not really matter which state you live in, at what age you start school or what age you finish school. You should have the same opportunities whether you are an indigenous kid in a remote community in the Northern Territory or an urban kid in Mentone, Moorabbin, Eltham or Sunshine. That is what we are getting here; we are getting a national, consistent approach to opportunities for young people to stay at school, and that is a very good thing and probably long overdue. On that point I would agree with the shadow Minister for Education.

It is a bit overdue, and it is important for a very simple reason. When you look at the research in terms of outcomes, there is no doubt that people who have achieved year 12 or an equivalent qualification earn more money over their lifetimes and have better prospects throughout the course of their careers or multiple careers. It is a simple fact. If you achieve year 12 or an equivalent, you will have a better quality of income and probably better opportunities in life and in the vocation you choose. It is for that reason we are so supportive of this legislation.

The basis of this of course is that no-one wants to see kids drop out of school. Students who finish their education early end up on the streets; we have all seen it. They wander off. It often starts a life of government subsidy, lost opportunities and less enjoyment in life than most of us experience. When we set these measures of school leaving age et cetera, it is important that we have in place mechanisms to make sure that they are applied. In that regard there is no doubt that we have that through the managed individual pathways initiative. It is an initiative that says, 'It is not good enough just to have legislation, it is not good enough just to say kids have to stay at school or be in training or working'. We have to make sure that happens because, as we know, kids often drop out of the system.

The managed individual pathways initiative, an initiative of this government clearly and one we are very proud of, ensures that all students in government schools who are 15 years and over are seen and that education and career pathways plans are developed for them. We also have the youth transition support initiative — big words, but what do they mean? It provides genuine, actual support to disengaged young people to help them come back to and re-enter the education and training sector. That is proving highly successful in improving retention and attainment rates in Victoria.

These were issues that the previous government never even thought were government business. It did not care, saying, 'Oh, what is that?'. There are initiatives to keep young people in schools, and they were well overdue. They were well overdue, they have been put in place and they are absolutely working. That is why we will meet our targets.

There are some other areas of this, though. You can have the law, you can make sure kids do not drop out, but you have got to provide opportunities for them to meet their educational needs and they are interested in. Let us face it: not all kids are interested in an academic future. Nor should they be. There are many members of this Parliament who came through trade groups or were apprentices — —

An honourable member interjected.

Mr HERBERT — The member opposite was an apprentice. They came through TAFE and are successful in life because their bent was vocational education and training. I went to a technical school

myself as a matter of fact; the member for Bulleen reminds me of my humble past. I thought it was a great education, a really good education.

In this bill there is a recognition that there are alternate offerings and that we need a diverse load of offerings for students, whether it be VCAL; a more community-based vocational path, whether it be VET in Schools, where kids start an apprenticeship early; whether it be for those kids who simply cannot be at school for a range of reasons but can have a second chance in life through a community VCAL initiative; or whether it be a more diversified Victorian certificate of education offering. These are all important in keeping young people engaged in education and are supported by this legislation, but most importantly they are offerings that help kids with their future lives so they do not drop out, they are not on the streets and they have every chance to succeed in life. By doing this we will be a better state, and the young people we are trying to do all this for will have much better lives.

Mr NORTHE (Morwell) — It gives me great pleasure to make a contribution to the Education and Training Reform Amendment (School Age) Bill 2009. The purpose of this bill is to amend the Education and Training Reform Act 2006 in relation to compulsory school age and for other purposes. This bill seeks to raise the compulsory school leaving age from 16 to 17. It also provides for a ministerial order to define the national reference to complete year 10 and to define matters relating to the definition of approved education and training and/or employment.

This legislation is also part of a national partnership with the commonwealth on youth attainment and transitions to which the member for Nepean referred. As a parent I am supportive of the notion of children obtaining the highest possible education they can. I have three boys, one 17 and currently studying VCE (Victorian certificate of education), one 14 and in year 9 and one who is 9 years of age and in grade 4. They are going okay at school, but at the same time, particularly for the two older boys, I understand the difficulties associated with determining a career pathway.

I will give an example of some local initiatives that were undertaken recently. I had the pleasure of attending what was called a Straight*talk* lunch. This was a program partnership between Lowanna College, the Smith Family and the Baw Baw Latrobe local learning and employment network. The basis of this was getting year 8 boys to come to a lunch and have a general, informal discussion with local male leaders within the community. I think it is a really important point to recognise that particularly males at the year 8 and year 9 level have difficulties in determining career pathways and what training and further education they should undertake. I found that a very worthwhile local initiative, and I know the year 8 students who attended very much appreciated it.

I have also in recent times had the privilege of being a principal for a day at Churchill North Primary School. That certainly gave me a greater appreciation of the great work that many principals and teaching staff do and the challenges they confront on a daily basis. It was a good exercise for me to undertake.

One of the major parts of this legislation is about making sure that we retain younger people in education and further training. It is interesting to note that the Victorian Parliament's Education and Training Committee has recently undertaken an inquiry into geographical differences in the rate in which Victorian students participate in higher education. One of the terms of reference was to comment on the influence of school retention rates, including enrolments and completions for VCE, VCAL (Victorian certificate of applied learning) and VET (vocational education and training) in Schools on participation in higher education. It was very interesting to see some of the outcomes, particularly in some regional areas. The inquiry found that fewer students in regional areas applied for university courses in 2007–08 — some 89.9 per cent in one metropolitan area compared to 68.9 per cent in one regional area. As those figures indicate, there is an extraordinary discrepancy. It also found that students in the metropolitan areas were deferring an average rate of 10 per cent compared to 33 per cent in some non-metropolitan areas. Again, that is an indication of the disparity that occurs.

The inquiry also found that there needs to be greater financial support for universities delivering programs in country and outer suburban areas and to encourage a greater range of delivery models. It also recognised that VCE completion rates needed to improve, along with the country students' knowledge of the tertiary educational opportunities available to them. It also made the point that improvement needed to occur with the pathways between vocation and higher education. Gippsland was mentioned in that inquiry, and the inquiry found that 64.4 per cent of school leavers from Gippsland received a university offer compared to about 78 per cent of school leavers from the metropolitan areas. The discrepancy is a challenge confronting education and training in some regional areas.

We are lucky in our region to have the excellent Gippsland educational precinct at Churchill. The precinct is basically a partnership between Apprenticeships Group Australia, GippsTAFE, Monash University, Latrobe City Council and Kurnai College. Kurnai College, in particular, offers an excellent VCAL program. I know of many students at the college who have come from really disadvantaged backgrounds and who are achieving some extremely good results from participating in that program.

Reference is made in the second-reading speech to these programs and organisations and the importance of local learning and employment networks (LLENs). In our region we have the Baw Baw Latrobe LLEN. I have been involved with the LLEN with respect to Gippsland Youth Commitment, which is a very good program that basically encourages local leaders and organisations to come on board and support our young people through their participation in further education and training.

My colleague the member for Rodney mentioned in his address to the Parliament earlier this week some challenges to the LLENs and he made reference to the fact that the federal government was providing the Victorian government with further funding to assist the LLENs. But a disproportionate number of LLENs based in regional Victoria have received funding increases but increases that are well below the average and well below those received in some of the metropolitan areas. The Baw Baw Latrobe LLEN, for example, had an increase of 63.18 per cent, but when you compare that to the increase of 153.26 per cent received by the metropolitan South East LLEN, you get some indication of the concerns that many of the regional LLENs have expressed through their local members of Parliament. I think it is something that needs to be rectified. That was well pointed out by the member for Rodney, who picked up on that point.

The second-reading speech also refers to the importance of TAFEs. We have Central Gippsland TAFE in our region, and one of our concerns is about the skills reform package that was announced recently. We are very concerned about the entry fee to participate in some of these training courses. I know many people in my community have come forward and expressed to me their concerns about the fees that will apply with regard to that government package.

An interesting article in the Ballarat *Courier* talks about this legislation before us today. The comment was made:

> …transport was a problem for young people in rural and regional Victoria who were not in mainstream schooling.

The school bus services in many regional areas are not planned around the needs of students attending TAFEs, who have apprenticeships or who need to travel for further education or training, whatever it might be. In reference to this issue the article states:

> Increasing the age for young people to stay at school is a good opportunity to tackle the problem of access to school buses that has been limiting people's opportunities to participate for a long time.

That is a very important point and should be duly noted by people in the many regional areas that experience transport issues to ensure that young people are able to participate in jobs or training to enhance their careers. In closing, the coalition does not oppose the legislation before us.

Mr PERERA (Cranbourne) — I rise to speak in support of the Education and Training Reform Amendment (School Age) Bill 2009. It is interesting to note the shadow minister's contribution. He said he supports the reforms, which is good, while criticising the government for implementing it with federal government funding. He refers to it as going after a pot of gold. What is wrong with implementing good reforms and good policy with federal government funding? Somebody please tell me what the opposition does stand for.

The bill will enact the commonwealth-Victoria agreed requirement that all young people complete year 10 or equivalent and that young people participate full time in education, training or employment, or a combination of these activities, until they have reached 17 years of age. All states and territories have agreed to implement this strengthened participation requirement by 1 January 2010. Education is an investment for the future, as all of us in this house agree. Every extra year engaged in education and training is another year invested for the future. Education and training provides knowledge, skills and a better outlook for the future and maintains meaningful involvement with the community. The proposed amendments maintain flexibility to ensure that the diverse needs of all students will be met. Students with special needs will continue to be provided with a range of supports and programs to suit their developmental stage and their learning requirements

The Education and Training Reform Act 2006 and the national partnership strongly support flexibility to both develop new practices and maintain existing assistance programs so that all students have the potential to thrive and succeed in the Victorian education system. Our kids will have a better future only through education and training. We want students growing up in suburbs

of Melbourne to have similar opportunities, if not better, to those who are growing up in New York, Beijing or London.

The Brumby government is living up to that challenge, providing a first-class education, training programs and pathways to career advancement. That is why Victoria's youth transition programs are the best in the world. That is why we attract international students in droves. That is why many young families across the ocean choose Victoria as a great place to live, work and educate children.

The Brumby government rightly understands what works for one student will not necessarily work for another. Nor will a one-size-fits-all education system provide the state with the wide range of skills that will be needed in tomorrow's economy. This is the thinking behind a key part of Victoria's education provision for students in the senior secondary years. Since its introduction in 2002 enrolment in the senior secondary certificate, the Victorian certificate of applied learning, has grown rapidly across all forms of education and training providers. Combining literacy and numeracy streams with vocational training and on-the-job experience, the Victorian certificate of applied learning is a beacon for expanding education options in Australia. We currently have more than 16 000 students enrolled across Victoria. Because of the quality of the senior certificate programs in our schools and the provision of support to those who need it, our state is on track to meet its year 12 equivalent attainment rate of 90 per cent of 20 to 24-year-olds by 2010, having achieved an attainment rate of 88.7 per cent in December 2008.

Programs such as the managed individual pathways initiative, which sees all students 15 years and over in government schools developing education and career pathway plans, and the youth transitions support initiative, which provides support to disengaged young people to help them re-enter the education and training sector, have proven to be highly successful in improving retention and attainment rates in Victoria. The provision of programs such as these will be further enhanced by the introduction of Youth Connections in 2010, a program for the provision of youth services across Victoria. Victoria's continuing commitment to providing the best range of options and support to young people will see our state continuing to increase the rates of attainment of year 12 equivalent qualifications. It is for these reasons that I support the bill. I commend the bill to the house.

Mrs FYFFE (Evelyn) — I am pleased to speak on the Education and Training Reform Amendment (School Age) Bill 2009. There are many benefits to promoting education. At the social level education is thought to improve social cohesion and keep the economy ticking over. For the individual, a strong education improves personal wellbeing, gives a sense of pride in one's accomplishments, confidence in their abilities and a readiness to solve complex problems and adapt to rapidly changing conditions.

Although Australia is a highly educated society, some individuals still experience difficulty in gaining education beyond compulsory schooling. It is not necessarily that these children are unintelligent; there is a wide range of reasons why children drop out of school.

In 2006 the Productivity Commission found that early leavers tend to be less likely to work and will earn less when they are employed. The typical income of a young high school dropout with just nine years of formal education is $5600 a year. For those who may be forced to leave home prematurely because of an abusive environment or a desire to explore their world, this is not enough to sustain them. It is our responsibility as law-makers to do what we can to help our young people make better decisions so they can live good lives with less stress and financial worry.

It frustrates me that the Victorian economy is not better placed after 10 years of Labor to give our young people more optimism about their futures because of a lack of opportunities. This is likely to be the case whether the student leaves school early or completes year 12. While a student who completes year 12 may earn more in income over a lifetime compared with a student who decides to leave school early, earning capacity can improve with a university qualification. Accordingly I would like to see more being done to engage students and encourage them to complete a degree in their chosen field, but the resources have to be put into the schools. The principals have to be supported and the teachers have to be supported so that the pathways can lead to real and satisfying jobs for every student at the school in the future.

While diversity and subjects and curriculum have helped some students remain interested in further learning in metropolitan areas, schools in rural areas often lack the same diversity in subjects, offering them fewer opportunities to explore their interests. I have pressed in this house several times the situation with the cut in rurality funding — for example, Coldstream Primary School is one example of a school in my electorate that lost its rurality funding, which helped to pay for classes in physical education, music and other subjects that complement core subjects like English and

maths. Given that we all have different strengths and weaknesses, the government's decision to cut rurality funding to a school like Coldstream Primary School means that students who may have had interests outside of the core subjects will not have the chance to develop their skills in that area, and therefore will most likely not pursue it to high school.

If they are unable to find another subject to lead to a career in something that interests them, these children may be more likely to leave school early. If the government was really in touch with education, it would not be cutting funding to rural students in areas like Coldstream. They deserve their fair share to compete with those metropolitan schools.

Data from the Australian Bureau of Statistics, *Australian Social Trends* for 2008, shows that the location of education institutions is a key determinant of educational participation gains. The more accessible educational institutions are geographically, the more likely participation rates will increase. This is something that this government needs to be mindful of in relation to its program of closing down so many Victorian schools.

I would like to conclude with a quote from American President James A. Garfield:

> Next in importance to freedom and justice is popular education, without which neither freedom nor justice can be permanently maintained.

Ms D'AMBROSIO (Mill Park) — I am pleased to join this debate to support amendments to the Education and Training Reform Act, and I do so knowing full well that this government's commitment to ongoing education and strengthening education and educational outcomes is its no. 1 priority. That augurs well in terms of what this bill assists in doing, by way of improving the likelihood and the opportunity for students to remain at school longer and also to acquire higher skill levels to enter into a much more developed industry base in our community at a time when Australia is faced with the need to grow the skills of our community, especially amongst our young people.

This bill mandates that the participation in schooling be increased to the completion of year 10. It also mandates the requirement for students to have completed either year 10 or to participate for at least 25 hours per week in education, training or employment, or a mix of these, until the age of 17. As I said, this comes about as a result of this government's commitment to strengthening our education system and opportunities for our young people, but it also specifically arises from a meeting of the Council of Australian Governments in July this year which led to the formation of the national partnership agreement on youth attainment and transitions. This agreement recognised and harnessed the broad-brush view of each of the jurisdictions across the country that we need to increase the participation of our young people in education, training and, importantly, focus on providing necessary assistance for those young people to have adequate opportunities and assistance in the transition from school to higher education, where skills can be developed, or to other educational opportunities.

For the Victorian government this is a move that sits very well with our agenda to grow the skills and the opportunities for our young people to meet the challenges of tomorrow. Those challenges, as I said, include the need for Australia's economy to grow in its diversification in terms of where job opportunities are and what job opportunities will be available for our future generations. The best way for us to do that is to fully support our young people to attain the highest possible schooling that they can achieve with the assistance of government, and of course to be assisted in the necessary transitional arrangements that are in place for employment opportunities.

For us it is a continuation and extension of our commitment to young people and educational outcomes. It is one that is fully supported in all respects, and it shows also what can be achieved when you have a good collaborative approach with federal government and right across the jurisdictions in Victoria.

I am pleased to lend my support to this. I do so having full confidence that this government will lend its full and increasing support so that young people have opportunities for higher education to meet the challenges of this country for tomorrow.

Dr NAPTHINE (South-West Coast) — The main purpose of this bill is to require young people to remain in school until at least the age of 17. This is widely supported in educational circles in the South-West Coast electorate, but all schools highlight the need for additional resources to implement this change. To emphasise that I refer to an article in the *Portland Observer* of 7 September in which Toni Burgoyne, the principal of Portland Secondary College is reported as saying:

> We are also hopeful the federal and state governments recognise that additional resources should be allocated in accordance to help schools assisting young people to remain in work or training.

I believe that is absolutely essential. I also wish to highlight the fact that one of the other important players

in this change will be the local learning and employment networks, or LLENs, but the facts are that funding by state and federal governments to the local LLENs have been slashed. The Glenelg, southern Grampians and south-west LLENs will have their budget reduced from over $1 million to only $652 000 between 2009 and 2010 — a 35 per cent cut in funding. If the government is really committed to helping young people in terms of a proper education, both a vocational education and an academic education, this cut in funding to the LLENs must be reversed. It is important that this funding cut, which has been part of an agreement made between state and federal governments at COAG, be addressed, because the local learning and employment networks are absolutely essential in the implementation of this legislation.

I also wish to emphasise the need for a commitment to alternate education opportunities and settings. I wrote to the Minister for Education in December 2007 and in August 2008 highlighting the fact that there are 15 to 20 school-age children in the Portland-Heywood area aged between 12 and 16 years who have a history of expulsion, exclusion, unacceptable behaviour, non-attendance and poor participation. Many of those students are bright students, but they do not fit into the normal school setting. They have issues of low self-esteem, there are some racial issues, there are learning difficulties and often family issues. There is a need for an alternate school setting with a more flexible, practical learning environment and learning approach to deal with these young people in Portland.

There are successful alternate school settings operating in other parts of Victoria, and I would urge that they be established in the Portland-Heywood area to assist these young people. If not, those young people are in for a life of illegal activities, drug and alcohol abuse, antisocial behaviour, long-term unemployment and teenage pregnancies. When the government is dealing with this issue I would urge that it recognise there are some young people who are not suited to the traditional school setting and that it implement a range of alternate school settings for those young people across Victoria.

I also want to emphasise the importance of the Victorian certificate of applied learning (VCAL) and vocational education and training (VET) programs. There are 15 500 VCAL students across Victoria — an 11 per cent increase from last year. VCAL and VET are extremely popular among rural students, and 61 per cent of these students are male, so young male rural students are very interested in these more practical subjects. However, these subjects cost more and there are often additional penalties for parents, students and for the schools to operate VCAL and VET subjects. If you are going to say to students, 'You must stay at school until at least 17', it is imperative that additional funding is allocated to local schools to make sure that those popular and essential VCAL and VET programs, which meet the practical needs of those young people, are provided. That is particularly important in country areas where often travel costs are involved. Students may have to travel to a TAFE college or another school to undertake hospitality training, woodwork training or metalwork training. VCAL and VET are essential programs.

Finally, I emphasise the terrific work being done by the Australian Technical College at Wannon, with campuses in Warrnambool and Hamilton. The students at the ATC complete their years 11 and 12 Victorian certificate of education and VCAL studies while undertaking an apprenticeship in the industry of their choice. This has been an enormous success in south-west Victoria. It is extremely popular and effective, particularly for young people who are not academically inclined. I strongly urge the government to continue to support the Australian Technical College at Wannon, because it is doing a great job and its funding should be continued.

Ms GRALEY (Narre Warren South) — It is a pleasure to rise today to speak on the Education and Training Reform Amendment (School Age) Bill, because members on this side of the house want children to receive the best education. We are committed to making sure that happens.

This bill has come about as a result of the national and state governments working cooperatively. I must echo the opinions of the member for Eltham on this, that it is about time we had a national school leaving age, and I am very proud to be up here supporting it today and that it is our governments at both state and federal level that are leading the way in education.

This agreement is all about increasing the qualifications and skills of the Australian population and achieving the success of young people in making the transition from schooling into further education, training or employment. The passage of this bill will mean that young people must complete year 10 and participate full time in education, training or employment until they reach 17 years of age. This is a move that is of long-term benefit to Victoria and Australia.

The level of education attainment of our young people is of paramount importance to the Brumby Labor government. As a government we are committed to increasing the skills of Victorians. We are committed to keeping young people in school or in training or both.

We are about providing opportunities for young people to remain in school.

Honourable members interjecting.

Ms GRALEY — I can hear some grumbles from those opposite about a lack of alternative settings, but I can assure them that there are more options available to every student in Victoria than there has ever been. It is nice to know that kids nowadays can look around, even in their local area, like in the Narre Warren South electorate, and see some good options that suit them to make sure that they get the best education and best start in life.

I would like to remind those in the house that we are as a government rebuilding or modernising every government school in Victoria. In my electorate nine new schools have been built since the government was elected in 1999. When you can go out and see the schools and what is happening in them, you see it is really an education revolution that is happening in Narre Warren South.

The provision of quality schools is important in keeping young people in school, but I certainly acknowledge that conventional classroom learning is not for everyone. In Victoria we are fortunate to have a range of options available for students in their senior years of secondary school. These options include opportunities for students to complete school with practical and work-related learning as opposed to the mainstream classroom learning. A vocational education and training program, VET in Schools, is one way of achieving this. VET in Schools allows students to complete secondary school while also achieving credits towards higher level qualifications. It assists young people to successfully move from school to employment or further training.

Similarly, the Victorian certificate of applied learning (VCAL) is a big success story in my electorate. VCAL is about providing practical and work-related learning experience while completing secondary school as well as providing a pathway to further training in apprenticeships or employment. Students are able to undertake a VET subject as part of VCAL or begin an apprenticeship. The Narre Warren South P-12 College in my electorate is one of the highest providers of VCAL in Victoria. Last year the school had more than 170 VCAL students and attained 100 per cent successful completion rate. The kids love it. The students support their learning by going out into their community, and the staff is highly skilled in supporting the students, so much so that students and the school have been awarded VCAL students of the year and VCAL school of the year in the past. VCAL can also be completed at the Narre Warren community learning centre. If you cannot hack it at school, you can go down to the local community learning centre, where Wayne Hewitt and his team provide a supportive and strong environment. It is a completely different learning environment, but it suits a lot of kids.

Locally we also have a group of dedicated people assisting young people to re-engage with the education system. I was touched the other day when I heard on the school radio of a school refuser who had gone back to school and into an alternative setting, undertook some part-time schooling, then re-engaged in education, and — would you believe it! — is now going on to be a teacher. It is a great story. That is certainly the case with the Operation Newstart Casey program, which happens in my electorate. For the information of those opposite, the local schools have put some money into this program because they believe it is a good program that kids get a lot out of getting back into school, back into training or back into work. A 17-year school leaving age is a good thing in further encouraging those kids to look for an alternative way of re-engaging with school.

I would just like to finish up by pointing out that, like the member for South-West Coast, I have a technical college in my electorate, Berwick Technical Centre. It is a fantastic new facility, offering amazing new programs, where the kids are fully engaged in learning. The minister was out there the other day to see these facilities and programs working. They are an absolute credit to the government, which invested so generously in this project, especially for all the children and families of the south-east.

I believe strongly that the important groundwork that has been done by the government means that we are able to seriously consider a bill such as this in the house. The Brumby Labor government has provided the investment and right environment to make our goals and aspirations for our young people achievable. It is this record of achievement which will hold Victoria in good stead for many years. We are taking positive action in every field and every setting in education. I have no hesitation in commending this bill to the house and wish it a speedy passage.

Mr KOTSIRAS (Bulleen) — It is a pleasure to speak on the Education and Training Reform Amendment (School Age) Bill. As other speakers have said, this is part of the National Partnership Agreement on Youth Attainment and Transitions of the federal government. While I have no absolutely no problem with lifting the school age from 16 to 17 years old, I do

have a problem with the limited resources that schools will be forced to use to implement this legislation.

This government, despite all its rhetoric, has failed our students. It has failed the schools in my electorate, it has failed the students in my electorate and it has failed the parents in my electorate, because it has not provided resources to the schools. It is unfortunate that a party that claims that it cares about education has some members who have never been in a classroom to see the problems, particularly the lack of resources and school buildings that are crumbling. It is a pity that it is not providing the funds and resources that schools need to ensure that this is achieved.

I have no problem with ensuring students stay at school until the age of 17, but it does not help, even if they reach the age of 17, if they cannot read or write or add up when they leave school, or if they have not got the alternative programs at schools to meet their individual standards. While this legislation is good, and I support it, it is vital that students are given the opportunity and the resources to ensure that when they leave school and are about to start employment they are able to read and write and add up — something simple and basic, but something this government has failed them on.

This government has failed in the last 10 years in education. I will outline some of the failures of this government. We have had the lowest recurrent spending on education in government schools per student in Australia. We have had the lowest recurrent spending on education in non-government schools per student in Australia. We have falling student numbers in government schools. That is happening in my area, where a large number of students choose to go to private schools rather than the government schools. One has to ask the question: why would parents want to pay $10 000, $15 000, $20 000, $25 000 to send their child to a private school if they are happy with the resources and buildings of the government schools?

School maintenance backlog is $150 million-plus. There is a school in my electorate, Templestowe College, where one of the classroom walls was falling down. Students were in danger; they were sitting next to the wall, and it was in danger of collapsing. The school asked the department to fix the problem. The department offered to pay half the cost. Why is a school penalised if the school is crumbling and about to fall down? You would think the government of the day would ensure that funds are available to make sure that students have a safe environment. Yet schools are not speaking up because principals and teachers are petrified about what will happen if they criticise this government.

Honourable members interjecting.

Mr KOTSIRAS — I suggest that members opposite should visit some schools so they can find that out. Teachers are saying to me that this is the worst government in terms of openness and transparency that they have ever seen.

Mr Foley interjected.

Mr KOTSIRAS — No. They have been gagged, and they are afraid to speak up. They are afraid to speak because they are afraid they will get sacked.

Honourable members interjecting.

The ACTING SPEAKER (**Mrs Fyffe**) — Order! Members will cease interjecting.

Mr KOTSIRAS — While members opposite can say, 'We on this side believe in education', what they have done in the last 10 years is appalling. They have closed schools. They closed a school in my electorate and called it amalgamation. They forced the principal to close the school, and they talked about amalgamation. 'Amalgamation' is the new word that is used instead of 'closure'.

Mr Foley interjected.

The ACTING SPEAKER (**Mrs Fyffe**) — Order! The member for Albert Park will have his turn.

Mr KOTSIRAS — Mind you, only about 5 to 10 per cent of the students of the school that has been closed will go to the new school.

This government has closed schools down — and those opposite who talk about the Kennett years are hypocrites. They have sacked teachers, gagged teachers and closed schools. They have done nothing for the schools in my electorate and they have done nothing for education in the last 10 years. We have gone backwards, and it is a shame. It is about time the mushrooms on the other side stood up to the minister and actually did something for students in their electorates.

Mr HUDSON (Bentleigh) — It is a pleasure to speak on the Education and Training Reform Amendment (School Age) Bill. This is an important bill, because it states that young people will need to stay in education, training or employment until at least year 10 or equivalent or until the age of 17. I think we know that the longer young people remain engaged in education and training, the more likely they are to succeed later in life. That is an incredibly important

principle for us to remember. It underpins every single thing this government has done since it came to power. It underpins the commitment we made way back in 2002 to a target of 90 per cent of young people aged 20 to 24 completing year 12 or equivalent.

I have listened to members on the other side, but I remind them that in 1999 the number of young people completing year 12 or equivalent was just under 82 per cent. However you measure this, however you look at it, this government has been successful in lifting the completion rates of our young people, in making sure they get a good education, in providing opportunities for them and in giving them the opportunity and the base to go forward in life with the qualifications and the education they need to succeed. That replicates what happened under the Hawke federal government. Our completion rates in the early 1980s were disgraceful — they were down in the mid-30s — but the Hawke government doubled them to over 60 per cent. Then nothing more happened through the 1990s until this government came in, following which we saw another dramatic lift in completion rates.

What the government is doing is underpinned by the youth guarantee. If we go back and look at the Education and Training Reform Act 2006, we see that it provides that young people who have not completed year 12 or its equivalent will be guaranteed a place in TAFE, adult education or community education. That is a significant commitment. It basically means that for those young people who cannot remain in school, for whom school is not a suitable setting, we will ensure that the resources will follow them into other settings where they can get the education or training they require. That was the first such commitment made by any government at the state or territory level. It was a commitment in legislation that we would provide resources to those young people irrespective of the education or training setting they are in.

That is incredibly important, because we know there is a whole range of reasons why young people might not be at school. It could be because they are homeless, it could be because of family trauma or it could be because of the sheer poverty of the household from which they come — they might find it difficult to find the money for the books, uniforms or other things they need to go to school. We know there are young people who experience mental health or drug-related problems or who have low self-esteem. We know there are young people who have significant learning difficulties that make it hard for them to learn at school, which means they require additional assistance. We know there are young people who have behavioural issues. Therefore, there is sometimes a very poor fit between a student's learning style and a school's learning environment. That is why it is critically important that we provide those young people with alternatives.

I am proud to be part of a government that is doing that. We have done that through the Victorian certificate of applied learning (VCAL), which basically provides an opportunity for young people to get an alternative senior school education. VCAL gives students a good grounding in numeracy and literacy skills, in personal development, in work-related skills and in industry-specific skills. It gives students a chance to stay in school and further their education and also to gain the practical skills they will need when they get out there in the workforce. We have seen a huge growth in this program, and we now have over 15 000 students enrolled in VCAL. Likewise the 2009–10 state budget provided an additional $15 million for vocational education and training (VET) in schools and an additional $32 million to build four major technical education centres that will offer a range of trade skills and VET subjects to senior secondary students in Berwick, Heidelberg, Ballarat and Wangaratta.

The government is providing the alternatives that are needed. We are tracking students through On Track data so we can get in touch with those who are not in education or training and provide them with additional support through local learning and employment networks and through the youth transition support initiative. We are doing that; and the proof of that is shown in the fact that we are lifting completion rates. Whatever those opposite say, we have shown that through those support programs and through additional educational funding those kids are getting the opportunities such kids did not get in the past. I commend the bill to the house.

Mr DELAHUNTY (Lowan) — I rise on behalf of the Lowan electorate to speak on this important bill, the Education and Training Reform Amendment (School Age) Bill. I will say from the start that I strongly believe that education is vital to the continuing development of our youth, our region, our state and this nation. This bill, which is about increasing the school leaving age from 16 to 17 years of age, is widely supported across the electorate I represent. As we know, this has come about because the states and territories have entered into a national partnership on youth attainment and transition with the commonwealth government — and that arrangement has a big sting in its tail from the point of view of funding. As I said, we all support this but the reality is it will need additional resources to make sure it happens.

Some of our youth are at risk of disengagement and some of our youth are disengaged. There are a couple of organisations in my area that play an important role in dealing with these people. One of them is Southern Grampians Adult Education. I have called in there many times. The number of young ladies who are not going to school, who have disengaged from the current education system, surprises me. Southern Grampians Adult Education plays an important role in getting students back into the learning environment. There is also ConnectEd in Horsham; unfortunately a growing number of students are attending that organisation. They both play an important role in the Lowan electorate.

We have talked about VET (vocational education and training) and VCAL (Victorian certificate of applied learning). My understanding is that VET was there before VCAL. It was an initiative of the previous government. But both of those programs are very important for the continuing development of and educational opportunities for our youth. They come at a high cost, particularly in country Victoria, whether it be a higher cost for the schools, a higher cost for the students or, importantly, a higher cost for the parents. There is a good example of cooperation and support from the government in relation to the cost of travel, including the cost of buses which travel up to 150 kilometres. Some students have to travel on buses to come to Horsham or the Longerenong Agricultural College to do their VET and VCAL programs. This bill is widely supported, but this area will need further support.

I also worried about the new funding arrangements for the LLENs (local learning and employment networks). They previously played an important role in helping students between 15 and 19 years of age but under the new funding guidelines they will help students between 10 and 19 years of age. That will mean they will have to liaise with more schools. Many schools in my area have disadvantaged students. They will need to do a lot of work in that regard. Under the new state and federal funding we will see an overall budget cut to many of the LLENs in my area. The Glenelg and Southern Grampians LLEN and the Wimmera Southern Mallee LLEN will have big cuts. I am sure, from the information I have, we will see a closing of some offices, a loss of staff and therefore a lack of resources to support our country students, particularly now from ages 10 to 19.

This government has promised much but we have seen a big change in relation to our young students going into higher education. We have seen major changes to the youth allowance which have heavily impacted on students, particularly our country students. The fact is that 33 per cent of our country students defer compared to 10 per cent of city kids. There was a parliamentary inquiry that looked at the barriers to higher education. The key finding was that cost was a major barrier for our young people going into higher education. Again, this government promises a lot, but unfortunately we did not see it take a strong stand in relation to the changes to youth allowance.

I am a member of the Drugs and Crime Prevention Committee. It recently looked at youth recidivism. The inquiry highlighted to me and all members of that committee that education plays a key role. I do not have time to go through some of the recommendations of that, but again, education plays a key role.

In the Lowan electorate there are 62 schools. In my time, there are 4 have been closed by this government.

Ms Pike interjected.

Mr DELAHUNTY — No, they were not amalgamated — they were closed, Minister. They were closed by this government because the government stopped funding them. The reality is that four schools have closed in my electorate.

With those few words, I conclude by saying that we are strongly supportive of giving our young people an education and training experience which will help them in their future lives. Again, I am not opposed to this legislation. I wish it a speedy passage.

Mr LIM (Clayton) — I rise to speak in support of this bill. Education is not just about preparing students for tertiary education, training or work, although those are important goals. Education is about preparing our young people for their whole lives to enable them to enter the community and to participate to the fullest possible extent.

Agreement has been reached nationally across the states and territories to strengthen participation by, firstly, having a mandatory requirement for all young people to participate in schooling — an approved school or an equivalent — until they complete year 10; and secondly, having a mandatory requirement for young people who have completed year 10 to participate full-time — at least 25 hours per week — in education, training, employment or a combination of these activities until age 17.

The minimum school leaving age varies in advanced economies around the world. Disconcertingly, in New South Wales, our neighbour, the minimum school leaving age has been only 15 years of age, whereas in

Victoria it was raised to 16 years of age in 2006. Not surprisingly, in the United States the minimum school leaving age varies across states from 16 to 18 years of age. The UK is in the process of raising the minimum school leaving age from 16 to 17 years of age, and in 2013 it will be raised to 18 years of age. With the election of the Scottish Nationalist Party in Scotland, this reform has been reversed and the minimum age will revert to 16 years of age in Scotland. In the years to come it will be interesting to compare the outcomes of England and Scotland. Sadly it is likely to be to the detriment of Scotland and its young people. This shows the wisdom of taking a national approach in Australia.

In Victoria this bill implements the agreed national approach by, firstly, amending the Education and Training Reform Act 2006 to change the minimum school leaving age from 16 to 17 years; secondly, making it clear young people can meet the requirements of the act by undertaking a combination of education, training and employment at non-school locations and that children who have already left school will not be required to return to a school location; thirdly, using subordinate legislation in the form of a new ministerial order under the Education and Training Reform Act 2006 to address the mandatory national partnership requirement relating to the completion of year 10, including clearly and broadly defining what the term 'completion of year 10' means; and fourthly, using the ministerial order to specify the required hours and other matters relating to a child's participation in approved education, training and/or employment and other exemptions for compulsory school attendance, including the completion of year 12.

From this it is clear that we are not lifting the minimum school leaving age just for the sake of forcing kids to stay longer at school. There need to be options to meet the goals and capacities of individuals, and there are. These include VCAL, which is the Victorian certificate of applied learning. As I mentioned a moment ago, this bill provides for a combination of employment and training.

I have examined the differing views on this issue. There seem to be two different strands to the arguments of those who oppose raising the minimum school leaving age. Firstly, and not surprisingly, some conservatives will argue about the cost of the measure. Others argue that it masks unemployment rates, but this argument is in reality a cynical excuse for not resourcing education. This measure is resourced by $135 million of commonwealth funding to Victoria. More disconcertingly, a second strand of opposition comes from some civil libertarians who argue that it is a breach of human rights to compel young people to stay in education against their wishes. The minister clearly rebutted this argument in her charter statement by pointing out that compulsory education meets the goal of protecting vulnerable people — that is, children.

As a progressive, civilised, modern and relatively affluent society, we have an obligation to give all young people every opportunity to become better prepared to fully participate in the community. It is not only their future; they are our future. I commend the bill to the house.

Mrs VICTORIA (Bayswater) — I rise to speak on the Education and Training Reform Amendment (School Age) Bill 2009. The bill amends the Education and Training Reform Act 2006 in relation to the compulsory school attendance age and for other purposes. The primary aim of the bill before the house is to raise the school leaving age from 16 to 17. Whether this change has merit has been debated by many speakers before me, and I will go into that in a bit more detail in a moment.

The bill will also provide for a ministerial order to define the national reference to the completion of year 10 and matters relating to the definition of approved education, training and/or employment. The bill also brings Victoria into line with the national partnership on youth attainment and transitions agreement, which is a commonwealth government initiative. I believe we will receive a one-off payment of $135 million for signing up to that partnership.

From what I understand, there is no additional funding for schools to implement this initiative. There are some problems with that, because obviously some children are leaving school because they are not suited to academia. If we are going to ask them to stay in school, we need to provide proper education courses for them to pursue, and some of these are costly.

In my electorate Bayswater Secondary College is a phenomenally good school under the great leadership of Patricia Irico and her deputy, Kerry Cavanagh. What the school offers the children of Bayswater is extraordinary. The Victorian certificate of applied learning (VCAL) and vocational education and training (VET) programs on offer are all-encompassing. The school offers an incredible breadth of subjects on what is a limited budget because it has only a small school population. I commend the school's wonderful contribution to students in the Bayswater area.

Some would say the bill is an attempt to fiddle the figures, if you like, on youth unemployment rates. I am

not sure whether I think that is true; it depends on whether I am feeling cynical or not.

I have many concerns about the number of students who cannot cope with mainstream education. As I said, if we are going to ask students to stay in school, there needs to be more funding for VET and VCAL programs. Some kids leave school because they simply are not suited to it. Employment may not be where they are heading right now, and further education may not be an option for them at the age they want to leave school.

The retention rate for student in years 10 to 12 is not doing particularly well. Earlier I heard a member bandy around some figures that I am not sure were entirely correct. I believe the current rate of retention is 79.2 per cent, but under the previous government it was 82 per cent. It is not getting better, as a previous speaker said.

This type of measure has been introduced around the world. I will quickly touch on some of the incentives offered for students to stay in school in other jurisdictions. In the UK the school leaving age has been lifted from 16 to 18, and it is causing some difficulty with the funding of programs. Places like Ontario and New Brunswick in Canada have practical enforcement clauses that mean a young person must provide evidence that they are attending school or have been excused — for employment or that type of thing — in order to get the equivalent of a learners permit. I do not know about the carrot and stick there. There are similar measures in the US, where nine states require attendance at school to get a drivers licence and five additional states have added performance standards to that requirement. There are also 10 states that suspend licences for truancy and academic problems. This is tough stuff, but these jurisdictions have proved it works.

I will finish with an old adage: the devil finds work for idle hands. We need to make sure our kids stay in school or have viable opportunities in the community and that they are fully funded. I will not be opposing the bill.

Mr FOLEY (Albert Park) — It gives me great pleasure to make a few brief comments in support of the Education and Training Reform Amendment (School Age) Bill 2009, because the mark of a civilised society — a society that is committed to the outcomes of building equity and access to a better life for its future citizens — is its commitment to education and, in particular, its commitment to public education.

As this bill shows, it is but one of many planks in this government's commitment to its primary aim of ensuring that every young person has the best possible start in life. Whilst it seems this bill comes with the full support of the house and essentially raises the minimum school leaving age to 17 or the equivalent of year 10 completion, it speaks more about the partnership between state and federal governments that is designed to achieve those much broader aims of ensuring a public education system that delivers primarily on outcomes of building a better future for us all, particularly for our future citizens and leaders of tomorrow, and ensures our economy is better placed through higher levels of skills and that our future citizens and leaders are better rounded individuals. There does not seem to be much opposition to this sensible proposal, linked as it is to the national framework for ensuring consistent access to learning across the nation as well as freeing up some significant funding that will be welcomed in Victoria.

In my own electorate of Albert Park we have seen a resurgence in education funding, and this will be an important part of ensuring maintenance of education standards. We have seen over $20 million spent in rejuvenating the new college in Albert Park itself, which continues to be on schedule to open in 2011. We have seen record funding of primary schools.

I might focus my few remaining comments on the Victorian certificate of applied learning (VCAL) and vocational education and training (VET) programs that have really kicked ahead in recent times, especially at the former Pickles Street Primary School, which was slated to be sold off by the former government. In fact half of it had been sold off when government changed hands, and it was only the election of the Labor government that ensured the rest of the sale was halted. Recently the Deputy Prime Minister visited that location, which houses the St Kilda Youth Network, to launch the hospitality education and training program for VCAL and VET featuring celebrity chef Guy Grossi and the Deputy Prime Minister's run-in with a stuffed chicken. All of that spoke volumes about the increased resources that we are seeing being put into not just academic-based education, which is terribly important, but also the full range and breadth of different VCAL and VET opportunities for our young people.

Ultimately governments and political parties are judged on what they do in this space. We have heard many fine words from those opposite in support of this bill, but let us consider the record. There is one political party in this place that closes schools, sacks teachers and cuts education funding — the same political party that

starved public education federally for 11 long years. There is another political party in this place which supports public education and which stands shoulder to shoulder with the federal government in providing record capital funding, record funding for programs and record funding and assistance to ensure that our future citizens and leaders have the best possible start in life.

It is with great pleasure that I wish the Education and Training Reform Amendment (School Age) Bill 2009 a speedy passage through this house. I urge those opposite not only to adopt the rhetoric of the government in dealing with this issue but also the policies of the government.

Dr SYKES (Benalla) — I rise to make a brief contribution to the debate on the Education and Training Reform Amendment (School Age) Bill. Earlier speakers have indicated that the primary purpose of the bill is to increase the age at which children may leave school from 16 to 17. I will put this bill and other education-related issues into perspective. Education is critical for young people to overcome social disadvantage, to achieve their maximum potential, to enjoy a quality lifestyle and to become contributing members to our community. Unfortunately the social disadvantage gap between country young people and their city counterparts is widening at an alarming rate. Some of that is due to natural events such as 14 tough years after three mega bushfires, but other causes of that are the policies of this government, including a topic which I have mentioned on a number of occasions in this Parliament — that is, the north–south pipeline which will drain the wealth-generating capacity from northern Victoria to benefit Melbourne.

We also have other issues related to government policy that relate to the minister's claims — —

Ms Pike interjected.

Dr SYKES — I will take up the interjection of the Minister for Education, who is at the table, because the current Minister for Education — —

The ACTING SPEAKER (**Mrs Fyffe**) — Order! I bring the member back to the bill.

Dr SYKES — We are talking about the bill in relation to the uptake of educational opportunities. The key point that this minister and previous ministers have failed to acknowledge is the lower uptake of educational opportunities by young country Victorians compared with their city-based counterparts. I will come back to that in a moment.

Putting in place a minimum school leaving age of 17 is fine provided you have in place other measures, including, as previous speakers on both sides of the house have mentioned, stimulating ways of educating young people that retain their attention. Innovation in many different forms is required to keep them interested in school and learning. For example, the Mansfield Secondary College has a very good school-based apprenticeship program. In this package we also need to have additional resourcing to enable the schools to cope with what should be a larger number of young people. We have noted that linked with this we have had slashing of the LLENs funding for country Victoria rather than additional resourcing. The other thing we need is the enforcement of existing legislation; there is no point in changing a rule and making it more stringent if the rule is not enforced.

Finally, in relation to this aspect people need to recognise that in looking after the needs of young people struggling to be engaged we also need to look after the interests of the majority of young people who seek to attend secondary schools and gain full advantage through their own initiative and the support of their parents.

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

Business interrupted pursuant to standing orders.

ABSENCE OF MINISTER

The SPEAKER — Order! I advise the house that the Minister for Gaming, who is also the Minister for Consumer Affairs and the Minister Assisting the Premier on Veterans' Affairs, is away again today, and any questions directed to him will be answered by the Minister for Police and Emergency Services.

QUESTIONS WITHOUT NOTICE

Children: protection

Ms WOOLDRIDGE (Doncaster) — My question is to the Minister for Community Services. I refer to the two cases on pages 30 and 31 of the Ombudsman's 2008–09 annual report which reveal, in the first instance, that the government failed to undertake proper police checks, resulting in a child being placed with a convicted sex offender, and that, in the second case, the government's failed to act when notified that five and six-year-old boys were living with a convicted child-sex offender, and I ask: will the minister advise the Parliament exactly when she was first advised about each of these two cases?

Ms NEVILLE (Minister for Community Services) — I thank the member for her question. As I indicated in the house yesterday, it is my expectation, and the expectation of the government and the community that whenever a child is placed there is a police check undertaken. It is unacceptable — —

Ms Asher interjected.

The SPEAKER — Order! I ask the Deputy Leader of the Opposition not to interject across the table.

Ms NEVILLE — It is unacceptable that that did not occur. In relation to the other matter which the member for Doncaster raised, I also indicated that it is unacceptable that where the department is aware of serious allegations it does not act in a timely manner. I have spoken to the secretary about both these matters and have made it clear that this is unacceptable and that I expect that these matters will be addressed in a timely way in future and that all staff will undertake mandatory requirements and police checks.

Mr Ryan — On a point of order, Speaker, the minister was asked a question of very narrow compass inquiring specifically about timing and when she first found out about these two events. Surely it is a matter within her knowledge. I simply ask you to have her answer that question.

The SPEAKER — Order! As the Leader of The Nationals knows, it is not in the power of the Chair to direct a minister as to how they will answer a question. The question referred to the Ombudsman's report and the undertaking of police checks as well as the last point that the Leader of The Nationals has made. The minister's answer was relevant to the question as it was asked. There is no point of order. The minister has concluded her answer.

Bushfires: recovery

Mr HARDMAN (Seymour) — My question is for the Premier.

Honourable members interjecting.

The SPEAKER — Order! The member for Seymour has the call, and members will show him the courtesy that should be his when he is given the call.

Mr HARDMAN — Can the Premier outline how the government and the community are supporting our farmers in recovering from the Black Saturday bushfires?

Mr BRUMBY (Premier) — I thank the member for Seymour for his question and his very strong support for communities affected by the fires of January and February. Earlier today at the Royal Melbourne Show I joined the Minister for Agriculture, the federal Parliamentary Secretary for Victorian Bushfire Reconstruction, Bill Shorten, and the new chair of the Victoria Bushfire Appeal Fund, Pat McNamara, for an announcement by the appeal fund of more support for farmers affected by the 7 February fires.

I should say that it is the 154th Royal Melbourne Show. It looked fantastic there today. The minister and I visited the dairy pavilion. There were schoolchildren churning cream to make butter, and they did a fantastic job. There were some people who were able to milk the cow. We also visited the pie pavilion, where Parkview Bakery, which is based in Maryborough, recently won the award for the best pie produced in Victoria. I have always said that the show is a great way of bringing city and country together.

Honourable members interjecting.

Mr BRUMBY — Despite the interjections from the opposition members, again just showing their opposition for everything decent and good — —

Honourable members interjecting.

The SPEAKER — Order! I ask the Premier not to invite that level of interjection from the opposition.

Mr BRUMBY — I have always said that the show is a great way to bring city and country together. I am pleased to say that many of the areas most affected by the bushfires, although there has been some reduction in attendance and show animals from those areas, overwhelmingly are again well represented at the show.

It was great to see all the new facilities there. I also visited the new volunteers stand, which is being supported by the Victorian government. Volunteering is one of those things that make Victorians proud.

As I said, I was pleased to join Pat McNamara, who has taken over from John Landy as the chair of the bushfire appeal fund. This was announced some weeks ago. John provided magnificent leadership of the appeal fund for seven months. Pat McNamara is a person of immense experience and understanding of country Victoria, and I believe he is an excellent replacement as chair of the bushfire fund.

Today the fund was able to announce $7 million of funding to support farmers through farm restoration grants. This is a great example of the partnership

between government and the bushfire fund, because through the state and federal governments businesses affected by the fires have been able to get assistance of up to $25 000 for buildings or fences that were destroyed by the fires, but in some cases that has not been enough and in some other cases some farmers have not qualified. The funding that was announced today will provide grants of up to $10 000 for farmers to assist with their fencing. I am pleased to say that of the 11 000-plus kilometres of boundary fencing that was destroyed, more than three-quarters has now been replaced. Fencing is expensive, and these grants will be extraordinarily important in helping, we expect, more than 1000 farmers with replacement fencing.

If I might bring the two elements of this question together in my conclusion, as I said, the show brings city and country together, but it is also about volunteering. We have seen today that these grants from the appeal fund for the many fences that will be built on these farms will help farmers to buy the materials, but it is volunteers, often coordinated through the Victorian Farmers Federation, who will help with the actual building and construction of the fences.

This is a good step forward. This decision could have been made earlier except for challenges we have had to the rulings of the Australian Tax Office. The federal government has now introduced legislation to address this matter. As a result, $7 million worth of assistance, so generously donated from Victorians and Australians, will now flow through thanks to the legislation being put through the commonwealth Parliament by the federal government.

Children: protection

Ms WOOLDRIDGE (Doncaster) — My question is to the Minister for Community Services. I refer to the revelations in the Ombudsman's report about the notification to the government on 4 November that five and six-year-old boys were living with a convicted child-sex offender and the 17 days it took until the response unit was even advised. And I ask: given the minister has now had 24 hours to be briefed, to review the files and to even be summoned to the crisis talks with the Premier, will the minister now advise how many days it actually took for the government to locate and protect these small children?

Ms NEVILLE (Minister for Community Services) — As I indicated to the house yesterday, the failure of the department to act in a timely way was unacceptable. I immediately spoke to the secretary about this issue and indicated that that was unacceptable, that we require and expect — —

Honourable members interjecting.

The SPEAKER — Order! The minister will not be shouted down.

Ms NEVILLE — We require and expect a timely response where the department is aware a child is at risk. I made that clear to the secretary yesterday, and I expect action to be taken.

Mr Baillieu — On a point of order, Speaker, the minister is debating the question. This was a narrow and explicit question requiring a precise answer, and the minister is required under her responsibilities to the Parliament and the people of Victoria to give an answer.

The SPEAKER — Order! I do not uphold the point of order. The question revolved around the Ombudsman's report and the response unit and mentioned dates. To say that this is a narrow question is not accurate. The minister is being relevant to the question as it was asked. It is not in the Speaker's domain to instruct a minister as to how to answer a question, and indeed it is not in the standing orders that a minister must answer a question. The minister has completed her answer.

Police: resources

Ms D'AMBROSIO (Mill Park) — My question is to the Minister for Police and Emergency Services. I refer — —

Mr Wells — What about the end of the question? There was a point of order — —

The SPEAKER — Order! At the conclusion of the point of order I informed the house that the minister had concluded her answer.

Honourable members interjecting.

Mr Baillieu — On a point of order, Speaker, you have just made a number of rulings about the answers to questions and whether ministers have to answer an explicit question. I invite you to reconsider, in your own time, whether the question was broad or narrow. You suggested that it was broad. I invite you, Speaker, to do that because if it is as you suggest — that there is only a broad question and the minister can evade a specific answer — then there is no point in the minister turning up. There is no point to question time. If the minister will not answer, what is she doing here? If she is not going to answer, she should resign.

The SPEAKER — Order! The Leader of the Opposition is once again taking a point of order when he knows the standing orders full well. There have been many occasions on which standing orders have been discussed.

Mr Burgess — Who cares?

The SPEAKER — Order! I am not sure who that interjection referred to, but I warn the member for Hastings.

Mr Burgess — This is children we are talking about.

The SPEAKER — Order! I warn the member for Hastings. The standing orders of the Parliament are not childish. The standing orders of the Parliament have protected this institution for 150 years.

Mr Burgess — And we are supposed to be protecting children.

Questions interrupted.

SUSPENSION OF MEMBER

Member for Hastings

The SPEAKER — Order! Under standing order 124 the member for Hastings will leave the chamber for 90 minutes.

Honourable member for Hastings withdrew from chamber.

QUESTIONS WITHOUT NOTICE

Police: resources

Questions resumed.

Mr Thompson — On the point of order, Speaker, it has been a tradition of the house and under standing orders that answers to questions shall be direct, factual and succinct. The Leader of the Labor Party earlier indicated that he would instruct his ministers to answer all questions to enable the house to be fully informed as to the matter raised. That has not been the case in answering the question thus far.

The SPEAKER — Order! I do not uphold the point of order. Members in this chamber know full well the Speaker's role. The Speaker's role is to interpret and apply the standing orders. The standing orders of this house do not insist and never have insisted on ministers answering in a particular way. All members of this house know this, particularly members who were here during former governments. All members know this, and I have pointed it out to the Leader of the Opposition on many occasions.

Ms D'AMBROSIO (Mill Park) — My question is to the Minister for Police and Emergency Services. 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 what action the Brumby government is taking to keep Victoria the safest state in Australia and if he is aware of any alternative policies?

Mr K. Smith — You're a hopeless lot! The lot of you. Hopeless! You should all resign!

Questions interrupted.

SUSPENSION OF MEMBER

Member for Bass

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

Honourable member for Bass withdrew from chamber.

QUESTIONS WITHOUT NOTICE

Police: resources

Questions resumed.

Mr CAMERON (Minister for Police and Emergency Services) — I thank the honourable member for Mill Park for the question and for her support, just as Labor supports the great police across this great state. We support them. We support them with resources, with facilities, with equipment and with the powers they need to do their job. What we have of course is a record number of police across Victoria at the present time: 1400 were delivered before this term, and there will be 470 this term — record numbers on the front line. We are supporting them with a $1.9 billion budget and the largest ever police station building program, with over $450 million invested in rebuilding or refurbishing over 160 police stations.

On the equipment front, we are supporting them with equipment, cars and new divvy vans. During the course of the rest of this year and next year the entire divvy

van fleet will be replaced as well as increased. In the last state budget we saw funding for the latest equipment in relation to speed detection and mobile breath testing. We saw high-tech equipment, surveillance equipment and specialist counter-terrorism equipment.

The Brumby Labor government is proud to also have given police the powers they need, such as the power to ban troublemakers from entertainment precincts — something opposed by those opposite who took the side of drunken louts. With weapons laws, we have seen an increase in penalties.

Mr O'Brien — On a point of order, Speaker, not only is the minister debating the question, because his answer has not been relevant to the question he was asked, but he has also stated a falsehood to the house. There was no opposition to those measures, and the fact that the minister keeps repeating that falsehood does not make it any truer.

Honourable members interjecting.

The SPEAKER — Order! The taking of a point of order is not an opportunity to debate. I ask the minister to confine his remarks to the question.

Mr CAMERON — *Hansard* does not lie.

Honourable members interjecting.

Mr McIntosh interjected.

The SPEAKER — Order! I ask the member for Kew not to use first names in the chamber.

Mr CAMERON — While in recent years we have seen a decline in knife attacks, we are concerned about the number of issues with knives and young people. That is why we are going the next step, facing the challenges of the future. We are facing those challenges by introducing random searches for weapons and knives in designated areas.

We have put in place family violence notices to simplify the system and free up police. This is making a big difference to many people who are affected by family violence. Soon we will have the $234 penalty notices for drunks and there will be move-on powers for police to use against those they believe are about to breach the peace, as well as the introduction of the offence of disorderly conduct.

While we have seen a 25 per cent reduction in the crime rate since 2000–01 — in fact, it is the lowest level since electronic recording started — and we can also say that we are the safest state in Australia, we still have to deal with the challenges of the future.

We are pleased with the reduction that we have seen when it comes to crime on public transport, with a 10.5 per cent reduction in the rate of crime in the last year. When we have a look at assaults, we know there used to be 2.8 assaults for every million trips, and now it is down to 2.2 for every million trips — that is since 2000–01 — which is a great result for police.

While those opposite might attack the police, I have to congratulate the police on the good job they are doing. But there is one group — —

Honourable members interjecting.

The SPEAKER — Order! I ask the minister not to use question time as an opportunity to attack the opposition.

Mr CAMERON — However, on the alternative policy front, we have had one group in the community recently who wanted the government to do things — things it believed the government promised to do — around banning alcohol in strip clubs. The government never said that at all. That is just not true. The claimed government policy around introducing golf buggies for patrolling the central business district is of course a lie. We had claims by this group about the introduction of a statewide ID database at licensed venues. That was nothing but a fabrication. There was a claim that there were fewer police on the streets. In fact this group got information under FOI, and what it showed was that since the time we came into government until the end of last year there had been 1631 extra police put on, 1603 in operational positions.

An honourable member — Where are they?

Mr CAMERON — They are out and about, and they are doing a great job, because we support police. I will say about this group that it has no policy and no plan. We reject the policies of this group — the policies that cut police by 800. We believe in supporting police. There is only one party in this Parliament that does it, and that party is Labor.

Children: protection

Ms WOOLDRIDGE (Doncaster) — My question is to the Minister for Community Services. Given the dramatic revelations in regard to the government's failure to protect vulnerable children, and in particular in the last two years when the minister has failed to allocate case managers to 2000 at-risk children, effectively intervene in allegations of abuse that

resulted in the tragic deaths of children, undertake mandatory police checks of carers, prevent the further traumatisation of abused children as they bounce around multiple placements in the out-of-home care system and prevent the mass exodus of foster carers, I ask: will the minister commit to a full independent judicial inquiry into the Brumby government's dangerously dysfunctional child protection system?

Ms NEVILLE (Minister for Community Services) — I thank the member for her question. As I indicated in the house yesterday, there are some critical pressure points in our child protection system. That was indicated in the Ombudsman's report which was tabled yesterday and has been indicated in comments that the Premier and I have made in the past. These pressure points relate to the workforce, and they include recruitment, they include retention and they include training and supervision, and that is why — —

Honourable members interjecting.

The SPEAKER — Order! I ask the member for South-West Coast not to interject in that manner. I will not ask him again.

Ms NEVILLE — The child protection system has a number of critical pressure points, particularly around the workforce. That is why the government is finalising a package of measures to further strengthen our child protection system.

I want to make it clear to the house that I take responsibility for fixing the system and ensuring that our workers are best placed to make the best possible decisions to keep children safe.

Employment: government initiatives

Ms DUNCAN (Macedon) — My question is to the Minister for Skills and Workforce Participation. I refer the minister to the government's commitment to make Victoria the best place to live, to work and to raise a family, and I ask: can the minister update the house on what action the Brumby government is taking to deliver the skills Victorian business and industry need to prepare Victoria to emerge even stronger after the economic slowdown?

Ms ALLAN (Minister for Skills and Workforce Participation) — I thank the member for Macedon for her question. The Brumby government is taking very strong action to secure jobs and, most importantly, to support Victorians and Victorian businesses during these difficult economic circumstances.

We are doing this first and foremost through our record infrastructure building program. We are building roads, we are building schools and we are building hospitals and critical infrastructure right across the state. That is not just about investing in great services for local communities; it is also about helping to secure the future of this state's prosperity.

We also recognise that, while major capital works like these are important to our state, investment in our people is also critical at this time. It is critical to support the massive building program, but it is also critical to support them to secure their future job opportunities. That is why the Brumby government is investing $316 million in new funding and introducing major reforms to Victoria's TAFE and training system to support our future economic activity. This funding delivers a massive expansion in training places, an allocation of over 170 000 new training places, which in turn will create thousands of opportunities for Victorians to get the skills they need for the jobs they want.

As part of this big package of investment in people there is a $52 million allocation for the Skills for Growth program, which is an important part of our skills reform agenda, because it is about supporting businesses and it is also about supporting the workers in those businesses to access the skills they need to help those businesses to compete and grow into the future. I am very pleased to advise the house this afternoon that since this program commenced in April of this year, when the Minister for Small Business and I launched it, we have now had approximately 800 Victorian businesses that have already signed up for their free training assessments and are on the path to grow their businesses. We are well on the way to our goal of supporting 5500 businesses and 55 000 Victorian workers to access those new training places over the next three years.

It is pleasing to see Victorian businesses committing to training now and to developing and building the skills of their workers. Investing in training to develop the skills of your team makes common sense, and it also takes good leadership to adopt this approach. It is an approach I would recommend to any organisation. There is one organisation in particular which could do with some assistance to build the skills of its team. If this team had a leader with strong leadership qualities, he would call in our Skills for Growth specialists to do a quick assessment to remedy his team's lack of integrity, substance and quality output. The assessors would deal first and foremost with the ones who are loose with the truth, and they would send them off — —

Honourable members interjecting.

The SPEAKER — Order! I ask the minister to not debate the question and to abide by standing orders and not make comments outside of government business.

Ms ALLAN — The Brumby government has invested $52 million in its Skills for Growth program. This is a program that sends independent assessors into organisations of all shapes and sizes in all parts of Victoria. A whole lot of different skill sets are needed in an organisation to help that business and that organisation grow into the future. You may need some motivation courses for your team; you may need to encourage some of the lazier members of your team. We have certainly got courses like the certificate III in fitness at the Chisholm Institute in Frankston to help those members who may need to be more motivated.

Each organisation has a heart that needs to be supported. We also have courses such as — —

Mr Ryan — On a point of order, Speaker, the minister is making an absolute mockery of question time. I ask you to have her cease debating the question and complete her answer or sit down.

The SPEAKER — Order! I have asked the minister not to debate the question and I have asked her to confine her answer to government business, which I think she is still abiding by.

Ms ALLAN — The Skills for Growth program is part of our agenda to support the skills of all organisations and their workforces. It is a program that provides services free of charge to develop the skills of a team in order to help those organisations grow into the future, which is about helping the Victorian economy grow into the future.

That is the plan we have on this side of the house. It is to support stimulus measures that are about investing in infrastructure into the future. It is about investing in the skills and training in our state to make sure that people can secure the skills they need to get the jobs they want. That is the job we are doing on this side of the house. That is the plan that we have on this side of the house. We are the team. The Brumby Labor government team is the team that has the plan, the heart and the hard work to deliver Victoria's economy into a prosperous future.

Minister for Community Services: performance

Mr BAILLIEU (Leader of the Opposition) — My question is to the Minister for Community Services, and I ask: given that the people of Victoria place their trust in the minister to run child protection in this state and that the minister has so clearly betrayed that sacred trust and her responsibilities to this Parliament, will she finally do the right thing and resign?

Ms NEVILLE (Minister for Community Services) — I am not a quitter, and there is still work to be done. I am determined and I am committed — —

Honourable members interjecting.

The SPEAKER — Order! The opposition will not interject in that manner. The minister will not be shouted down.

Ms NEVILLE — I am committed, and I am dedicated to fixing the problems in the child protection system. I want the hundreds of our workers who do a great job every day to be best placed to provide the best care — —

Honourable members interjecting.

The SPEAKER — Order! I warn the members for Malvern and Scoresby.

Ms NEVILLE — I want our workers to be best placed to provide the best care and protection to vulnerable children in Victoria.

Honourable members interjecting.

The SPEAKER — Order! I warn the Leader of the Opposition.

Schools: Doveton regeneration project

Mr BROOKS (Bundoora) — My question is for the Minister for Education. I refer to the government's commitment to make Victoria the best place to live, work and raise a family, and I ask: can the minister advise the house how the Brumby government is working with philanthropic organisations to establish partnerships that provide new educational opportunities for our young people?

Ms PIKE (Minister for Education) — I thank the member for Bundoora for his question and pay tribute to him for his longstanding commitment to education in his local community.

On Friday last week I joined my colleagues the Minister for Children and Early Childhood Development, the member for Dandenong and the member for Narre Warren North to make a significant announcement about a historic partnership between the Brumby government, the federal government and the Coleman Foundation. This partnership will lead to the

go-ahead of the Doveton education regeneration project.

This $28.9 million regeneration project marks a significant change and development in education in Doveton's history. Funding for this project is shared between the state government — we are providing $12.8 million — the federal government, through its Building the Education Revolution program, which is providing $11.85 million, and the most generous $1.8 million donation from the Coleman Foundation. The Coleman Foundation assists children from low-income families. On top of its capital donation of $1.8 million, it will be providing some $500 000 in additional recurrent funding every year, particularly targeting the early childhood aspect of the project.

When work is completed, which will be in time for the beginning of the 2011 school year, we will see brand-new, iconic, state-of-the-art facilities in this particular area of Melbourne, which desperately needs support and all of these new initiatives. They will be modern, bright and flexible learning spaces. We know that those kinds of state-of-the-art facilities, which are being built around the state and which will be built in Doveton, prepare children for learning in the 21st century.

As a result of the Coleman Foundation's investment we are going to see a renewed culture of learning and an era of continuous improvement for people in Doveton. I have no doubt that the partnership between the Coleman Foundation and the state and federal governments will make a huge difference to the lives of young people in this needy community. It is a great partnership. It is one way in which the government works hard to meet the aspirations of parents in communities such as this so that the young people they care for get the best start and a great education.

Later this year work will start on the amalgamation of four schools on this site. I might also add that the site is adjacent to the local council swimming pool and sporting complex, so the integration of the new school with the council facilities will also add terrific value to the project.

The Doveton regeneration project is just one example of what is happening right across Victoria, where the state government is rebuilding, renovating, extending and modernising and is contributing billions of dollars to the education of our young people. This project comes out of the fact that we have a plan. We have the Victorian schools plan, which is a capital plan that will see this rebuilding, modernising and renovating. Of course we are also now working through our second blueprint in education, which has a whole range of initiatives that are seeing improved education opportunities for our young people.

If you reject cooperation with the non-government sector, with philanthropic organisations and with other partners, then you do not have a plan. If you vote down partnerships with the commonwealth government, then you do not have a plan. If you reject partnerships with local school communities, if you refuse to empower local school communities, if you prefer to ride roughshod over their aspirations, then you do not have a plan. If you reject partnerships with principals to build respect in our schools, then you do not have a plan like this government has.

Honourable members interjecting.

The SPEAKER — Order! The minister needs to come back to government administration.

Ms PIKE — This government does have a plan and an absolute passion and commitment to build a strong and vibrant education system for our young people. Our plan includes the regeneration of our school facilities. Our plan includes huge investment in the learning opportunities for our young people. When you do not have a plan, the best you can come up with is reminiscing about a 12-inch ruler. We have a plan that will assist our young people to get the best possible education for the 21st century.

Water: recycling

Mr RYAN (Leader of The Nationals) — My question is to the Premier. I refer the Premier to the 5000 billion litres of water that Stormwater Victoria estimates has run off Melbourne's impervious surfaces into Port Phillip Bay over the past 10 years, and I ask: why has the government ignored this ready alternative to bolster Melbourne's non-drinking water needs?

Mr BRUMBY (Premier) — I thank the Leader of The Nationals for his question. I think the only interpretation you could take from the base of his question today is that it would now appear to be a policy of The Nationals to drink recycled stormwater. That is certainly — —

Mr Mulder interjected.

The SPEAKER — Order! The member for Polwarth!

Mr Hulls interjected.

The SPEAKER — Order! The Deputy Premier!

Mr Ryan — On a point of order, Speaker, in fairness, and to ensure the Premier is not further embarrassed by going down this track — —

Honourable members interjecting.

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

Mr Ryan — In fairness I simply clarify that the question was: why has the government ignored this ready alternative to bolster Melbourne's non-drinking water needs?

Mr BRUMBY — I thank the Leader of The Nationals for his qualification, but if you have 5000 gigalitres of water — as I believe I heard the Leader of The Nationals say — before you use it, you have to be able to store it. Where would the Leader of The Nationals store that water? He would have to store it in the Sugarloaf Dam or in the aquifer.

Dr Sykes interjected.

The SPEAKER — Order! I ask the member for Benalla, as I have asked him on many other occasions, not to interject in that manner.

Mr BRUMBY — I think it is clear from the Leader of The Nationals' question that his thesis has some flaws. You would need to store that water, and unless you had a policy of drinking recycled water — and on our side of politics we have a policy of not drinking recycled water — you would have to mix that water into the Thomson Dam, the Sugarloaf Dam or the Upper Yarra Dam, because 5000 gigalitres of water is considerably more than the whole storage capacity of the Melbourne system.

Mr Holding interjected.

The SPEAKER — Order! I ask the Minister for Water to withdraw the last comment he made to the member for Benalla.

Mr Holding — I withdraw.

The SPEAKER — Order! The minister should stand and address the microphone.

Mr Holding — I withdraw.

Mr BRUMBY — The fact is that on our side of the house we have put in place the necessary measures to secure our water supply into the future. After 13 years of drought we need to be putting in place the projects, plans and policies we have to secure our state's future — and that is what we are doing. In the north-west of the state we have the biggest water-saving project in Australia's history, which is the Wimmera–Mallee pipeline. It is a Labor government initiative — —

Mr Lupton interjected.

The SPEAKER — Order! The member for Prahran!

Mr Ryan — On a point of order, Speaker, the Premier is clearly debating the question. It was of narrow compass, and I ask you to have him answer the question he was actually asked.

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

Honourable members interjecting.

The SPEAKER — Order! I have upheld the point of order.

Mr BRUMBY — My recollection is — —

An honourable member interjected.

Mr BRUMBY — It is considerably more accurate than yours!

My recollection is that at the time of the last election the Arundel dam was going to hold 6 gigalitres of water, so what the Leader of The Nationals has proposed today is a dam 1000 times bigger than that!

Mr Ryan — I renew the point of order, Speaker. The Premier is very clearly debating the question. If he does not know the answer, he should just sit down.

Honourable members interjecting.

The SPEAKER — Order! Before calling the Deputy Premier I will make the same observation I made yesterday. I understand that it is footy finals season, but there is no need to have this cheering from either the opposition benches or the government benches. I ask members to quieten down — all members.

Mr Hulls — On the point of order, Speaker, some pretty logical consequences flow from the silly question the Leader of The Nationals asked. The Premier is pointing out to the house what those consequences are.

Ms Kosky interjected.

The SPEAKER — Order! The Minister for Public Transport! I uphold the point of order of the Leader of The Nationals.

Mr BRUMBY — The Leader of The Nationals asked me about recycling 5000 gigalitres of water, and I am answering the question. As I have explained, it would require 1000 Arundel dams to store that water. That would be like there being one on every corner block in Melbourne. Presumably there is a distributed sort of hose system and people will come in and fill up a 1000-litre tank in the back of the car!

We have put in place the necessary policies to secure our state's water future. After 13 years of drought we are at a very testing and difficult time. The desalination plant, the north–south pipeline, the food bowl project, the Wimmera–Mallee pipeline, the Gippsland Water Factory, the Tarago Reservoir, the goldfields super-pipe and the Ballarat super-pipe — all of these things, coupled with Target 155 — —

Mr Ryan — On a point of order, Speaker, the Premier is debating the question. I ask you to have him answer the actual, narrowly based question he was asked.

The SPEAKER — Order! I uphold the point of order. Even with a number of interruptions the Premier has been speaking in excess of 6 minutes. I ask him to conclude his answer.

Mr BRUMBY — In new housing developments located close to an appropriate source of water we have put in place third pipes. We do that where it is appropriate and it makes sense to do that.

On the conservation side, our Target 155 plus the combination of rainwater tanks — all of these things — are giving us a level of water consumption in Melbourne which is half of what it was in the 1980s. On our side of the house we have a plan; it is a plan about securing Victoria's water future. Today what we have seen is a classic example of what happens when you come up with half-baked proposals.

Health: awards

Dr HARKNESS (Frankston) — I have a very important question for the Minister for Health. 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 him to advise the house how the Brumby government is publicly recognising the important achievements of our health services and their staff.

Mr ANDREWS (Minister for Health) — I thank the honourable member for Frankston for his question. I will try to be brief. Every member of this house knows only too well that each of us can be proud of the work that our health professionals do. Doctors, nurses, allied health professionals, hospital administrators and the team in a broad sense do a fantastic job supporting patients often at their most vulnerable point. This is why it is important to stop every now and then to take a moment to recognise, to praise and to hold up those dedicated health professionals.

Last Thursday night the Premier and I had the opportunity to do just that at the Victorian public health-care awards. It is the fifth year of these awards. It is a great and practical opportunity to thank our dedicated teams of health professionals for the first-class work they do 24 hours a day, seven days a week. It is very important. I can say to all honourable members that the feedback on the night, and in some of the visits I have made, has been that health professionals genuinely appreciate the recognition of their government and their community, along with the member for — —

Mr K. Smith interjected.

The SPEAKER — Order! The Chair recognises that the member for Bass has returned to the chamber. It would be disappointing if he were to leave again prematurely. I ask for his cooperation to enable question time to conclude.

Mr ANDREWS — These are very important matters. It was with great pride that the Premier and I presented awards — 17 awards — in a number of different categories. Sunraysia Community Health Services received an award for primary care, Kyabram and District Health Services received the rural health service of the year award and the West Gippsland Healthcare Group won the regional health service of the year award. Peninsula Health won the metropolitan health service of the year award, which will be warmly welcomed by the member for Frankston. Each of those health services and the teams of professionals who work in them can be proud of the work they do. It was important that we as a government and more broadly as a community recognised that hard work.

Just last night I was also pleased to attend the nursing and midwifery excellence awards presentation. They are very important awards as well. They provide recognition to our dedicated nurses and midwives for the important work they do each and every day. They were absolutely delighted to be singled out and given that recognition and to be thanked for the hard work

they do. These awards are an important part of that process.

What is also important in recognising and valuing the work of our health professionals is to make sure that our health system has adequate funding and record support in terms of physical infrastructure, the workforce and ongoing funding. That is why there are nearly 9000 extra nurses under this government; that is why there are nearly 2500 extra doctors under this government; that is why there is 130 per cent more funding in our health system today than when we came to government; and that is why there is more than $5.5 billion of capital works spending across our health system compared to the levels when we came to government. All of these are practical ways in which we can demonstrate to members of our workforce that we value them for the incredibly important work they do.

In conclusion, there is one other way we can value those who work in our health system and show them we genuinely value the contribution they make: you can do this when you meet one of them when you visit a hospital by being sure to say to the health professional inside the hospital the same thing that you say to the media when you leave the hospital. Swanning around health services and telling people how good they are and then walking out onto the footpath outside the very same hospital and bagging that hospital is no way to value people. That is no way to value anyone. If you truly value the work of our health professionals, then you ensure, just as I do, that to every one you meet you say, 'Thank you. I am proud of the work you do', and you say the same to the media.

Dr Napthine — On a point of order, Speaker, the minister is now debating the question. He is not being relevant to government business, and I ask you to bring him back to answering the question.

Mr Stensholt interjected.

The SPEAKER — Order! I do not believe I gave the member for Burwood the call. I find it difficult to uphold the point of order at this stage.

Mr ANDREWS — If you truly value the work of health professionals, you make sure that you recruit record numbers of them and that you give them the resources they need to treat more patients and provide better care. Most of all, when you speak to health professionals in hospitals, you make sure that what you say to them is the same as what you say to the media out the front.

EDUCATION AND TRAINING REFORM AMENDMENT (SCHOOL AGE) BILL

Second reading

Debate resumed.

Dr SYKES (Benalla) — Following on from my presentation before the lunch break, I indicate that the justification for increasing the school leaving age to 17 is the maximisation of education opportunities for our young people, but the increase needs to be part of a suite of measures, including innovative education programs. It requires us to build the self-confidence and aspirations of young people. I should note that Euroa Secondary College has a very good program for young people going into year 10 to commit to going through to year 12. We also need to build young people's self-respect, respect for others and respect for the law.

It is interesting that the government pulled out of the Police in Schools program that is progressively being brought back in by police and schools because they see the merits of that program as part of this package. We also need to ensure there is appropriate discipline, and that means empowering principals and teachers to do what is necessary to ensure an appropriate education environment for both those who have difficulty fitting into the mainstream education approach and the vast majority of young people who are enthusiastically learning and taking advantage of the educational opportunities provided to them.

In conclusion, contrary to the claims the Minister for Education made during question time, the Brumby government has failed young people in country Victoria. This is evidenced by the substantial gap in the year 12 completion rates between country young people and their metropolitan counterparts. Less than 70 per cent of country young people complete year 12, but over 89 per cent of city young people do so. I call on the Minister for Education to address this situation as a matter of urgency to prevent a further widening of the social disadvantage gap between country young people and their metropolitan counterparts.

Ms MUNT (Mordialloc) — I will make a brief contribution to the debate on the Education and Training Reform Amendment (School Age) Bill 2009. I note that this bill comes about as a result of agreement by all states and territories at a Council of Australian Governments meeting on 2 July to the national partnership on youth attainment and transitions. The bill is intended to keep young people in a combination of education, training and/or employment up until the age of 17.

Pathways are extremely important for young people. Whether it is through the Victorian certificate of applied learning, vocational education and training or a combination of those, training, education and employment are a means of taking young people on the path to where they wish to go. Particularly now in modern times, where pathways continue throughout the course of our adult and young adult lives, where retraining may be embarked upon over the whole of one's life, it is incumbent upon us to keep young people, particularly those under the age of 17, engaged on these pathways as part of a lifelong learning experience.

I also note that during the Bracks and Brumby governments a vast range of improvements have been made to our education system, not just with legislation like this but also with resourcing and the provision of teachers, because we care about the education of our young people and this gives them the very best start in life we can give them. They deserve to have that very best start. I commend the bill to the house.

Mr HODGETT (Kilsyth) — I rise to make a contribution to the debate on the Education and Training Reform Amendment (School Age) Bill 2009. I state at the outset that we are not opposing the bill. The bill amends the Education Training Reform Act 2006 to increase the minimum school leaving age from 16 years to 17 years. The bill will also clarify the current expectations regarding the mandatory requirements for school attendance in the legislation.

I turn to the main provisions of the bill. Clauses 4 and 5 increase the minimum school leaving age from 16 years to 17 years. As stated in the second-reading speech, this came about because all Australian states and territories have entered into the national partnership on youth attainment and transitions with the commonwealth government. Under this partnership Victoria has agreed to the requirement that all young people complete year 10 or its equivalent and that young people participate full time in education, training or employment, or a combination of these activities, until they turn 17 years of age.

The introduction of the Education and Training Reform Amendment (School Age) Bill 2009 is designed to enact this agreement. I think all members of the house, certainly those on this side of the house, would agree on the important role education and training plays in a young person's life. It assists them to achieve their aims and aspirations and contributes to giving them the best start in life, and it enables them to make a contribution to their local communities.

The intent of this bill is to ensure that young people will engage in education and training until at least 17 years of age. As has been stated by previous speakers, I understand that by agreeing to implement the national partnership Victoria will receive $135 million of commonwealth funding over the four-year period of the partnership. This funding will be used to support young people's school engagement, attainment and transitions into further education and training and employment.

After working so hard over the past couple of years and successfully gaining $10.4 million for Pembroke Secondary College for the implementation of stage 1 of its master plan, the children at that college may want to stay on at that school until well past the age of 16 or 17 regardless of this bill. I take this opportunity to acknowledge the hard work and the leadership of the principals, teachers and staff in the schools in my electorate of Kilsyth. They do a terrific job of educating our young children.

Mr SEITZ (Keilor) — I rise to support the Education and Training Reform Amendment (School Age) Bill. The change in the minimum school leaving age is the major part of this bill and is also the thrust of the extra funding Victoria will receive upon the implementation of this legislation. It is a welcome change and will lead to a uniform law across Australia that requires children below the age of 17 to be engaged in education, training or other activities which involve their parents. It is important that parents are involved in ensuring that their children receive a good education, because it is of benefit to the whole community and to the children themselves later in their lives.

In the past it was possible for an apprentice to leave school after year 10, but I am sure the trades expect a higher qualification these days, and some students take longer to achieve these levels as there is no longer automatic passing of students as they move through critical levels of their education. It is left to members of our community to catch up on their education and achieve a year 12 certificate because it is important to them later in their lives when they are considering further education; they need to have the fundamentals on which they can build their educational achievements.

Extending the school leaving age by one year for the purposes of education and training is important for the young person, their family, including guardians and not just parents. I hope this process is encouraged and fully implemented to ensure young people do not fall through the cracks but instead survive and thrive in the technological society of the future. With these few words, I commend the bill to the house.

Mr CRISP (Mildura) — I rise to make a brief contribution on the Education and Training Reform Amendment (School Age) Bill 2009. The purpose of the bill is to amend the Training and Reform Act 2006 in relation to the compulsory school age. We all welcome the increase in the school leaving age. I think we have an RRR problem, and it is not reading, writing and arithmetic — it is resources, responsibility and being reasonable.

Resources will be required to implement this reform, and I have concerns about whether the $135 million on offer from the federal government will be enough to provide the necessary resources to schools, training organisations and even employers because of the additional requirement for apprenticeships to meet these needs.

The responsibility area is something that the Scrutiny of Acts and Regulations Committee explored, and there were some very interesting words used by that committee in its report, in particular in relation to clause 13(a) and 17(1). I quote:

> … the potential for parents for parents to be fined if they do not attempt to exert control over their 16-year-old children …

if they do not attend school. I think many people have discussed this issue over time, and I welcome its re-emergence into public debate. I am sure there will be quite some debate on that issue.

Similarly, there is talk there about schools that will need resources. Young people should be at school if they are not working or in training. They tend to congregate together and stand out. The community sees them and there are constant reports about them. I am told by the Minister for Education that it is the responsibility of the schools to go and get those children back into school. Truancy has become a major issue. People who are truanting, particularly at that age, generally find trouble not very far away and it is big trouble.

In being reasonable, the work of the local learning and employment networks needs to be commended because they are part of a reasonable approach to keeping young people engaged in education and training or finding them employment.

Then there is that resourcing issue. I am concerned this will prove to be not as easy as planned. It is very important. I support the concept that at that age you are learning or earning; I think that is a commendable concept. However, it will not be without its difficulties. The schools will need a lot of support. The community will need a lot of support. With those few words, I will watch the progress of the bill and I will watch its application in our community very carefully.

Mr HOWARD (Ballarat East) — I am also pleased to speak on the Education and Training Reform Amendment (School Age) Bill before the house which, as we know, is mainly directed at agreeing that young people should stay at school to complete year 10 or its equivalent and that young people should also continue to participate in full-time education or training or employment until they are 17 years of age. In the brief time I have to speak on this bill I will talk about what is happening in Ballarat and the Central Highlands region.

I have been impressed to see a number of great programs in operation in recent years. One is sponsored by the regional office of the Department of Education and Early Childhood Development, that being the youth guarantee scheme. It is essentially a partnership of all of the schools in the region working with training providers and other youth welfare organisations. They are endeavouring to ensure that no young person will fall through the cracks if they happen to leave school and that they will all be picked up in one way or another to ensure they are given opportunities to be directed to education and training or other supported activities which will put them on a positive path to a positive future.

I am able to report to the house that I am very pleased to see we have a number of other programs such as the Link Up program in Ballarat, which is run mostly out of the Ballarat Learning Exchange. It is an example of a program which has been going for a little over four years now. A number of young people have been attracted into that program when they have found they do not want to or cannot stay at school for one reason or another. Through this program the staff are helping to build the self-esteem of these young people and to build their skills bases. With programs like this, the youth work programs and some other terrific programs operating in Ballarat, we are able to see that young people are being supported more and more to provide them with the best opportunity for a good future and an opportunity to contribute to our community. I support this bill.

Mr BATCHELOR (Minister for Community Development) — In concluding the debate today I thank all those members who have made a contribution. Education is an important policy position and administration for this government. We wish this bill a speedy passage.

Motion agreed to.

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

Third reading

Motion agreed to.

Read third time.

PERSONAL PROPERTY SECURITIES (COMMONWEALTH POWERS) BILL

Second reading

Debate resumed from 15 September; motion of Mr HULLS (Attorney-General).

Mr BATCHELOR (Minister for Community Development) — In concluding this debate I would like to thank those members who have made a valuable contribution to it. I wish the bill a speedy passage.

Motion agreed to.

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

Third reading

Motion agreed to.

Read third time.

LAND (REVOCATION OF RESERVATIONS AND OTHER MATTERS) BILL

Statement of compatibility

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

In accordance with section 28 of the Charter of Human Rights and Responsibilities, I make this statement of compatibility with respect to the Land (Revocation of Reservations and Other Matters) Bill 2009.

In my opinion, the Land (Revocation of Reservations and Other Matters) Bill 2009, as introduced to the Legislative Assembly, is compatible with the human rights protected by the charter. I base my opinion on the reasons outlined in this statement.

Overview of the bill

The purposes of the bill are to:

revoke the permanent reservation and restricted Crown grant over the land occupied by the Montefiore Homes Community Residence in St Kilda;

revoke the permanent reservation over two parcels of land on the Altona Memorial Park cemetery reserve, to facilitate duplication of Dohertys Road by VicRoads;

revoke the permanent reservation over a parcel of Crown land on the J. R. Parsons Reserve, Sunshine, to enable construction of a bus lane by VicRoads;

revoke the permanent reservation over a parcel of Crown land at the Seaford Caravan Park, near Kananook Creek reserve, to enable a land exchange with a parcel of private land;

repeal the Kew and Heidelberg Lands Act 1933 and the Kew and Heidelberg Lands Act 1958 and dissolve the Yarra Bend Park Trust to allow for the transfer of responsibility for the Yarra Bend Park reserve to Parks Victoria;

revoke the permanent reservation over a section of the fenced perimeter of the Melbourne Zoo, which has encroached onto the Royal Park reserve;

revoke the permanent reservation over the Crown land at the 'Tabaret car park' site at Caulfield Racecourse to enable an exchange of freehold land with the Melbourne Racing Club and facilitate a commercial-mixed use development in the 'Phoenix precinct';

repeal the Footscray (Recreation Ground) Lands Act 1968 and the Footscray (Western Oval Reserve) Lands Act 1981, revoke the permanent reservation over the David Spurling-Whitten Oval reserve, remove Maribyrnong City Council as the committee of management and temporarily re-reserve the land to facilitate its overall redevelopment; and

amend the Geelong (Kardinia Park) Land Act 1950 to allow the Geelong City Council to grant licences, as well as leases, over the Kardinia Park reserve.

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

Property rights

Section 20 of the charter protects against deprivation of property other than according to law. This bill does not engage section 20 property rights because no private land interests are affected by the bill.

Freedom of movement

The bill engages section 12 of the charter, which protects the right to freedom of movement. Section 12 stipulates that every person lawfully within Victoria has the right to move freely within Victoria and to enter and leave it and has the freedom to choose where to live.

The construction projects to be undertaken by VicRoads and which are facilitated by this bill may temporarily restrict public access to areas of the Altona Memorial Cemetery reserve (clause 4) and the J. R. Parsons Reserve (clause 5), which may engage the right to freedom of movement in section 12 of the charter.

However, these temporary restrictions will allow VicRoads to conduct works without hindrance and in a safe manner, and will be in place only until completion of the projects. Alternative arrangements will be made for public access to the Altona Memorial Cemetery and J. R. Parsons Reserve

during these times. The projects will ultimately benefit the public by providing improved road and public transport services. Therefore I do not consider they amount to a limitation on the freedom of movement.

A number of proposed developments dealt with by the bill, such as the Phoenix precinct at Caulfield (clause 17), the Montefiore Homes Community Residence (clause 3) and Whitten Oval (clause 25), may involve the construction of buildings, fences or other structures that could alter the course through which the public walk through these sites. However, the sites will still be generally accessible by the public and so such course alterations do not amount to a limitation.

Overall, the developments will have wide-ranging benefits for local communities including the provision of new sporting, social and community facilities and the creation of business opportunities.

I therefore consider that the minor and temporary restrictions on freedom of movement that may be imposed by certain developments do not amount to a limitation on the right to freedom of movement in section 12 of the charter.

Conclusion

I consider that the bill is compatible with the Charter of Human Rights and Responsibilities because although it engages the section 12 right to freedom of movement, the engagement with this right does not amount to a limitation on it.

Peter Batchelor MP
Minister for Energy and Resources

Second reading

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

That this bill be now read a second time.

The purpose of this bill is to facilitate a range of changes to the status of land in the Crown land portfolio and to Crown land legislation.

In some cases, the bill revokes permanent reservations and Crown grants made under the Crown Land (Reserves) Act 1978, which can only be removed by legislation. In other cases, it removes or amends legislation and changes management and leasing arrangements for Crown land sites.

The bill will:

facilitate projects and developments on Crown land;

allow the government to sell surplus land and enter into land exchanges;

improve the management of Crown land sites; and

provide for more accurate recording of the Crown land portfolio.

Montefiore Homes Community Residence

The Montefiore Homes Community Residence at 619 St Kilda Road which is managed by Jewish Care Victoria provides valuable aged-care and accommodation services to the Jewish community. The home sits on Crown land permanently reserved under the Crown Land (Reserves) Act 1978 and is subject to an outdated Crown grant restricting the land use to 'a Jewish alms house and asylum for Jews who have been reduced to poverty'.

After nearly 160 years of operation, Jewish Care wish to purchase the site to redevelop and improve the aged-care facilities at the home. This bill will revoke the permanent reservation and restricted Crown grant on the site, which will allow the government to sell the site to Jewish Care.

In recognition of the historic and social values of this land, this site will be sold on the condition that it continues to be used for aged-care and community services.

Altona Memorial Park cemetery

The Dohertys Road duplication will see the upgrade of a section of Dohertys Road between Fitzgerald Road and Grieve Parade. By creating two lanes in each direction and improving a number of intersections, the project will improve traffic flow, increase safety and reduce transport costs on one of Melbourne's key freight routes.

As part of the road duplication, VicRoads plans to construct a roundabout at the intersection of Dohertys Road and Gordonluck Avenue, which will ensure large vehicles have access to retail outlets along Gordonluck Avenue. VicRoads also plan to upgrade the intersection of Dohertys Road and Grieve Parade.

To complete the roundabout and intersection upgrade, VicRoads requires two Crown land parcels sitting within the Altona Memorial Park cemetery on Dohertys Road. The cemetery is permanently reserved under the Crown Land (Reserves) Act 1978.

This bill will revoke the permanent reservations over these two land parcels, which will enable the land to be transferred to VicRoads for completion of the roadworks.

J. R. Parsons Reserve, Sunshine

The SmartBus system offers a frequent and efficient 'cross-town' transport link between Melbourne's middle and outer suburbs, connecting with major

transport hubs and shopping districts. Through the Victorian transport plan, the government committed $290 million to delivering and expanding the SmartBus network across Melbourne.

This bill will enable the construction of bus priority works, including a new bus lane at the intersection of Wright Street, Market Road and Sunshine Road in Sunshine, as part of the new red orbital route 903 which runs between Altona and Mordialloc.

To complete this bus lane, VicRoads needs a small parcel of Crown land sitting within the J. R. Parsons Reserve on Wright Street, which is permanently reserved for public recreation. This bill will remove the reservation over this land parcel, allowing it to be transferred to VicRoads.

By providing the SmartBus with dedicated road space, the new bus lane will reduce traffic congestion along Wright Street and ensure faster travel times for passengers on one of Melbourne's most popular bus routes.

Yarra Bend Park reserve

Most Crown land parks in Melbourne sit under the Crown Land (Reserves) Act 1978. Many are managed by Parks Victoria. However, Yarra Bend Park is currently governed by its own legislation — the Kew and Heidelberg Lands Act 1933, which establishes the Yarra Bend Park Trust as managers of the park.

This arrangement has worked well for over 75 years; however, a recent independent review has recommended that the management of the park be transferred from the trust to Parks Victoria to ensure the park's ongoing access to the state's resources and expertise. This bill will facilitate this transfer, which is fully supported by the Yarra Bend Park Trust.

As the largest area of natural vegetation within the city of Melbourne, Yarra Bend Park provides a valuable public space for relaxation and participation in a range of recreational activities. In recognition of this, the government has provided $2 million in funding over four years through the 2009–10 budget to help maintain, improve and undertake long-term planning for Yarra Bend Park.

Caulfield Racecourse reserve

The large-scale 'Phoenix precinct' development at Caulfield being undertaken by the Melbourne Racing Club will see rejuvenation of the Caulfield area with the establishment of new retail outlets, businesses and housing.

The government has identified the Phoenix precinct as an important site for development, and is helping to facilitate this project by transferring a Crown land site, currently used as the Caulfield Racecourse Tabaret car park, to the Melbourne Racing Club. The club will use this site to construct a multistorey building as part of the overall Phoenix precinct development.

This bill will remove the current permanent reservation and restricted Crown grant over the car park site, enabling it to be transferred to the Melbourne Racing Club.

In exchange, the government will acquire two parcels of Caulfield Racecourse land from the Melbourne Racing Club. This land will be used to create a new public park reserve, which will provide valuable open space for the use and enjoyment of the Glen Eira community, and to rationalise part of the racecourse.

Kananook Creek reserve

This bill will enable the government to exchange a parcel of permanently reserved Crown land near Kananook Creek, at Seaford, for a parcel of private land with the Seaford Beach Caravan Park.

The Crown land site to be exchanged is currently used by the caravan park as part of its operations. Removing the permanent reservation on this site will allow the land to be formally transferred to the caravan park. This will more accurately reflect the current use of the land and enable the caravan park owners to continue their operations without leasing land.

The new Crown land site, to be managed by Frankston City Council, will provide a much-needed public car park for visitors to Seaford Beach and the Kananook Creek reserve.

Royal Park reserve

Since establishment of the Melbourne Zoo in the 1800s a 2000-square-metre section of land within the western boundary wall of the Melbourne Zoo has been incorrectly reserved within the Royal Park reserve.

This bill will update the Crown land portfolio by correctly reserving this area as zoo land.

This amendment will also allow the electricity distributor company Citipower to legally access an electricity substation which has been built within the zoo wall boundary.

Kardinia Oval reserve

Kardinia Oval reserve, home ground of the Geelong Football Club, is governed by the City of Greater Geelong under special legislation — the Geelong (Kardinia Park) Land Act 1950.

While the council can grant leases for up to 40 years under this legislation, granting of licences is still managed under the Crown Land (Reserves) Act 1978 which limits licences to 21 years.

The Geelong City Council is undertaking a $56 million redevelopment of the grounds. However, the current discrepancy between the lengths of leases and licences makes it difficult for the council to plan for areas requiring a licence, such as the stands and football grounds.

This bill will change the Geelong (Kardinia Park) Land Act 1950 to enable with the council to offer the Geelong Football Club licences of up to 40 years, which is consistent the lease terms. This will provide both the council and the Geelong Football Club with more certainty in their future use of the site.

Western Oval reserve

This bill will help facilitate a $30 million redevelopment of the Western Oval reserve, also known as the David Spurling or Whitten Oval reserve, in Footscray, which is being undertaken through a partnership between the state, federal and local governments, the AFL and the Western Bulldogs Football Club.

This redevelopment will establish a range of new sporting and community facilities for Footscray, as well as providing affordable housing.

The development will include establishment of the Victoria University Learning Centre on the reserve, which will offer activities such as sports performance analysis, sports psychology, sports administration and sports science.

Currently, the Western Oval reserve is permanently reserved for recreation purposes under the Footscray (Recreation Ground) Lands Act 1968. However, the 'recreation' reservation is too limited to provide for the broad range of activities that will be undertaken following the redevelopment. This bill will revoke the permanent reservation and temporarily reserve the site for 'recreation, social and community services', which will allow the land to be used for a broad range of purposes.

The committee of management currently looking after the reserve, the Maribyrnong City Council, no longer wish to have management responsibility for this site. This bill will remove the council as managers of the reserve, which can only be done by legislation. In addition, the bill will revoke redundant legislation in the form of the Footscray (Recreation Ground) Lands Act 1968 and the Footscray (Western Oval Reserve) Act 1981.

In conclusion, the amendments made by this bill will facilitate a number of government-supported projects, including large-scale redevelopments at Caulfield, Kardinia Oval and Western Oval, which will have wide-ranging social and economic outcomes for local communities.

The bill will improve the long-term leasing and management arrangements of numerous Crown land sites, update and remove redundant legislation and ensure that the government's Crown land portfolio is accurately reflected.

I commend the bill to the house.

Debate adjourned on motion of Ms ASHER (Brighton).

Debate adjourned until Thursday, 1 October.

UNIVERSITY OF MELBOURNE BILL

Statement of compatibility

Ms ALLAN (Minister for Skills and Workforce Participation) tabled following statement in accordance with Charter of Human Rights and Responsibilities Act:

In accordance with section 28 of the Charter of Human Rights and Responsibilities (charter), I make this statement of compatibility with respect to the University of Melbourne Bill 2009.

In my opinion, the University of Melbourne Bill 2009 as introduced in the Legislative Assembly, is compatible with the human rights protected by the charter. I base my opinion on the reasons outlined in this statement.

1. Overview of bill

Victoria has eight public universities which are currently covered by some 20 pieces of legislation. In the annual statement of government intentions 2008, the government outlined a priority to modernise this legislation through a new principal act for each university.

The university bills are based on template legislation that will be used for all of Victoria's public universities, to ensure consistency with the agreed national protocols for university

governance. The primary purpose of the template legislation is to rationalise existing separate pieces of legislation, remove obsolete provisions and provide each university with its own current act reflecting best practice and a consistent approach to governance and reporting requirements. The university bills also amend governance provisions where appropriate to meet the requirements of the commonwealth's revised national governance protocols.

The university bills will each set out the objects and powers of each university, and its status as a body corporate and body politic consisting of a council, academic staff, graduates and students. The university bills will provide for a seal, so that each university enjoys all the powers of an individual, such as the capacity to sue and be sued, enter into contracts and acquire land.

The university bills will allow for the continued existence of the universities' respective governing council and set out its powers, functions and membership. The council of each university will have the power to make, revoke and alter any statutes and regulations pertaining to the university. The university bills will also set out each university's powers relating to property, finance and commercial activities.

The University of Melbourne Bill 2009 accords with these principles.

2. Human rights issues

The University of Melbourne Bill 2009 has been assessed against the charter.

Right to property

Section 20 of the charter provides that a person must not be deprived of his or her property other than in accordance with law. This means that any law that deprives a person of his or her property must be sufficiently precise, accessible and should not be arbitrary.

Clause 37 of each of the bills grants the minister, after consultation with the council, the power to compulsorily acquire any land for the purpose of, or in connection with the university. As this power is governed by the Land Acquisition and Compensation Act 1986 (land acquisition act), the right to property is not engaged as the acquisition of land would be in accordance with law.

The power to acquire land is not arbitrary as the land acquisition act sets out clear and accessible procedures for acquiring land and determining the amount of compensation payable. The titleholder must be notified of any intention to acquire land by the minister, and has the right to have any dispute arising out of the acquisition determined judicially.

Accordingly, there is no infringement of the property right under the charter.

3. Conclusion

I consider that the University of Melbourne Bill 2009 is compatible with the Charter of Human Rights and Responsibilities because to the extent that some provisions do raise human rights issues, these provisions do not limit human rights.

Jacinta Allan, MP
Minister

Second reading

Ms ALLAN (Minister for Skills and Workforce Participation) — I move:

That this bill be now read a second time.

Speaker, today represents a significant landmark in the history of higher education in the state of Victoria.

I am moving the second reading now of the University of Melbourne Bill 2009 and following I will be moving the second readings of similar bills in relation to Monash University, La Trobe University and Deakin University.

I am moving the second readings of each of the universities in the order of their date of establishment, which is in no way meant to indicate an order of precedence.

I will be introducing bills relating to Victoria University, Swinburne University of Technology, RMIT University and the University of Ballarat in November.

The bills will be largely identical except that each university has a unique preamble and some provisions reflecting its distinctive character, history and mission. The bills also vary with respect to transitional matters at part 8.

It gives me great pleasure to present to Parliament, on behalf of the government, the most significant reform of university legislation since the University Act of 1853, which created Victoria's first university, the University of Melbourne.

For more than 150 years, higher education legislation has evolved in a piecemeal and incremental nature. This approach is now outdated and it is right that we introduce legislation that is robust and meets contemporary needs and contemporary expectations.

In February 2008, the Premier announced that the government was undertaking a comprehensive review of Victorian higher education legislation.

As Minister for Skills and Workforce Participation, I initiated a consultation program in early 2008. My department and I have worked closely with both universities and key stakeholders to develop the most appropriate and consistent legislation that will enable Victoria's universities to be amongst the most competitive and highest performing institutions in the world.

This represents one of a group of initiatives that the Brumby government has committed to in order to provide Victorians with a world-class tertiary education system.

Our excellent vocational and educational training system has been made even better through our $316 million skills reform package Securing Jobs for Your Future — Skills for Victoria. I announced in April this year the formation of an expert panel to assist government in shaping a tertiary education system for the coming generations of Victorians, one that is truly accessible and equitable. These university reforms form part of that effort.

So today I am presenting to Parliament the opportunity to offer our world-class universities the contemporary governance arrangements that will allow them to perform at their peak in today's continuously changing environment.

The preamble to the University of Melbourne Bill 2009 recognises that university as Victoria's first, created as one of the very early acts of the newly established legislature of the colony of Victoria and less than two decades after the establishment of the town of Melbourne itself.

Legislation to establish the university was introduced on the recommendation of a select committee chaired by the Colonial Auditor-General, Hugh Childers. The legislative process, from start to finish, took a little over two months. The select committee was established on 1 December 1852, it reported on 11 January 1853, legislation was introduced on 15 January, the bill was enacted on 8 February and received royal assent on 9 February. The university came into being in June 1853, with an initial endowment of land and £9000.

I propose to quote at a little length from the select committee's report:

> Your committee do not deem it advisable to enter upon any further details of the plan which they now recommend to your honourable house, as they are desirous that the first council of the university should be, as far as possible, unfettered in forming and carrying out her laws. But they cannot refrain, in conclusion, from expressing their hope that the institution of an university for the education of her youth, will, under divine providence, go far to redeem their adopted country from the social and moral evils with which she is threatened; to improve the character of her people; to raise her in the respect and admiration of civilised nations. At the time when the discovery of almost unbounded wealth is drawing upon her the eyes of the world, let her not neglect to show that she is mindful of duties to herself and her children, other than the mere protection of order, or the preservation of material riches.

I should like to say that as much as the world and Melbourne and Victoria have changed since those observations the essence of this statement remains constant, even allowing for the quaintness of its language to the contemporary ear.

In framing this legislation before the house today, the government was mindful that, so far as is consistent with the nature of the university as a public entity, the university itself must be unfettered in attending to its mission, governance and administration. And as much as a university contributes to the economic wellbeing of the community through skills formation and research, its mission is also very much a civilising one that looks beyond the merely material to the development of mind and person, to the enhancement of culture and to nurturing understanding and social cohesion.

The bill that I now present to Parliament reforms the foundation legislation of Melbourne University by removing redundant and/or obsolete provisions and providing it with an act reflecting contemporary best practice and a consistent approach to governance arrangements, regulation of commercial activity and general accountability and reporting requirements.

The bill repeals the Melbourne University Act 1958 and makes a new University of Melbourne Act 2009.

Going to the content of the bill, it is divided into eight parts and one schedule.

Part 1 sets out the purposes of the bill, which are to repeal the Melbourne University Act 1958 and other obsolete acts and make a new University of Melbourne Act 2009. It provides for a commencement date; it provides definitions.

Part 2 provides for the constitution and governance of the university. It recreates the university as a body politic and corporate with perpetual succession and enables the university to do all things that a body corporate may by law do and suffer.

Clause 5 of the legislation provides for the objects of the university which recognises its character as an institution of higher education in teaching and scholarship and in both pure and applied research. The objects also recognise that a modern university may reach out of the traditional domains of higher education and deliver other forms of education and training. This is for the university itself to determine.

The objects of the university include that it provides programs and services in a way that reflects principles of equity and social justice.

In particular, the objects provide that the university use its expertise and resources to involve Aboriginal and Torres Strait Islander people of Australia in their teaching, learning, research and advancement of knowledge activities.

It confirms the role of the council of the university as its governing body, responsible for the general direction and superintendence of the university, including the appointment of senior officers of the university, those being the chancellor, any deputy chancellors and the vice-chancellor.

It provides for a common seal to be used as directed by the council or as authorised by any statute or regulation. This means that the university may, for example, execute a deed without using the common seal, if so authorised by the council or by statute or regulation. This would be in keeping with the current provisions of Australian Corporations Law, by which the use of a common seal is no longer mandatory. The only required use of the common seal in this bill is in making a statute, as provided by clause 31.

It enables the university to confer degrees and grant other awards.

A significant change concerns the composition of the council. Presently the university council comprises 21 members. The provisions of this bill allow the university to determine for itself the number of council members in a range from a minimum of 14 to a maximum of 21 members.

Council members continue to be indemnified in exercising their functions and duties carried out in good faith and honesty and for proper purposes consistent with the objectives of the university.

Part 3 of the bill deals with persons and bodies connected with the university.

It provides for the creation of an academic board or its equivalent but is different from existing legislation in that the new legislation will enable the university, through its council, to determine itself the role, functions and responsibilities of the board, rather than prescribe the functions of such a body in the way the existing act does.

The new legislation also makes it clear that it is the university itself which determines its academic structure and organisation and the naming of its various divisions, whether they be titled faculties, schools, units or institutes.

Part 4 concerns the officers of the university.

It requires the appointment of a chancellor for a term not exceeding five years. It provides for the appointment of at least one deputy chancellor.

It provides for the appointment of a vice-chancellor and president to act as the chief executive officer of the university, responsible for the conduct of the university's affairs in all matters. It styles the vice-chancellor as also 'president', as this is an internationally recognised title of a university chief executive officer. It more clearly defines the vice-chancellor's role, vis-a-vis the council, clearly delineating between the vice-chancellor's responsibility to manage the affairs of the university and the council's responsibility for the governance of the university and oversight of the vice-chancellor's administration. It allows for the appointment of an interim vice-chancellor for a period not exceeding twelve months.

Part 5 deals with university statutes and university regulations.

The university council is empowered to make statutes within its jurisdiction relating to a wide range of matters as set out in clause 29. Many of these matters concern academic standards and processes, and administrative policies of one kind or another. The bill also clarifies the university's powers to make statutes in respect of any person entering the university or using its facilities, concerning such matters as parking at the university and borrowing books. The matters set out in clause 29 are not exclusive and the university is empowered to deal with any other matter within its jurisdiction necessary for the good governance of the university and its management.

Part 6 deals with property, finance and commercial activities.

It enables the university to acquire by purchase, gift, grant, bequest or devise any property for the purposes of this act.

As now, the minister may compulsorily acquire land for the purposes of the university under the Land Acquisition and Compensation Act 1986. As now, the university must not alienate any Crown land, or land gifted by the state, without the prior approval of the minister or any land or property where the sum of consideration exceeds $5 million as against $3 million in the present legislation, except as provided in clause 38. Similarly, the university must not grant or lease for a term exceeding 21 years any such lands.

However, any land which has been acquired by the university itself for investment purposes may be

disposed of by the university of its own accord, as provided in clause 38.

Provisions relating to trust funds and related matters remain broadly as in the present act.

Similarly, the borrowing powers of the university remain as currently provided and are subject to the approval of the Treasurer, in consultation with the minister.

The university must arrange for an audit of the income and expenditure of the university by the Auditor-General.

The university is enabled to participate in the formation of limited and other companies and, unlike the requirement of the present act, need not notify the minister of such participation. Such companies are generally subject to audit by the Auditor-General and, as now, the new legislation provides the Auditor-General with a wide range of powers to conduct such audits.

A significant innovation relates to the commercial activities of the university. The new legislation provides that the university may create guidelines relating to its participation in commercial activities. These guidelines are subject to the approval of the minister, in consultation with the Treasurer. It is not intended that the government intrude into the management of the university's affairs. The guidelines are intended to reflect best practice in respect of matters such as risk management, due diligence, oversight of commercial activity and so on.

The requirement for guidelines arises out of the university's character as a public entity. As indicated, such guidelines will be developed by the university itself in consultation, as necessary, with my department and/or the Department of Treasury and Finance.

While I expect that guidelines for each of the universities will have certain core provisions, common to each of them, I am not prescribing a 'one size fits all' model. The guidelines for a particular university do need to provide for the specific circumstances and practices of that university.

The new legislation does allow the minister to make interim guidelines where no guidelines exist and until such time as guidelines are developed and approved.

The guidelines will be published in the *Government Gazette* and therefore be available publicly. The guidelines may also be published on the internet.

Adopting such guidelines is a contemporary approach that is a great deal more flexible and adaptive to necessary change than the cumbersome, highly prescriptive approach currently set out in legislation.

Part 7 provides that a fine imposed under university statutes or regulations is a civil debt recoverable summarily. This is similar to the current provisions.

Part 8 deals with the repeal of legislation made redundant by this legislation, any necessary amendments of other legislation and savings provisions. It also provides for the continuation of the council as the same body as it was immediately before the commencement of the legislation. It provides that any statute or regulation of the university made under the old act and in force at the commencement of this legislation continues.

Schedule 1 of the legislation sets out the membership and procedure of the council. These provisions are similar to the current provisions except that the minister is now empowered to make interim appointments for a period not exceeding six months. This provision corrects a deficiency in the present legislation which does not allow for such appointments, even where there are unavoidable delays in making a permanent appointment. Lengthy vacancies on council can be disruptive of council proceedings.

Victoria takes pride in the scholarship, global reputation and rich cultural diversity of its universities. Higher education plays a vital role with respect to the future of an innovative and creative economy. Improved health and wellbeing, higher productivity and enhanced quality of life are all fundamentally linked with the public goods that are generated through the provision of quality higher education.

The bill before the house sets out a contemporary legislative framework for the good governance and administration of the Melbourne University, to achieve the learning and scholarship, the research, cultural, social and economic purposes of the university, for the benefit of the people of Victoria and the wider Australian and international communities.

I commend the bill to the house.

Debate adjourned on motion of Mr DIXON (Nepean).

Debate adjourned until Thursday, 1 October.

MONASH UNIVERSITY BILL

Statement of compatibility

Ms ALLAN (Minister for Skills and Workforce Participation) tabled following statement in accordance with Charter of Human Rights and Responsibilities Act:

In accordance with section 28 of the Charter of Human Rights and Responsibilities (charter), I make this statement of compatibility with respect to the Monash University Bill 2009.

In my opinion, the Monash University Bill 2009 as introduced in the Legislative Assembly, is compatible with the human rights protected by the Charter. I base my opinion on the reasons outlined in this statement.

1. Overview of bill

Victoria has eight public universities which are currently covered by some 20 pieces of legislation. In the annual statement of government intentions 2008, the government outlined a priority to modernise this legislation through a new principal act for each university.

The university bills are based on template legislation that will be used for all of Victoria's public universities, to ensure consistency with the agreed national protocols for university governance. The primary purpose of the template legislation is to rationalise existing separate pieces of legislation, remove obsolete provisions and provide each university with its own current act reflecting best practice and a consistent approach to governance and reporting requirements. The university bills also amend governance provisions where appropriate to meet the requirements of the commonwealth's revised national governance protocols.

The university bills will each set out the objects and powers of each university, and its status as a body corporate and body politic consisting of a council, academic staff, graduates and students. The university bills will provide for a seal, so that each university enjoys all the powers of an individual, such as the capacity to sue and be sued, enter into contracts and acquire land.

The university bills will allow for the continued existence of the universities' respective governing council and set out its powers, functions and membership. The council of each university will have the power to make, revoke and alter any statutes and regulations pertaining to the university. The university bills will also set out each university's powers relating to property, finance and commercial activities.

The Monash University Bill 2009 accords with these principles.

2. Human rights issues

The Monash University Bill 2009 has been assessed against the charter.

Right to property

Section 20 of the charter provides that a person must not be deprived of his or her property other than in accordance with law. This means that any law that deprives a person of his or her property must be sufficiently precise, accessible and should not be arbitrary.

Clause 37 of each of the bills grants the minister, after consultation with the council, the power to compulsorily acquire any land for the purpose of, or in connection with the university. As this power is governed by the Land Acquisition and Compensation Act 1986 (land acquisition act), the right to property is not engaged as the acquisition of land would be in accordance with law.

The power to acquire land is not arbitrary as the land acquisition act sets out clear and accessible procedures for acquiring land and determining the amount of compensation payable. The titleholder must be notified of any intention to acquire land by the minister, and has the right to have any dispute arising out of the acquisition determined judicially.

Accordingly, there is no infringement of the property right under the charter.

3. Conclusion

I consider that the Monash University Bill 2009 is compatible with the Charter of Human Rights and Responsibilities because to the extent that some provisions do raise human rights issues, these provisions do not limit human rights.

Jacinta Allan, MP
Minister

Second reading

Ms ALLAN (Minister for Skills and Workforce Participation) — I move:

That this bill be now read a second time.

Monash University was established by an act of Parliament in 1958, making it the first university to be established in the state of Victoria for 106 years and only the second university established in Victoria.

From its first intake of 347 students at Clayton in 1961, the university grew rapidly in size and student numbers so that by 1967, it had more than 7000 students. In 1990, Monash moved beyond the borders of Clayton and merged with the Chisholm Institute of Technology, creating the university's Caulfield and Peninsula campuses. This was followed by the establishment of the Gippsland campus which officially became part of Monash University in 1991.

In 1998, the Malaysian Ministry of Education invited Monash to set up a campus in Malaysia jointly with the Sunway Group. The Sunway campus in Malaysia was established in 1998 — the first Monash campus outside Australia. A second offshore campus was opened in South Africa in 2001.

From a single campus at Clayton with fewer than 400 students, Monash has grown into a network of

campuses, centres and partnerships around the world with more than 55 000 students from over 130 countries.

More recently, Monash University has worked with the Brumby government to establish a national synchrotron — one of the most exciting and significant science infrastructure developments in Australia.

For more than 150 years, higher education legislation in Victoria has evolved in a piecemeal and incremental nature. Therefore, in February 2008, the Premier announced that the government was undertaking a comprehensive review of Victorian higher education legislation.

As Minister for Skills and Workforce Participation, I initiated a consultation program in early 2008. My department and I have worked closely with both universities and key stakeholders to develop the most appropriate and consistent legislation that will enable Victoria's universities to be amongst the most competitive and highest performing institutions in the world.

This represents one of a group of initiatives that the Brumby government has committed to in order to provide Victorians with a world-class tertiary education system.

Our excellent vocational and educational training system has been made even better through our $316 million skills reform package, Securing Jobs for Your Future — Skills for Victoria. The Premier and I announced in April this year the formation of an expert panel to assist government in shaping a tertiary education system for the coming generations of Victorians, one that is truly accessible and equitable. These university reforms form part of that effort.

So today I am presenting to Parliament the opportunity to offer our world-class universities the contemporary governance arrangements that will allow them to perform at their peak in today's continuously changing environment.

The bill that I now present to Parliament reforms the foundation legislation of Monash University by removing redundant and/or obsolete provisions and provide it with an act reflecting contemporary best practice and a consistent approach to governance arrangements, regulation of commercial activity and general accountability and reporting requirements.

The new bill for Monash University repeals the Monash University Act 1958 and provides for a new Monash University Act 2009.

Going to the content of the bill, it is divided into eight parts and one schedule.

Part 1 sets out the purposes of the bill, which are to repeal the Monash Act 1958 and other obsolete acts and make a new Monash University Act 2009, it provides for a commencement date and it provides definitions.

Part 2 provides for the constitution and governance of the university. It recreates the university as a body politic and corporate with perpetual succession and enables the university to do all things that a body corporate may by law do and suffer.

Clause 5 of the legislation provides for the objects of the university which recognises its character as an institution of higher education, in teaching and scholarship, and in both pure and applied research. The objects also recognise that a modern university may reach out of the traditional domains of higher education and deliver other forms of education and training. This is for the university itself to determine.

The objects of the university include that it provides programs and services in a way that reflects principles of equity and social justice.

In particular, the objects provide that the university use its expertise and resources to involve Aboriginal and Torres Strait Islander people of Australia in their teaching, learning, research and advancement of knowledge activities.

It confirms the role of the council of the university as its governing body, responsible for the general direction and superintendence of the university, including the appointment of senior officers of the university, those being the chancellor, any deputy chancellors and the vice-chancellor.

It provides for a common seal to be used as directed by the council or as authorised by any statute or regulation. This means that the university may, for example, execute a deed without using the common seal if so authorised by the council or by statute or regulation. This would be in keeping with the current provisions of Australian Corporations Law, by which the use of a common seal is no longer mandatory. The only required use of the common seal is in making a statute, as provided by clause 31.

It enables the university to confer degrees and grant other awards.

A significant change concerns the composition of the council. Presently the university council comprises 21 members. The provisions of this bill allow the

university to determine for itself the number of council members in a range from a minimum of 14 to a maximum of 21 members.

Council members continue to be indemnified in exercising their functions and duties carried out in good faith and honesty and for proper purposes consistent with the objectives of the university.

Part 3 of the bill deals with persons and bodies connected with the university.

It provides for the creation of an academic board or its equivalent but is different from existing legislation in that the new legislation will enable the university through its council to determine itself the role, functions and responsibilities of the board rather than prescribe the functions of such a body in the way the existing act does.

The new legislation also makes it clear that it is the university itself which determines its academic structure and organisation and the naming of its various divisions, whether they be titled faculties, schools, units or institutes.

Part 4 concerns the officers of the university.

It requires the appointment of a chancellor for a term not exceeding five years. It provides for the appointment of at least one deputy chancellor.

It provides for the appointment of a vice-chancellor and president to act as the chief executive officer of the university, responsible for the conduct of the university's affairs in all matters. It also styles the vice-chancellor as 'president', which is an internationally recognised title of a university chief executive officer. It more clearly defines the vice-chancellor's role, vis-a-vis the council, clearly delineating between the vice-chancellor's responsibility to manage the affairs of the university and the council's responsibility for the governance of the university and oversight of the vice-chancellor's administration. It allows for the appointment of an interim vice-chancellor for a period not exceeding 12 months.

Part 5 deals with university statutes and university regulations.

The university council is empowered to make statutes within its jurisdiction relating to a wide range of matters as set out in clause 29. Many of these matters concern academic standards and processes and administrative policies of one kind or another. The bill also clarifies the university's powers to make statutes in respect of any person entering the university or using its facilities, concerning such matters as parking at the university and borrowing books. The matters set out in clause 29 are not exclusive and the university is empowered to deal with any other matter within its jurisdiction necessary for the good governance of the university and its management.

Part 6 deals with property, finance and commercial activities.

It enables the university to acquire by purchase, gift, grant, bequest or devise any property for the purposes of this act.

As now, the minister may compulsorily acquire land for the purposes of the university under the Land Acquisition and Compensation Act 1986. As now, the university must not alienate any Crown land or land gifted by the state without the prior approval of the minister — at this point I pause and draw the house's attention to the following set of words, which are not in the printed version that has been circulated — or any other property or land where the sum of consideration exceeds $5 million as against $3 million in the present legislation, except as provided in clause 38. Similarly, the university must not grant or lease for a term exceeding 21 years any such lands.

However, any land which has been acquired by the university itself for investment purposes may be disposed of by the university of its own accord, as provided in clause 38.

Provisions relating to trust funds and related matters remain as in the present legislation.

Similarly, the borrowing powers of the university remain as currently provided and are subject to the approval of the Treasurer in consultation with the minister.

The university must arrange for an audit of the income and expenditure of the university by the Auditor-General.

The university is enabled to participate in the formation of limited and other companies and, unlike the requirement of the present act, need not notify the minister of such participation. Such companies are generally subject to audit by the Auditor-General and as now the new legislation provides the Auditor-General with a wide range of powers to conduct such audits.

A significant innovation relates to the commercial activities of the university. The new legislation provides that the university may create guidelines relating to its participation in commercial activities. These guidelines

are subject to the approval of the minister in consultation with the Treasurer. It is not intended that the government intrude into the management of the university's affairs. The guidelines are intended to reflect best practice in respect of matters such as risk management, due diligence, oversight of commercial activity and so on.

The requirement for guidelines arises out of the university's character as a public entity. As indicated, such guidelines will be developed by the university itself in consultation, as necessary, with my department and/or the Department of Treasury and Finance.

While I expect that guidelines for each of the universities will have certain core provisions, common to each of them, I am not prescribing a 'one-size-fits-all' model. The guidelines for a particular university do need to provide for the specific circumstances and practices of that university.

The new legislation does allow the minister to make interim guidelines where no guidelines exist and until such time as guidelines are developed and approved.

The guidelines will be published in the *Government Gazette* and therefore be available publicly. The guidelines may also be published on the internet.

Adopting such guidelines is a contemporary approach that is a great deal more flexible and adaptive to necessary change than the cumbersome, highly prescriptive approach currently set out in legislation.

Part 7 provides that a fine imposed under university statutes or regulations is a civil debt recoverable summarily. This is similar to the current provisions.

Part 8 deals with the repeal of legislation made redundant by this legislation, any necessary amendments of other legislation and savings provisions. It also provides for the continuation of the council as the same body as it was immediately before the commencement of the legislation. It provides that any statute or regulation of the university made under the old act and in force at the commencement of this legislation continues.

Schedule 1 of the legislation sets out the membership and procedure of the council. These provisions are similar to the current provisions except that it empowers the minister to make interim appointments for a period not exceeding six months. This provision corrects a deficiency in the present legislation which does not allow for such appointments even where there are unavoidable delays in making a permanent appointment. Lengthy vacancies on council can be disruptive of council proceedings.

Victoria takes pride in the scholarship, global reputation and rich cultural diversity of its universities. Higher education plays a vital role with respect to the future of an innovative and creative economy. Improved health and wellbeing, higher productivity and enhanced quality of life are all fundamentally linked with the public goods that are generated through the provision of quality higher education.

The bill before the house sets out a contemporary legislative framework for the good governance and administration of Monash University, to achieve the learning and scholarship, the research, cultural, social and economic purposes of the university, for the benefit of the people of Victoria and the wider Australian and international communities.

I commend this bill to the house.

Debate adjourned on motion of Mr DIXON (Nepean).

Debate adjourned until Thursday, 1 October.

LA TROBE UNIVERSITY BILL

Statement of compatibility

Ms ALLAN (Minister for Skills and Workforce Participation) tabled following statement in accordance with Charter of Human Rights and Responsibilities Act:

In accordance with section 28 of the Charter of Human Rights and Responsibilities (charter), I make this statement of compatibility with respect to the La Trobe University Bill 2009.

In my opinion, the La Trobe University Bill 2009 as introduced in the Legislative Assembly, is compatible with the human rights protected by the charter. I base my opinion on the reasons outlined in this statement.

1. Overview of bill

Victoria has eight public universities which are currently covered by some 20 pieces of legislation. In the annual statement of government intentions 2008 the government outlined a priority to modernise this legislation through a new principal act for each university.

The university bills are based on template legislation that will be used for all of Victoria's public universities, to ensure consistency with the agreed national protocols for university governance. The primary purpose of the template legislation is to rationalise existing separate pieces of legislation, remove obsolete provisions and provide each university with its own current act reflecting best practice and a consistent approach

to governance and reporting requirements. The university bills also amend governance provisions where appropriate to meet the requirements of the commonwealth's revised national governance protocols.

The university bills will each set out the objects and powers of each university, and its status as a body corporate and body politic consisting of a council, academic staff, graduates and students. The university bills will provide for a seal, so that each university enjoys all the powers of an individual, such as the capacity to sue and be sued, enter into contracts and acquire land.

The university bills will allow for the continued existence of the universities' respective governing council and set out its powers, functions and membership. The council of each university will have the power to make, revoke and alter any statutes and regulations pertaining to the university. The university bills will also set out each university's powers relating to property, finance and commercial activities.

The La Trobe University Bill 2009 accords with these principles.

2. Human rights issues

The La Trobe University Bill 2009 has been assessed against the charter.

Right to property

Section 20 of the charter provides that a person must not be deprived of his or her property other than in accordance with law. This means that any law that deprives a person of his or her property must be sufficiently precise, accessible and should not be arbitrary.

Clause 37 of each of the bills grants the minister, after consultation with the council, the power to compulsorily acquire any land for the purpose of, or in connection with the university. As this power is governed by the Land Acquisition and Compensation Act 1986 (land acquisition act), the right to property is not engaged as the acquisition of land would be in accordance with law.

The power to acquire land is not arbitrary as the land acquisition act sets out clear and accessible procedures for acquiring land and determining the amount of compensation payable. The titleholder must be notified of any intention to acquire land by the minister, and has the right to have any dispute arising out of the acquisition determined judicially.

Accordingly, there is no infringement of the property right under the charter.

3. Conclusion

I consider that the La Trobe University Bill 2009 is compatible with the Charter of Human Rights and Responsibilities because to the extent that some provisions do raise human rights issues, these provisions do not limit human rights.

Jacinta Allan, MP
Minister

Second reading

Ms ALLAN (Minister for Skills and Workforce Participation) — I move:

That this bill be now read a second time.

Speaker, La Trobe University was the third university to be established in Victoria, with 552 students enrolling in 1967.

As set in the preamble to the bill, La Trobe's founding mission was, and remains, to serve the community of Victoria for the purposes of higher education, for the education, economic, social and cultural benefit of Victorians and for wider Australian and international communities.

From inception, La Trobe has been particularly focused on providing access to quality higher education to those from disadvantaged backgrounds and has become an internationally recognised leader in this field.

In the 42 years since its establishment, it has grown to accommodate more than 26 000 students, including approximately 3500 international students from over 90 countries.

La Trobe now boasts a number of campuses with 15 000 students at its Melbourne (Bundoora) campus and over 7000 at its campuses in Albury-Wodonga, Beechworth, Bendigo, Mildura, Melbourne city and Shepparton.

In February 2008 the Premier announced that the government was undertaking a comprehensive review of Victorian higher education legislation. As Minister for Skills and Workforce Participation, I initiated a consultation program in early 2008. My department and I have worked closely with both universities and key stakeholders to develop the most appropriate and consistent legislation that will enable Victoria's universities to be amongst the most competitive and highest performing institutions in the world.

This represents one of a group of initiatives that the Brumby government has committed to in order to provide Victorians with a world-class tertiary education system.

Our excellent vocational and educational training system has been made even better through our $316 million skills reform package, Securing Jobs for Your Future — Skills for Victoria. The Premier and I announced in April this year the formation of an expert panel to assist the government in shaping a tertiary education system for the coming generations of

Victorians, one that is truly accessible and equitable. These university reforms form part of that effort.

So today I am presenting to Parliament the opportunity to offer our world-class universities the contemporary governance arrangements that will allow them to perform at their peak in today's continuously changing environment.

The bill that I now present to Parliament reforms the foundation legislation of La Trobe University by removing redundant and/or obsolete provisions and providing it with an act reflecting contemporary best practice and a consistent approach to governance arrangements, regulation of commercial activity and general accountability and reporting requirements.

The new bill repeals the La Trobe University Act 1964 and provides for a new La Trobe University Act 2009.

Going to the content of the bill, it is divided into eight parts and one schedule.

Part 1 sets out the purposes of the bill, which are to repeal the La Trobe University Act 1964 and other obsolete acts and make a new La Trobe University Act 2009, it provides for a commencement date and it provides definitions.

Part 2 provides for the constitution and governance of the university. It recreates the university as a body politic and corporate with perpetual succession and enables the university to do all things that a body corporate may by law do and suffer.

Clause 5 of the legislation provides for the objects of the university which recognises its character as an institution of higher education, in teaching and scholarship, and in both pure and applied research. The objects also recognise that a modern university may reach out of the traditional domains of higher education and deliver other forms of education and training. This is for the university itself to determine.

The objects of the university include that it provides programs and services in a way that reflects principles of equity and social justice.

In particular, the objects provide that the university use its expertise and resources to involve Aboriginal and Torres Strait Islander people of Australia in its teaching, learning, research and advancement of knowledge activities.

It confirms the role of the council of the university as its governing body, responsible for the general direction and superintendence of the university, including the appointment of senior officers of the university, those being the chancellor, any deputy chancellors and the vice-chancellor.

It provides for a common seal to be used as directed by the council or as authorised by any statute or regulation. This means that the university may, for example, execute a deed without using the common seal if so authorised by the council or by statute or regulation. This would be in keeping with the current provisions of Australian Corporations Law, by which the use of a common seal is no longer mandatory. The only required use of the common seal is in making a statute, as provided by clause 31.

It enables the university to confer degrees and grant other awards.

A significant change concerns the composition of the council. Presently the university council comprises 21 members. The provisions of this bill allow the university to determine for itself the number of council members in a range from a minimum of 14 to a maximum of 21 members. The bill will maintain the university council representational provisions as defined in previous legislation, maintaining two university council members from the Bendigo region and one from the Albury-Wodonga region.

Council members continue to be indemnified in exercising their functions and duties carried out in good faith and honesty and for proper purposes consistent with the objectives of the university.

Part 3 of the bill deals with persons and bodies connected with the university.

It provides for the creation of an academic board or its equivalent but is different from existing legislation in that the new legislation will enable the university through its council to determine itself the role, functions and responsibilities of the board rather than prescribe the functions of such a body in the way the existing act does.

The new legislation also makes it clear that it is the university itself which determines its academic structure and organisation and the naming of its various divisions, whether they be titled faculties, schools, units or institutes.

Part 4 concerns the officers of the university.

It requires the appointment of a chancellor for a term not exceeding five years. It provides for the appointment of at least one deputy chancellor.

It provides for the appointment of a vice-chancellor and president to act as the chief executive officer of the university, responsible for the conduct of the university's affairs in all matters. It also styles the vice-chancellor as 'president', which is an internationally recognised title of a university chief executive officer. It more clearly defines the vice-chancellor's role, vis-a-vis the council, clearly delineating between the vice-chancellor's responsibility to manage the affairs of the university and the council's responsibility for the governance of the university and oversight of the vice-chancellor's administration. It allows for the appointment of an interim vice-chancellor for a period not exceeding 12 months.

Part 5 deals with university statutes and university regulations.

The university council is empowered to make statutes within its jurisdiction relating to a wide range of matters as set out in clause 29. Many of these matters concern academic standards and processes, and administrative policies of one kind or another. The bill also clarifies the university's powers to make statutes in respect of any person entering the university or using its facilities, concerning such matters as parking at the university and borrowing books. The matters set out in clause 29 are not exclusive and the university is empowered to deal with any other matter within its jurisdiction necessary for the good governance of the university and its management.

Part 6 deals with property, finance and commercial activities.

It enables the university to acquire by purchase, gift, grant, bequest or devise any property for the purposes of this act.

As now, the minister may compulsorily acquire land for the purposes of the university under the Land Acquisition and Compensation Act 1986. As now, the university must not alienate any Crown land, or land gifted by the state without the prior approval of the minister or — and I pause at this point to draw the house's attention to the fact that these words are different to those in the printed version that has been circulated — any land or property where the sum of consideration exceeds $5 million as against $3 million in the present legislation, except as provided in clause 38. Similarly, the university must not grant or lease for a term exceeding 21 years any such lands.

However, any land which has been acquired by the university itself for investment purposes may be disposed of by the university of its own accord, as provided in clause 38.

Provisions relating to trust funds and related matters remain as in the present legislation.

Similarly, the borrowing powers of the university remain as currently provided and are subject to the approval of the Treasurer in consultation with the minister.

The university must arrange for an audit of the income and expenditure of the university by the Auditor-General.

The university is enabled to participate in the formation of limited and other companies and, unlike the requirement of the present act, need not notify the minister of such participation. Such companies are generally subject to audit by the Auditor-General and as now the new legislation provides the Auditor-General with a wide range of powers to conduct such audits.

A significant innovation relates to the commercial activities of the university. The new legislation provides that the university may create guidelines relating to its participation in commercial activities. These guidelines are subject to the approval of the minister in consultation with the Treasurer. It is not intended that the government intrude into the management of the university's affairs. The guidelines are intended to reflect best practice in respect of matters such as risk management, due diligence, oversight of commercial activity and so on.

The requirement for guidelines arises out of the university's character as a public entity. As indicated, such guidelines will be developed by the university itself in consultation, as necessary, with my department and/or the Department of Treasury and Finance.

While I expect that guidelines for each of the universities will have certain core provisions, common to each of them, I am not prescribing a 'one-size-fits-all' model. The guidelines for a particular university do need to provide for the specific circumstances and practices of that university.

The new legislation does allow the minister to make interim guidelines where no guidelines exist and until such time as guidelines are developed and approved.

The guidelines will be published in the *Government Gazette* and therefore be available publicly. The guidelines may also be published on the internet.

Adopting such guidelines is a contemporary approach that is a great deal more flexible and adaptive to necessary change than the cumbersome, highly prescriptive approach currently set out in legislation.

Part 7 provides that a fine imposed under university statutes or regulations is a civil debt recoverable summarily. This is similar to the current provisions.

Part 8 deals with the repeal of legislation made redundant by this legislation, any necessary amendments of other legislation and savings provisions. It also provides for the continuation of the council as the same body as it was immediately before the commencement of the legislation. It provides that any statute or regulation of the university made under the old act and in force at the commencement of this legislation continues.

Schedule 1 of the legislation sets out the membership and procedure of the council. These provisions are similar to the current provisions except that it empowers the minister to make interim appointments for a period not exceeding six months. This provision corrects a deficiency in the present legislation which does not allow for such appointments even where there are unavoidable delays in making a permanent appointment. Lengthy vacancies on council can be disruptive of council proceedings.

Victoria takes pride in the scholarship, global reputation and rich cultural diversity of its universities. Higher education plays a vital role with respect to the future of an innovative and creative economy. Improved health and wellbeing, higher productivity and enhanced quality of life are all fundamentally linked with the public goods that are generated through the provision of quality higher education.

The bill before the house sets out a contemporary legislative framework for the good governance and administration of La Trobe University, to achieve the learning and scholarship, the research, cultural, social and economic purposes of the university, for the benefit of the people of Victoria and the wider Australian and international communities.

I commend this bill to the house.

Debate adjourned on motion of Mr DIXON (Nepean).

Debate adjourned until Thursday, 1 October.

DEAKIN UNIVERSITY BILL

Statement of compatibility

Ms ALLAN (Minister for Skills and Workforce Participation) tabled following statement in accordance with Charter of Human Rights and Responsibilities Act:

In accordance with section 28 of the Charter of Human Rights and Responsibilities (charter), I make this statement of compatibility with respect to the Deakin University Bill 2009.

In my opinion, the Deakin University Bill 2009, as introduced in the Legislative Assembly, is compatible with the human rights protected by the charter. I base my opinion on the reasons outlined in this statement.

1. Overview of bill

Victoria has eight public universities which are currently covered by some 20 pieces of legislation. In the annual statement of government intentions 2008, the government outlined a priority to modernise this legislation through a new principal act for each university.

The university bills are based on template legislation that will be used for all of Victoria's public universities, to ensure consistency with the agreed national protocols for university governance. The primary purpose of the template legislation is to rationalise existing separate pieces of legislation, remove obsolete provisions and provide each university with its own current act reflecting best practice and a consistent approach to governance and reporting requirements. The university bills also amend governance provisions where appropriate to meet the requirements of the commonwealth's revised national governance protocols.

The university bills will each set out the objects and powers of each university, and its status as a body corporate and body politic consisting of a council, academic staff, graduates and students. The university bills will provide for a seal, so that each university enjoys all the powers of an individual, such as the capacity to sue and be sued, enter into contracts and acquire land.

The university bills will allow for the continued existence of the universities' respective governing council and set out its powers, functions and membership. The council of each university will have the power to make, revoke and alter any statutes and regulations pertaining to the university. The university bills will also set out each university's powers relating to property, finance and commercial activities.

The Deakin University Bill 2009 accords with these principles.

2. Human rights issues

The Deakin University Bill 2009 has been assessed against the charter.

Right to property

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

her property must be sufficiently precise, accessible and should not be arbitrary.

Clause 37 of the bill grants the minister, after consultation with the council, the power to compulsorily acquire any land for the purpose of, or in connection with the university. As this power is governed by the Land Acquisition and Compensation Act 1986 (land acquisition act), the right to property is not engaged as the acquisition of land would be in accordance with law.

The power to acquire land is not arbitrary as the land acquisition act sets out clear and accessible procedures for acquiring land and determining the amount of compensation payable. The titleholder must be notified of any intention to acquire land by the minister, and has the right to have any dispute arising out of the acquisition determined judicially.

Accordingly, there is no infringement of the property right under the charter.

3. Conclusion

I consider that the Deakin University Bill 2009 is compatible with the Charter of Human Rights and Responsibilities because to the extent that some provisions do raise human rights issues, these provisions do not limit human rights.

Jacinta Allan, MP
Minister

Second reading

Ms ALLAN (Minister for Skills and Workforce Participation) — I move:

That this bill be now read a second time.

Since Deakin University's inception in 1974 and its official opening at the Waurn Ponds campus in Geelong in 1977, it has undergone significant growth and change.

As set in the preamble to the bill, Deakin was Victoria's first regional university, and while the university has grown and now has a vibrant campus at Burwood in metropolitan Melbourne, Deakin retains its particular commitment to rural and regional communities and to providing equitable opportunities for people to enjoy the benefits of participation in higher education.

Deakin University aims to be a catalyst for positive change for the individuals and the communities it serves. It aspires to be recognised as Australia's most progressive university.

In the 1990s, Deakin University merged with the Warrnambool Institute of Advanced Education and the Victoria College in Melbourne and opened its second Geelong campus at the waterfront.

In 2004, Deakin opened its science and technology park at the Waurn Ponds campus, which includes the Geelong technology precinct (GTP). The GTP is a state government-backed initiative providing research and development capabilities and opportunities for university-industry partnerships and new enterprises in the region.

On 1 May 2008 Victoria's first new medical school for more than 40 years, the Deakin Medical School, was formally opened by the Prime Minister of Australia, the Honourable Kevin Rudd, with the strong financial backing and support of the Brumby government. The medical school offers a graduate entry program with strong links to rural and regional Australia and is situated at Geelong's waterfront campus, contributing more than $90 million annually to the local economy.

In February 2008, the Premier announced that the government was undertaking a comprehensive review of Victorian higher education legislation. As Minister for Skills and Workforce Participation, I initiated a consultation program in early 2008. My department and I have worked closely with both universities and key stakeholders to develop the most appropriate and consistent legislation that enables Victoria's universities to be amongst the most competitive and highest performing institutions in the world.

Our excellent vocational and educational training system has been made even better through our $316 million skills reform package Securing Jobs for Your Future — Skills for Victoria. The Premier and I announced in April this year the formation of an expert panel to assist government in shaping a tertiary education system for the coming generations of Victorians, one that is truly accessible and equitable. These university reforms form part of that effort.

So today I am presenting to Parliament the opportunity to offer our world-class universities the contemporary governance arrangements that will allow them to perform at their peak in today's continuously changing environment.

The bill that I now present to Parliament reforms the foundation legislation of Deakin University by removing redundant and/or obsolete provisions and providing it with an act reflecting contemporary best practice and a consistent approach to governance arrangements, regulation of commercial activity and general accountability and reporting requirements.

Going to the content of the bill, it is divided into eight parts and one schedule.

Part 1 sets out the purposes of the bill, which are to repeal the Deakin University Act 1974 and other obsolete acts and make a new Deakin University Act

2009, it provides for a commencement date and it provides definitions.

Part 2 provides for the constitution and governance of the university. It recreates the university as a body politic and corporate with perpetual succession and enables the university to do all things that a body corporate may by law do and suffer.

Clause 5 of the legislation provides for the objects of the university which recognises its character as an institution of higher education, in teaching and scholarship, and in both pure and applied research. The objects also recognise that a modern university may reach out of the traditional domains of higher education and deliver other forms of education and training. This is for the university itself to determine.

The objects of the university include that it provides programs and services in a way that reflects principles of equity and social justice.

In particular, the objects provide that the university use its expertise and resources to involve Aboriginal and Torres Strait Islander people of Australia in their teaching, learning, research and advancement of knowledge activities.

It confirms the role of the council of the university as its governing body, responsible for the general direction and superintendence of the university, including the appointment of senior officers of the university, those being the chancellor, any deputy chancellors and the vice-chancellor.

It provides for a common seal to be used as directed by the council or as authorised by any statute or regulation. This means that the university may, for example, execute a deed without using the common seal if so authorised by the council or by statute or regulation. This would be in keeping with the current provisions of Australian Corporations Law, by which the use of a common seal is no longer mandatory. The only required use of the common seal is in making a statute, as provided by clause 31.

It enables the university to confer degrees and grant other awards.

A significant change concerns the composition of the council. Presently the university council comprises 21 members. The provisions of this bill allow the university to determine for itself the number of council members in a range from a minimum of 14 to a maximum of 21 members.

Council members continue to be indemnified in exercising their functions and duties carried out in good faith and honesty and for proper purposes consistent with the objectives of the university.

Part 3 of the bill deals with persons and bodies connected with the university.

It provides for the creation of an academic board or its equivalent but is different from existing legislation in that the new legislation will enable the university through its council to determine itself the role, functions and responsibilities of the board rather than prescribe the functions of such a body in the way the existing act does.

The new legislation also makes it clear that it is the university itself which determines its academic structure and organisation and the naming of its various divisions, whether they be titled faculties, schools, units or institutes.

Part 4 concerns the officers of the university.

It requires the appointment of a chancellor for a term not exceeding five years. It provides for the appointment of at least one deputy chancellor.

It provides for the appointment of a vice-chancellor and president to act as the chief executive officer of the university, responsible for the conduct of the university's affairs in all matters. It also styles the vice-chancellor as 'president', which is an internationally recognised title of a university chief executive officer. It more clearly defines the vice-chancellor's role, vis-a-vis the council, clearly delineating between the vice-chancellor's responsibility to manage the affairs of the university and the council's responsibility for the governance of the university and oversight of the vice-chancellor's administration. It allows for the appointment of an interim vice-chancellor for a period not exceeding 12 months.

Part 5 deals with university statutes and university regulations.

The university council is empowered to make statutes within its jurisdiction relating to a wide range of matters as set out in clause 29. Many of these matters concern academic standards and processes, and administrative policies of one kind or another. The bill also clarifies the university's powers to make statutes in respect of any person entering the university or using its facilities, concerning such matters as parking at the university and borrowing books. The matters set out in clause 29 are not exclusive and the university is empowered to deal with any other matter within its jurisdiction

necessary for the good governance of the university and its management.

Part 6 deals with property, finance and commercial activities.

It enables the university to acquire by purchase, gift, grant, bequest or devise any property for the purposes of this act.

As now, the minister may compulsorily acquire land for the purposes of the university under the Land Acquisition and Compensation Act 1986. As now, the university must not alienate any Crown land, or land gifted by the state without the prior approval of the minister — and I pause at this point to draw the house's attention to the insertion of words that are not in the printed copy that has been circulated — or any land or property where the sum of consideration exceeds $5 million as against $3 million in the present legislation. Similarly, the university must not grant or lease for a term exceeding 21 years any such lands.

However, any land which has been acquired by the university itself for investment purposes may be disposed of by the university of its own accord, as provided in clause 38.

Provisions relating to trust funds and related matters remain as in the present legislation.

Similarly, the borrowing powers of the university remain as currently provided and are subject to the approval of the Treasurer in consultation with the minister.

The university must arrange for an audit of the income and expenditure of the university by the Auditor-General.

The university is enabled to participate in the formation of limited and other companies and, unlike the requirement of the present act, need not notify the minister of such participation. Such companies are generally subject to audit by the Auditor-General and as now the new legislation provides the Auditor-General with a wide range of powers to conduct such audits.

A significant innovation relates to the commercial activities of the university. The new legislation provides that the university may create guidelines relating to its participation in commercial activities. These guidelines are subject to the approval of the minister in consultation with the Treasurer. It is not intended that the government intrude into the management of the university's affairs. The guidelines are intended to reflect best practice in respect of matters such as risk management, due diligence, oversight of commercial activity and so on.

The requirement for guidelines arises out of the university's character as a public entity. As indicated, such guidelines will be developed by the university itself in consultation, as necessary, with my department and/or the Department of Treasury and Finance.

While I expect that guidelines for each of the universities will have certain core provisions, common to each of them, I am not prescribing a 'one size fits all' model. The guidelines for a particular university do need to provide for the specific circumstances and practices of that university.

The new legislation does allow the minister to make interim guidelines where no guidelines exist and until such time as guidelines are developed and approved.

The guidelines will be published in the *Government Gazette* and therefore be available publicly. The guidelines may also be published on the internet.

Adopting such guidelines is a contemporary approach that is a great deal more flexible and adaptive to necessary change than the cumbersome, highly prescriptive approach currently set out in legislation.

Part 7 provides that a fine imposed under university statutes or regulations is a civil debt recoverable summarily. This is similar to the current provisions.

Part 8 deals with the repeal of legislation made redundant by this legislation, any necessary amendments of other legislation and savings provisions. It also provides for the continuation of the council as the same body as it was immediately before the commencement of the legislation. It provides that any statute or regulation of the university made under the old act and in force at the commencement of this legislation continues.

Schedule 1 of the legislation sets out the membership and procedure of the council. These provisions are similar to the current provisions except that it empowers the minister to make interim appointments for a period not exceeding six months. This provision corrects a deficiency in the present legislation which does not allow for such appointments even where there are unavoidable delays in making a permanent appointment. Lengthy vacancies on council can be disruptive of council proceedings.

Victoria takes pride in the scholarship, global reputation and rich cultural diversity of its universities. Higher education plays a vital role with respect to the future of

an innovative and creative economy. Improved health and wellbeing, higher productivity and enhanced quality of life are all fundamentally linked with the public goods that are generated through the provision of quality higher education.

The bill before the house sets out a contemporary legislative framework for the good governance and administration of Deakin University, to achieve the learning and scholarship, the research, cultural, social and economic purposes of the university, for the benefit of the people of Victoria and the wider Australian and international communities.

I commend this bill to the house.

Debate adjourned on motion of Mr DIXON (Nepean).

Debate adjourned until Thursday, 1 October.

SENTENCING AMENDMENT BILL

Statement of compatibility

Mr HULLS (Attorney-General) tabled following statement in accordance with Charter of Human Rights and Responsibilities Act:

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

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

Overview of bill

The bill amends section 5(2) of the Sentencing Act 1991, which provides for matters required to be regarded by courts in sentencing. The amendment inserts an additional paragraph, providing for the consideration of whether the offence was motivated by hatred for or prejudice against a group of people with common characteristics with which the victim was associated, or with which the offender believed the victim was associated. This reflects the current sentencing principle that is considered by courts in sentencing offenders.

The bill implements the recommendations of the Sentencing Advisory Council in its report titled *Sentencing for Offences Motivated by Hatred or Prejudice*, July 2009. The amendment does not fetter judicial discretion. Rather, it reinforces the longstanding position that it has always been relevant for a sentencer to have regard to the motivation of the offender.

Human rights issues

Crimes motivated by hate or prejudice against members of particular groups (eg. based on their race, religion, sexual orientation or other characteristics) impact disproportionately on vulnerable members of the Victorian community. These crimes are inconsistent with the prevailing values of tolerance and respect for diversity held by the community.

The bill is consistent with the principles of the charter as set out in the preamble. The bill particularly supports the principles that human rights are essential in a democratic and inclusive society and that human rights come with responsibilities and must be exercised in a way that respects the human rights of others.

The bill engages with rights protected by the charter as follows.

Section 27: retrospective criminal laws

Section 27(2) of the charter provides that a penalty must not be imposed on any person for a criminal offence that is greater than the penalty that applied to the offence when it was committed.

The bill includes a transitional provision so that the amendment to section 5(2) of the Sentencing Act applies to the sentencing of a person on or after commencement of the amendment, regardless of when the person's offence was committed.

As noted above, the sentencing practice being reinforced by the amendment already applies to the sentencing of offenders motivated by hatred or prejudice. The amendment will therefore not change a sentencing court's discretion.

Australian and international jurisprudence reflects that a reference to the penalty in human rights instruments comparable to section 27(2) is a reference to a maximum penalty. The bill's amendment does not change any maximum penalty for any offence.

In consideration of the above, the amendment does not limit the right in section 27(2). The transitional provision is consistent with previous amendments to the Sentencing Act that do not retrospectively penalise offenders.

Section 15: freedom of expression

Section 15(1) of the charter provides that every person has the right to hold an opinion without interference. Section 15(2) of the charter provides that every person has the right to freedom of expression. Section 15(3) provides that special duties and responsibilities are attached to the right of freedom of expression, and the right may be subject to lawful restrictions that are reasonably necessary. The lawful restrictions named in the section include restrictions reasonably necessary to respect the rights and reputation of other persons; or for the protection of public order or public morality.

The bill reinforces the legitimate objective, both in the exercise of judicial discretion and public policy, that motivations of hatred or prejudice against groups of people in offending are relevant to sentencing. The bill does not alter any offence or maximum penalty which engages the section 15 rights.

The bill does not limit the right in section 15(1) to hold an opinion.

While the bill reinforces current sentencing practice, it could arguably be characterised as indirectly limiting the right to freedom of expression in section 15(2), in relation to offences

where a person expressed hatred or motivation against a group of people with common characteristics. To the extent that the bill could be characterised as a restriction on the right, it is a lawful restriction reasonably necessary to respect the rights and reputation of other persons and to protect public order and morality.

Protection of rights

The amendment promotes the charter principles and a number of rights protected by the charter, in relation to persons that may be the victim of crimes motivated by hatred or prejudice against groups of people. This includes section 8 (right to enjoy human rights without discrimination), section 14 (right to freedom of thought, conscience, religion and belief), section 15 (right to freedom of expression) and section 19 (right to enjoy culture or religion).

The bill promotes these rights by reinforcing the current sentencing position that offences which are motivated by hatred for or prejudice against particular groups are inconsistent with the prevailing values of tolerance and respect for diversity held by the community.

Conclusion

I consider that the bill is compatible with the Charter of Human Rights and Responsibilities because it does not unreasonably limit, restrict or interfere with any human rights protected by the charter.

Rob Hulls, MP
Attorney-General

Second reading

Mr HULLS (Attorney-General) — I move:

That this bill be now read a second time.

The Sentencing Amendment Bill 2009 reflects this government's commitment to reinforcing consideration in sentencing of crimes motivated by hate or prejudice against groups of people, such as racist violence.

In response to increasing reports of offences that may be racially motivated, the government sought urgent advice from the Sentencing Advisory Council. In making its recommendations, the council considered the steps taken by both Australian and international jurisdictions and human rights bodies in the fight against hate crime. These crimes cause serious, significant and far-reaching harms:

hate crimes have a tremendous impact on the individuals who are victimised. In addition to the emotional harms, the degree of violence involved in hate-motivated offences is often more extreme than in non-hate crimes;

hate crime makes members of the target group feel vulnerable to victimisation and has a general terrorising effect on the entire group. This creates negative impacts on other vulnerable groups that share minority status or identify with the targeted group;

equally abhorrent is the impact on the community. In a multicultural society, which celebrates diversity and encourages all groups to live together in harmony and equality, hate crime is a negation of the fundamental values of the community.

This bill contains the Council's recommended amendment to section 5(2) of the Sentencing Act 1991. Section 5(2) currently requires a court sentencing an offender to have regard to matters related to hate crimes, including:

the nature and gravity of the offence;

the offender's culpability; and

the impact of the offence on victims.

However, these matters do not specifically refer to current sentencing practice in relation to hate crime. The bill promotes this practice with explicit legislative recognition that sentencing courts must have regard to whether offences are motivated by hate for or prejudice against a particular group of people with common characteristics. This applies to offences where the victim was associated with the group, or the offender believed the victim was associated with the group.

The purpose of this amendment is not to fetter judicial discretion. Rather, it reinforces the longstanding position that it is relevant for a sentencer to consider antisocial motivations of offenders.

The amendment is particularly intended to promote protection of groups of people with common characteristics such as groups characterised by religious affiliation, racial or cultural origin, sexual orientation, sex, gender identity, age, impairment (within the meaning of the Equal Opportunity Act 1995), or homelessness.

The amendment applies to victims associated with a group in the broad sense. For example, a victim might be:

a member of the group;

a good Samaritan coming to the assistance of a member of the group during an offence;

an advocate or lobbyist for the group;

someone in employment related to the group; or

an acquaintance or family member of a member of the group who is victimised by the offender due to hatred or prejudice against the group.

As the Sentencing Act's definition of victim includes persons suffering as a direct result of offences, the consideration may apply to offences against property not owned by the victim. For example, it may apply to victims of graffiti that was motivated by hatred or prejudice against the relevant group.

Absence of motivations of hatred or prejudice will, of course, not be taken as mitigating an offence.

Consistent with the amendment's recognition of current sentencing practices, the transitional arrangements provide for the amendment to apply to a sentence imposed on or after the commencement of the bill, irrespective of when the offence was committed.

Crimes motivated by hatred or prejudice are not tolerated by the community, the courts or the government. This amendment promotes recognition of the punishment and abhorrence of hate crime, and sends a clear message of deterrence.

The bill is yet another measure of this government's commitment to protecting the rights of all people in the community.

I commend the bill to the house.

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

Debate adjourned until Thursday, 1 October.

STATUTE LAW AMENDMENT (EVIDENCE CONSEQUENTIAL PROVISIONS) BILL

Statement of compatibility

Mr HULLS (Attorney-General) tabled following statement in accordance with Charter of Human Rights and Responsibilities Act:

In accordance with section 28 of the Charter of Human Rights and Responsibilities, I make this statement of compatibility with respect to the Statute Law Amendment (Evidence Consequential Provisions) Bill 2009.

In my opinion, the Statute Law Amendment (Evidence Consequential Provisions) Bill 2009, as introduced to the Legislative Assembly, is compatible with the human rights protected by the charter. I base my opinion on the reasons outlined in this statement.

Overview of the bill

The primary purpose of the Statute Law Amendment (Evidence Consequential Provisions) Bill 2009 is to facilitate the introduction and implementation of the Evidence Act 2008.

The Evidence Act 2008 received royal assent on 15 September 2008. It delivered one of the significant commitments of the justice statement 2004, namely the adoption of the Uniform Evidence Act (UEA) for Victoria. However, before the Evidence Act 2008 can commence operation, a number of amendments need to be made to other acts across the statute book. The Statute Law Amendment (Evidence Consequential Provisions) Bill serves this function.

In the second-reading speech to the Evidence Act 2008 I indicated that a separate bill would be introduced dealing with consequential and transitional provisions. This bill is based on the recommendations in the report by the Victorian Law Reform Commission on the implementation of the Uniform Evidence Act in Victoria (the implementation report).

In order to implement the new statutory scheme for evidence law, this bill makes a number of consequential amendments to other acts where those acts deal with matters connected to evidence law, or the operation of those acts will be impacted by the operation of the Evidence Act 2008.

The bill also repeals a large number of sections in the Evidence Act 1958 that have been replaced by the Evidence Act 2008. It also renames the Evidence Act 1958 to the Evidence (Miscellaneous Provisions) Act 1958.

The bill also provides for transitional arrangements setting out when provisions of the Evidence Act 2008 commence operation. Transitional arrangements for consequential amendments made by the bill have also been included.

Human rights issues

This bill is integrally connected with the Evidence Act 2008.

The statement of compatibility for the Evidence Act 2008 discusses the relationship between the Evidence Act 2008 and the rights protected and promoted by the charter.

As indicated in the statement of compatibility for the Evidence Act 2008, the policy behind that act is that all relevant and reliable evidence that is of an appropriate probative value should be admissible in court proceedings, unless such evidence would cause unfair prejudice to a party to those proceedings.

The Evidence Act 2008 contains overarching provisions giving broad judicial discretions to exclude evidence or limit its use in certain circumstances. These judicial discretions operate as safeguards that protect and balance the rights of parties to proceedings (civil and criminal), the rights of witnesses and the importance of the court hearing all relevant, reliable and probative evidence. They are consistent with and give effect to the rights under the charter, particularly the right to a fair hearing under section 24(1). The overarching judicial discretions and safeguards operate together with other specific safeguards in that act.

Where this bill extends, or clarifies the operation of the Evidence Act 2008 in particular situations, the assessment of

compatibility for that act is relevant to this bill and will be cross-referenced where appropriate.

The bill makes a number of consequential amendments as a result of changes introduced by the Evidence Act 2008. These are the main types of amendments in the bill. Unless otherwise specified in this statement, these consequential amendments do not engage the human rights protected and promoted by the charter.

Many of these amendments merely ensure that the status quo is preserved for aspects of provisions, which are not covered by the Evidence Act 2008. For example, clause 31 amends section 149A of the Evidence Act 1958 to preserve its operation in relation to proceedings under the Confiscation Act 1997 as the Evidence Act 2008 does not cover admissions of fact in confiscation proceedings as these proceedings are not 'criminal proceedings' for the purposes of the Evidence Act 2008.

The bill also repeals a large portion of the Evidence Act 1958 and particular evidentiary provisions of the Crimes Act 1958. These repeals are consequential on the passage of the Evidence Act 2008 which deals with the subject matter previously captured by those sections. Unless otherwise specified in this statement, these repeals do not engage the human rights protected and promoted by the charter.

The bill also makes transitional arrangements for the commencement of the Evidence Act 2008. The general approach to the transitional phase is to apply the Evidence Act 2008 to any hearing that commences on or after the commencement day. The transitional arrangements are discussed further below. It is not considered, however, that the transitional arrangements limit any human rights protected by the charter.

The rights under the charter relevant to the bill are:

Section 8: recognition and equality before the law

Section 12: freedom of movement

Section 13: privacy and reputation

Section 14: freedom of thought, conscience, religion and belief

Section 15: freedom of expression

Section 17: protection of families and children

Section 20: property rights

Section 21: right to liberty and security of person

Section 23: protection of children in the criminal process

Section 24: fair hearing

Section 25: rights in criminal proceedings

Section 27: retrospective criminal laws

The following analysis contains a discussion of each of the charter rights raised by the bill.

Section 8: recognition and equality before the law

Section 8 of the charter provides for recognition and equality before the law. It provides that every person is equal before the law and is entitled to the equal protection of the law without discrimination. Discrimination means discrimination within the meaning of the Equal Opportunity Act 1995 on the basis of an attribute set out in section 6 of that act. This right is engaged by clause 27, clause 23 of part 1 of schedule 1 and clause 52.3 of part 1 of schedule 1 of the bill.

Clause 27 of the bill substitutes division 2 of part IV of the Evidence Act 1958. The amendment provides, among other things, that a person may choose whether to take an oath or to make an affirmation. This implements a recommendation of the 2002 parliamentary Law Reform Committee inquiry into oaths and affirmations with reference to the multicultural community. The inquiry recommended that sections 100–104 of the Evidence Act 1958 be amended to bring them into line with the approach taken in the Evidence Act 2008, which aims to promote the right to recognition and equality before the law for all persons regardless of religious belief.

Clause 23 of part 1 of schedule 1 of the bill makes a consequential amendment to the Family Violence Protection Act 2008 in relation to the competence and compellability of witnesses in proceedings under that act. The purpose of the amendment is to update the existing cross-references to refer to section 13 of the Evidence Act 2008. The new reference to section 13 replaces a reference to section 23 of the Evidence Act 1958.

As indicated in the statement of compatibility for the Evidence Act 2008, by focusing on the capacity of the individual to understand and answer questions, rather than the existence of a disability, section 13 gives effect to the rights of persons with disabilities to recognition and equality before the law.

Similarly, the consequential amendment to the Stalking Intervention Orders Act 2008 made by clause 52.3 of part 1 of schedule 1 of the bill is intended to clarify that the existing protection provided to children in proceedings under that act are not altered by the provisions in the Evidence Act 2008.

Accordingly, the bill does not limit the right to equality protected by the charter.

Section 12: freedom of movement

Section 12 of the charter protects various rights in relation to freedom of movement. Section 12 is engaged by clause 48 and clauses 34.5 and 60.1 of part 1 of schedule 1 of the bill.

Clause 34.5 of part 1 of schedule 1 of the bill repeals 61(1)(b) and 61(5)(b) of the Magistrates' Court Act 1989. Clause 48 of the bill repeals section 415 of the Crimes Act 1958. The bill also makes a consequential amendment to the Evidence Act 1958. These sections provide the issuing of warrants in relation to witnesses who fail to appear. These amendments are consequential on the commencement of section 194 of the Evidence Act 2008 which now makes provision for this. These clauses do not make substantive changes to the operation of the warrant provisions.

Clause 60.1 of part 1 of schedule 1 makes a consequential amendment to the Victims of Crime Assistance Act 1996. The effect of the amendment is to apply section 194 of the Evidence Act 2008 where the provisions of division 3 of

part 4 of the Magistrates' Court Act 1989 had previously applied. The application of the new Evidence Act 2008 does not make substantive changes to the rights of witnesses who fail to appear.

The issuing of a warrant in relation to a witness who fails to appear engages the right to freedom of movement protected by section 12 of the charter. However, the amendment is intended to preserve, rather than alter, the status quo. Therefore, the right to freedom of movement in section 12 of the charter is not limited.

Section 13: privacy and reputation

Section 13 of the charter confers a number of rights regarding privacy and reputation. Section 13 is engaged by part 1 of schedule 1 of the bill.

Part 1 of schedule 1 of the bill, amongst other things, makes a number of consequential amendments across the statute book to refer to 'client legal privilege' in addition to common-law legal professional privilege. These provisions are for the avoidance of doubt where provisions, which currently refer to the common-law privilege, across the statute book have implications for curial settings where the new statutory privilege will apply.

If these amendments engage the right to privacy, they do not limit the right as any interference is neither arbitrary nor unlawful. Any interference is provided for by law and will be determined by the court on a case-by-case basis.

Part 1 of schedule 1 of the bill also makes a number of amendments to clarify that where a court is not bound by the rules of evidence, the privileges in part 3.10 of the Evidence Act 2008 continue to apply unless otherwise excluded. The effect of these amendments is to apply a range of statutory privileges in curial settings. These amendments may engage a person's right to privacy as it impacts upon the circumstances where their communications will be admissible in a proceeding. This ensures consistency in the application of privileges in curial settings to ensure that courts are applying the one set of privileges in all circumstances where privileges are relevant. As such it reduces the risk of error and therefore promotes the right to a fair trial under section 24. On balance, I consider that any limitation on the right to privacy is therefore a reasonable limitation in the circumstances.

Section 14: freedom of thought, conscience, religion and belief

Section 14 of the charter provides protection of freedom of thought, conscience, religion and belief.

As I noted above, clause 23A of the bill substitutes division 2 of part IV of the Evidence Act 1958. The amendment will provide, among other things, that a person who is required to take any oath may choose whether to take an oath or to make an affirmation. Proposed substituted section 103(1) provides that it is not necessary that a religious text be used in taking an oath and subsection (2) provides that an oath is effective even if the person who took it did not have a religious belief or did not have a religious belief of a particular kind. This engages and promotes the right not to hold a particular religious belief which is a component of the protection of freedom of thought, conscience, religion and belief.

Part 1 of schedule 1 of the bill, amongst other things, makes a number of amendments across the statute book to clarify that where a court is not bound by the rules of evidence, the privileges in part 3.10 of the Evidence Act 2008 continue to apply unless otherwise excluded. Part 3.10 of the Evidence Act 2008 includes a privilege for religious confessions (section 127). The definition of 'religious confession' in subsection 127(4) provides that the privilege applies only to those confessions made to a member of the clergy in their professional capacity where confession is part of the ritual of the church or religious denomination.

The privilege supports the right to freedom of religion in section 14 of the charter for both the member of the clergy who is required to maintain the confidentiality and the person who makes a confession as part of the ritual of the church or religious denomination as the nature of such a confession requires such confidentiality to enable the religious practitioner to observe full disclosure.

Accordingly, the right in section 14 of the charter is not limited.

Section 15: freedom of expression

Section 15 of the charter provides that every person has the right to freedom of expression. This right includes the right not to express. Part 1 of schedule 1, of the bill, amongst other things, makes a consequential amendment across the statute book to preserve the operation of statutory privileges in part 3.10 of the Evidence Act 2008 where the courts are not otherwise bound by the rules of evidence. This includes the privilege against self-incrimination.

Section 15(3) of the charter provides that the special duties and responsibilities attach to this right and it may therefore be subject to lawful restrictions reasonably necessary to respect the rights and reputation of other persons or for the protection of national security, public order, public health or public morality. Public order can be defined as the sum of rules that ensure the peaceful and effective functioning of society. One of the core aims of the Evidence Act 2008 is to ensure that all relevant and reliable evidence that is of an appropriate probative value should be admissible unless such evidence would cause unfair prejudice to a party to a proceeding. This is a key element of public order.

The approach to the privilege against self-incrimination in the Evidence Act 2008, whilst allowing for the court to require a person to answer questions ensures that, through the issuing of a certificate by the court, the witness is protected against the use or derivative use of any incriminating evidence they have been required to provide. In addition, the court can only require a witness to give the evidence when it is in the interests of justice to do so.

As indicated for section 13 of the charter outlined above, the aim of these amendments is consistency in the application of privileges in curial settings to ensure that courts are applying the one set of privileges in all circumstances where privileges are relevant. As such, these amendments reduce the risk of error and therefore promote the right to a fair trial under section 24 of the charter. On balance, I consider that any limitation on freedom of expression is therefore a reasonable limitation in the circumstances.

Section 17: protection of families and children

Section 17 of the charter provides protection of families and children. This provision relates to the right to privacy in section 13 of the charter which prohibits (among other things)

a public authority from unlawfully or arbitrarily interfering with a person's family.

Section 17(2) of the charter recognises that children are entitled to special protection. It is premised on the recognition of the children's vulnerability because of their age. A child is defined in section 3 of the charter as being a person under 18 years of age.

This is relevant to where children are witnesses in a proceeding.

The bill amends the Family Violence Protection Act 2008. Currently, section 65(2) of the Family Violence Protection Act 2008 applies sections 23, 39, 40 and 41F and division 2A of part II of the Evidence Act 1958. The effect of the amendment is to update the references to reflect the passage of the Evidence Act 2008 and the consequent repeal of the sections in the Evidence Act 1958. The new reference to section 13 replaces a reference to section 23 of the Evidence Act 1958. References to sections 39, 40 and 41F relate to questioning of witnesses, including children and are updated to refer to the new section 41 of the Evidence Act 2008.

As indicated in the statement of compatibility for the Evidence Act 2008, by focusing on the capacity of the individual to understand and answer questions, rather than the existence of a disability, section 13 gives effect to the rights of persons with disabilities to recognition and equality before the law.

Section 41 is a protective provision aimed at preventing improper questioning of vulnerable witnesses. In relation to children, it has substantially the same operation as the repealed section 41F.

The bill also repeals a number of sections in the Crimes Act 1958 relating to the compellability of spouses and others in a criminal proceeding. The bill repeals sections 95(2), 399 and 400 of the Crimes Act 1958. These provisions relate to the treatment of spouses in the criminal process.

These repeals are consequential to the commencement of provisions relating to competence and compellability of witnesses, judicial warnings, evidence of tendency and coincidence and the privilege against self-incrimination in sections 12, 17, 18, 20, 97, 98 and 128 of the Evidence Act 2008.

As indicated in the statement of compatibility for the Evidence Act 2008, the courts are given a broad discretion in relation to the operation of the new provisions which are compatible with the charter. The new section 18, in particular, supports the protection of families under section 17(1) of the charter as it supports the notion that it may cause harm to a family/member if they are compellable witnesses where the defendant is a family member. This is consistent with the operation of the existing provisions repealed by this bill, but goes further in that the new provision recognises and provides equal protection for those in same-sex relationships.

Section 20: property rights

Section 20 of the charter provides that a person must not be deprived of his or her property other than in accordance with the law. Clauses 34A and 40A of the bill maintain the chief examiner's and the director's, police integrity, power to confiscate documents from the possession of witnesses who are present and competent to be called. This could impact on property rights of witnesses.

However, the bill does not make any substantive changes but simply maintains an existing power. Any interference with the person's property is provided for by the law endowing powers on the chief examiner and the director, police integrity. Accordingly, the bill does not limit property rights protected by the charter.

Section 21: right to liberty and security of person

Section 21(3) of the charter provides that every person has the right to liberty and security, that a person must not be subjected to arbitrary arrest or detention and that a person must not be deprived of his or her liberty except on grounds, and in accordance with procedures, established by law. Section 21(3) is engaged by clause 48 and clause 34.5 of part 1 of schedule of the bill.

Clause 34.5 of part 1 of schedule 1 of the bill repeals 61(1)(b) and 61(5)(b) of the Magistrates' Court Act 1989. Clause 48 of the bill repeals section 415 of the Crimes Act 1958. The bill also makes a consequential amendment to the Evidence Act 1958. These sections provide for the issuing of warrants in relation to witnesses who fail to appear. These amendments are consequential on the commencement of section 194 of the Evidence Act 2008 which now makes provision for this. These clauses do not make substantive changes to the operation of the warrant provisions.

As indicated in the statement of compatibility for the Evidence Act 2008, section 194 of the Evidence Act 2008 concerns witnesses who fail to attend proceedings. Once certain matters are established, the court may issue a warrant to apprehend the witness and bring the witness before the court. The provision empowers a court to exercise discretion to issue a warrant to apprehend the witness, as one of a number of actions a court may take to compel a person to attend proceedings.

The court will assess the need to issue a warrant on a case-by-case basis, and any resultant arrest will therefore not be arbitrary but will occur when it is reasonable in all the circumstances for the purpose of compelling a person to attend proceedings. The provision also provides that the court may direct that a person be released immediately on bail.

The right is not limited as the deprivation of liberty will be on grounds and in accordance with procedures established by law.

Section 23: children in the criminal process

Section 23 of the charter provides protection for children in the criminal process. The bill makes a number of consequential amendments that impact the scope of protection afforded to children in criminal proceedings.

Clauses 7.1 and 7.2 of part 1 of schedule 1 of the bill amend the Children, Youth and Families Act 2005 to provide, for the avoidance of doubt, that both the common-law legal professional privilege and the statutory privilege are covered by the protection provided by section 199 of the Children, Youth and Families Act 2005.

Section 24: fair hearing

Section 24 of the charter guarantees the right to a fair and public hearing. The right to a fair hearing applies in both civil and criminal proceedings and in courts and tribunals.

The purpose of the right to a fair hearing is to ensure the proper administration of justice. The right is fundamentally concerned with procedural fairness. This involves the right of a party to be heard and to respond to allegations made against them as well as the requirement that the court be competent, independent and impartial. As such, this right is about process, rather than the substantive fairness of a particular decision of a court based on the merits of a particular case.

As indicated in the statement of compatibility for the Evidence Act 2008, the balancing of rights required by the charter was essentially undertaken by both the Australian Law Reform Commission and the Victorian Law Reform Commission on whose reports the Evidence Act 2008 was based. In addition, in most cases the courts are given a broad discretion, which will ensure that the provisions are applied to ensure a fair hearing in the individual circumstances of the case. Further, section 11 of the Evidence Act 2008 expressly preserves the powers of a court with respect to abuse of process.

Clause 52 of the bill broadens the definition of 'unavailability of persons' within the Evidence Act 2008. This definition is relevant to the operation of sections 63 (exception to the hearsay rule in civil proceedings if the maker of a previous representation is not available) and 65 (exception to the hearsay rule in criminal proceedings if the maker of a previous representation is not available).

By expanding this definition the bill broadens the circumstances in which hearsay evidence may be admitted where the maker of the previous representation is not available to be cross-examined and therefore engages the right to a fair trial provided for by section 24.

Both sections 63 and 65 are statutory based exceptions to the hearsay rule found in section 59 of the Evidence Act 2008.

Section 63 does not codify the common law and, therefore, potentially engages the right to a fair hearing under section 24 of the charter.

Under section 63, evidence of a representation that is given by a person who saw, heard or otherwise perceived the representation being made and evidence contained in a document is allowed into evidence in a civil proceeding under an exception to the hearsay rule where the maker of the representation is not available.

Section 67 of the Evidence Act 2008 imposes notice requirements where such evidence is proposed to be introduced. In addition, there are safeguards under sections 135–137 of the Evidence Act 2008 that operate to protect parties in a proceeding and to ensure a fair trial. In particular, section 136 enables the court to limit the use of evidence admitted under this provision. Given these safeguards and the purpose of the provision, the right to a fair hearing is not limited.

Section 65 departs from the common law and, therefore, potentially engages the right to a fair hearing under section 24 of the charter.

The effect of this provision is that evidence of a representation that is given by a person who saw, heard or otherwise perceived the representation being made (i.e. firsthand hearsay evidence) and where certain conditions are met, such as where the representation was made under a duty and where it is highly probable that it is reliable evidence can be admitted into court as evidence.

Section 67 of the bill imposes notice requirements where such evidence is proposed to be introduced. In addition, there are safeguards under sections 135–137 that operate to protect parties in a proceeding and to ensure a fair trial. In particular, section 136 enables the court to limit the use of evidence admitted under this provision and section 137 enables the court at its discretion to disallow the admission of evidence where it is unfairly prejudicial to the defendant.

Given these safeguards, and the purpose of the provision, the right to a fair hearing is not limited.

Whilst the expansion of the definition of 'unavailability of persons' broadens the operation of sections 63 and 65, it does not change the character of the provisions or the assessment that these provisions do not limit the right to a fair hearing.

Section 25(2): minimum guarantees in criminal proceedings

Section 25(2) of the charter is concerned with rights in criminal proceedings.

Section 25(2)(k) provides that a person is not to be compelled to testify against himself or herself or to confess guilt. This right is engaged by part 1 of schedule 1 of the bill.

In addition to importing other statutory privileges, the amendments in part 1 of schedule 1 that relate to the application of part 3.10 of the Evidence Act 2008, also import the statutory form of the privilege against self-incrimination into certain curial settings. Previously these curial settings applied the common-law privilege against self-incrimination. The Evidence Act 2008 sets out a process for the determination of claims of privilege. The application of the new statutory approach to the privilege against self-incrimination in section 128 of the Evidence Act 2008 affects the rights of witnesses in a criminal proceeding. A witness may object to giving particular evidence on the ground that the evidence may tend to prove that the witness has committed an offence against or arising under an Australian law or a law of a foreign country or is liable to a civil penalty.

The court must then determine whether or not there is a reasonable ground for the objection. There are a number of options available to the court, including requiring the witness to give the evidence if the court is satisfied that the interests of justice require that the witness give the evidence. The court must then give the witness a certificate under section 128 in respect of that evidence. This protects the person from both use and derivative use of the evidence the person has given.

While this departs from the common-law approach, any limitation of the rights of a person in a proceeding is mitigated by the requirement that it be in the interests of justice for the witness to disclose the evidence. Therefore any limitation on the right is reasonable in the circumstances.

Section 25(3): the rights of children in criminal proceedings

Section 25(3) of the charter recognises special procedures for children charged with criminal offences. It provides that a child has the right to a procedure that takes account of the child's age and the desirability of promoting the child's rehabilitation. Section 25(3) is engaged by clauses 7.5 and 7.6 of part 1 of schedule 1 of the bill.

Clauses 7.5 and 7.6 of part 1 of schedule 1 of the bill make amendments to sections 520 and 520E of the Children, Youth and Families Act 2005 to provide, for the avoidance of doubt, that the Evidence Act 2008 can apply to sentencing hearings where the court makes an order pursuant to section 4 of the Evidence Act 2008.

Section 27: retrospective criminal laws

Section 27(1) of the charter provides protection from the operation of retrospective criminal laws. This applies only to the instigation of criminal proceedings which might result in a conviction of the imposition of a criminal penalty. Section 27(1) is engaged by clause 53 of the bill.

Clause 53 of the bill inserts a new schedule 2 into the Evidence Act 2008. This clause contains transitional arrangements setting out when provisions of the Evidence Act 2008 commence operation. It also sets out arrangements for complying with procedural requirements during the transitional phase. I note that the Evidence Act 2008 does not deal with burdens of proof or presumptions. Accordingly, it is not considered that the transitional arrangements for the bill limit any rights protected and promoted by the charter.

A person has a right not to be prosecuted or punished for acts or omissions that were not criminal offences at the time they were committed. This can also be stated as the right of an accused to be judged by the law for their conduct at the time that it occurred. Underlying this right is the general principle that a person must be able to predict the criminal culpability that attaches to their actions.

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

Section 27 therefore reflects the common-law assumption that legislation is not retrospective. This position is summarised in the statement of principle in *Fisher v. Hebburn Ltd* (1960) 105 CLR 188 that '[t]here can be no doubt that the general rule is that an amending enactment — or, for that matter, any enactment — is prima facie to be construed as having prospective operation only. That is so say, it is prima facie to be construed as to attaching new legal consequences to facts, or events which occurred before its commencement'.

This position against retrospectivity has been accepted and applied by the courts in relation to legislation concerned with substantive matters as opposed to procedural matters only. The common law and statutory prohibition on retrospectivity in the criminal legal context has traditionally been understood as preventing only the retrospective imposition of criminal liability, not the application of new procedural rules that are different from those in force at the time of the commission of the offence (see *Maxwell v. Murphy* (1957) 96 CLR 261). This is reflected in section 27 which does not extend to prevent retrospective changes to procedural law. If however, a legislative change that appears procedural in character may adversely affect a substantive right, the general principle against retrospectivity will most likely apply.

The transitional arrangements in clause 38 of the bill do not retrospectively criminalise conduct, nor do they impose penalties for a criminal offence that are greater than the penalties that applied when the offence was committed. This is because the transitional arrangements in clause 38 relate to the procedures for the adducing of evidence in a proceeding and do not involve substantive rights.

New schedule 2 to be inserted into the Evidence Act 2008 sets out the transitional provisions for that act. Because substantive rights are not engaged, the transitional provisions provide that in a number of instances the Evidence Act 2008 will apply in a proceeding that commenced before the act will commence. The Evidence Act 2008 will only apply to the part of the proceeding that takes place on or after the commencement day, with the exception of part-heard hearings.

The operation of these transitional provisions does not engage or limit section 27 of the charter. As noted above, the right in section 27 does not extend to prevent retrospective changes to procedures that do not form part of the penalty or punishment of an offender, or to changes in procedural law (for example, shifts in trial practice or changes to the rules of evidence), unless they adversely affect a substantive right.

The transitional arrangements for the Evidence Act 2008 are reflected in the transitional arrangements for consequential amendments made to other acts by the bill. Accordingly, these amendments to not limit the rights protected by the charter for the reasons outlined above.

Sections 27(2) and 27(3) of the charter prevent the imposition of greater criminal penalties than would have been imposed at the time the offence was committed. This bill does not propose to increase penalties.

Whilst the bill amends the offence provisions in sections 142 and 143 of the Evidence Act 1958, these amendments will only operate prospectively in accordance with the common law.

Conclusion

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

Rob Hulls MP
Attorney-General

Second reading

Mr HULLS (Attorney-General) — I move:

That this bill be now read a second time.

This bill is the second of two bills which brings into operation the Uniform Evidence Act (UEA) within Victoria. This bill repeals a significant portion of the Evidence Act 1958. The bill also makes consequential amendments to legislation across the statute book and

provides for transitional arrangements to ensure the effective implementation of the UEA.

Last year Parliament passed the Evidence Act 2008. This act delivered one of the significant commitments of the justice statement 2004, namely, the adoption of an act which would bring Victoria's evidence laws into harmony with the evidence laws already in operation in NSW, Tasmania and the commonwealth. The Evidence Act 2008 is key to reforming the convoluted and outdated rules of evidence in Victoria.

Section 8 of the Evidence Act 2008 preserves the operation of all other evidentiary provisions across the statute book. Before the Evidence Act 2008 can commence operation, a number of amendments need to be made to other acts across the statute book, including repealing those provisions which are intended to be replaced by the Evidence Act 2008. The Statute Law Amendment (Evidence Consequential Provisions) Bill serves this function.

In 2006 the Victorian Law Reform Commission released a report entitled *Implementing the Uniform Evidence Act* in 2006 (the VLRC report). The VLRC report made a number of recommendations regarding the drafting of transitional provisions and consequential amendments required upon the introduction of the new Evidence Act in Victoria. This bill draws largely on the recommendations of the VLRC report and the transitional provisions and consequential amendments acts in NSW and the commonwealth. I would like to thank the Victorian, Australian and NSW law reform commissions for their work in developing a cohesive national evidence law framework.

Some Key Changes

Repeals

This bill will repeal a significant portion of the Evidence Act 1958. Accordingly, references across the statute book to definitions within the Evidence Act 1958 which relate to matters now covered by the Evidence Act 2008, have been changed to refer to the Evidence Act 2008. To avoid confusion, the Evidence Act 1958 will be renamed the Evidence (Miscellaneous Provisions) Act 1958.

Some provisions within the Evidence Act 1958 have broader operation than the corresponding provision in the Evidence Act 2008. Where necessary the extended operation of these provisions has been preserved in either the Evidence Act 1958 or in the specific legislation relating to bodies utilising that extended operation.

An example of this is clause 35 of part 1 of schedule 1 which continues to provide the power of the former section 11 of the Evidence Act 1958 for use by the chief examiner. The chief examiner cannot make use of the corresponding section 36 of the Evidence Act 2008 as the role chief examiner does not constitute a court for the purposes of the Evidence Act 2008 and therefore, the Evidence Act 2008 does not apply to the chief examiner.

The bill also repeals provisions in the Crimes Act 1958, which are no longer necessary due to the commencement of the Evidence Act 2008.

In the second-reading speech for the Evidence Act 2008, I indicated that it was intended to repeal aspects of section 61 of the Crimes Act 1958 which dealt with warnings to the jury regarding forensic disadvantage caused by delay, known as Longman warnings, as section 165B of the Evidence Act 2008 deals with these warnings.

The government is now considering the Victorian Law Reform Commission's jury directions final report, which provides a range of recommendations regarding directions to the jury, including Longman warnings. In order to minimise the number of changes for the courts, any change in relation to section 61 of the Crimes Act 1958 will be undertaken as part of the response to the jury directions report.

When considering the implementation of the Uniform Evidence Act in Victoria, the Victorian Law Reform Commission advised that section 61 of the Crimes Act 1958 could remain on the statute book as it would apply to sexual offence proceedings and section 165B of the Evidence Act 2008 would apply to the remainder of proceedings pursuant to the operation of section 8 of the Evidence Act 2008. These two provisions are almost identical in operation.

Other consequential amendments

The Evidence Act 2008 does not cover all aspects of evidence-related procedure, such as audiovisual link or closed-circuit television procedures. These procedures will continue to operate alongside the Evidence Act 2008. To the extent that they are inconsistent with the Evidence Act 2008, they will be preserved by section 8 of that act, which, as previously indicated, provides that nothing in the Evidence Act 2008 affects the operation of the provisions of other acts.

The bill also amends and modernises some provisions within the Evidence Act 1958 to bring those provisions into line with the approach taken by the Evidence Act 2008. For example, in 2002 the parliamentary Law

Reform Committee inquiry into oaths and affirmations with reference to the multicultural community (oaths and affirmations inquiry) recommended that the Juries Act 2000 be amended to ensure that jurors have the right to choose to make either an oath or affirmation. Clause 33 of part 1 of schedule 1 implements this recommendation.

The oaths and affirmations inquiry also recommended that sections 100–104 of the Evidence Act 1958 be amended to bring them into line with the approach taken in the Evidence Act 2008. This recommendation has also been implemented through clause 27 of this bill.

There are a range of provisions across the statute book whereby courts are not bound by the rules of evidence. These provisions have been amended to preserve the operation of part 3.10 of the Evidence Act 2008 (privileges), so that courts are consistently applying the statutory privileges rather than the common-law privileges.

Client legal privilege

The Evidence Act 2008 creates a new statutory client legal privilege which will apply in court settings. This bill has made amendments across the statute book, so that wherever a provision refers to legal professional privilege with regard to court processes, it will be amended to refer to both the common-law legal professional privilege and the statutory client legal privilege.

Unavailability of persons

This bill expands the definition of 'unavailability of persons' in the Evidence Act 2008. This broadened definition includes circumstances where the person is physically or mentally unable to give the evidence and that inability cannot reasonably be overcome. This amendment implements an outstanding recommendation of the NSW, Australian and Victorian Law Reform Commissions in their uniform Evidence Act report 2005.

The amendment is based on concerns raised in the uniform Evidence Act report that the existing definition failed to take into account certain circumstances where requiring a person to give evidence may cause that person such serious emotional or psychological harm that they should be considered unavailable. It is not intended that this amendment lower the standard of 'unavailability' generally. It would be insufficient for a witness to merely produce a medical certificate asserting that they are incapable of giving evidence. A real mental or physical inability to testify must be shown. These are factual questions that the court is well placed to consider on a case-by-case basis.

This amendment is also necessary to ensure that the hearsay provisions of the Evidence Act 2008, to which the definition is relevant, appropriately cover the work now done by sections 55AB and 55AC of the Evidence Act 1958, which are repealed by the bill.

This government has a strong record of modernising justice, and improving the accessibility and effectiveness of court processes for the benefit of all Victorians. Reforming Victorian evidence laws is a continuation of this government's strong record, and a vital step towards a fully modern and efficient judicial system. This bill is essential to ensuring the effective implementation of the Evidence Act 2008, and bringing Victorian evidence laws up to national standards.

I commend the bill to the house.

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

Debate adjourned until Thursday, 1 October.

CRIMINAL PROCEDURE AMENDMENT (CONSEQUENTIAL AND TRANSITIONAL PROVISIONS) BILL

Statement of compatibility

Mr HULLS (Attorney-General) tabled following statement in accordance with Charter of Human Rights and Responsibilities Act:

In accordance with section 28 of the Charter of Human Rights and Responsibilities (the charter), I make this statement of compatibility with respect to the Criminal Procedure Amendment (Consequential and Transitional Provisions) Bill 2009.

In my opinion, the Criminal Procedure Amendment (Consequential and Transitional Provisions) Bill 2009 (the bill), as introduced to the Legislative Assembly, is compatible with the human rights protected by the charter. I base my opinion on the reasons outlined in this statement.

Overview of the bill

The primary purpose of the Criminal Procedure Amendment (Consequential and Transitional Provisions) Bill 2009 is to facilitate the introduction and implementation of the Criminal Procedure Act 2009.

The Criminal Procedure Act was passed by Parliament in February 2009. That act overhauls existing laws that deal with criminal procedure (including summary procedure, committals, trial procedure and appeals) by rationalising and clarifying provisions, modernising language and process, and improving procedures in the criminal justice system.

In the second-reading speech for the Criminal Procedure Act, I indicated that a separate bill would be introduced dealing with consequential and transitional provisions. In total 137 acts require consequential amendment as a result of changes introduced by the Criminal Procedure Act.

These consequential amendments are required to implement the comprehensive and far-reaching legislative changes introduced by the Criminal Procedure Act.

The bill also provides for transitional arrangements setting out when provisions of the Criminal Procedure Act and in some instances, consequential amendments, commence operation.

In addition, the bill includes amendments to the Criminal Procedure Act to further improve the operation and policy objectives of that act. Some provisions from the Evidence Act 1958, which deal with a mixture of procedural and evidentiary issues in criminal proceedings, will be moved by this bill into the Criminal Procedure Act.

Lastly, the bill makes general technical amendments to the charter, which do not substantively change or limit its operation. For the sake of completeness, these changes are explained below under their own separate heading.

Human rights issues

This bill is closely aligned in both purpose and substance with the Criminal Procedure Act. As such, the following paragraphs from the statement of compatibility for that act apply here and provide the context for this statement of compatibility.

> The charter includes a number of rights which are directly relevant to criminal procedure. Those rights were not created by the charter afresh. They reflect and reinforce rights in the criminal process that have been developed by the courts and Parliament over a long period of time and have shaped the Victorian system of criminal procedure. These familiar and longstanding rights include, for example, the right to a fair hearing and the right to have convictions and sentences reviewed by a higher court. This bill does not seek to alter the fundamental shape of Victoria's criminal justice system, nor the procedural rights which underpin it.
>
> The bill also does not operate in a vacuum, but in a system where judicial officers exercise discretions and make orders in accordance with long-developed principles of fairness and natural justice, and where the accused's rights are often protected by the active participation of defence practitioners. It also operates symbiotically with common-law powers and processes. All of these contributors need to be considered when analysing this bill from a charter perspective.

As the name of the Criminal Procedure Amendment (Consequential and Transitional Provisions) Bill indicates, it makes a number of consequential amendments as a result of changes introduced by the Criminal Procedure Act. There are three main types of consequential amendments in this bill. First, there are amendments modernising language and terminology. For example, substituting the term 'accused' for 'defendant' or specifying that an accused is required to 'appear' rather than 'attend'. Second, there are amendments repealing provisions in other acts and updating relevant cross-references. For example, replacing references to previous sections in the Crimes Act 1958 with relevant references to the Criminal Procedure Act. Last, the bill makes substantive amendments to a range of acts. For example, amending the Crimes (Mental Impairment and Unfitness to be Tried) Act 1997 to give the court a discretion to extend the time period for filing or serving notice of an appeal or notice of an application for leave to appeal.

The first two types of consequential amendments are technical in nature and do not involve any policy component. They are necessary in order to ensure that legislation gives effect to the provisions of the Criminal Procedure Act.

As in the statement for the Criminal Procedure Act, this statement does not include analysis of every clause in the bill but focuses instead on reviewing the amendments that raise substantive charter issues.

Throughout this statement, I will also identify areas where changes have been made in order to improve compatibility.

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

The principal rights under the charter relevant to the bill are:

Section 17: protection of families and children

Section 23: children in the criminal process

Section 24: fair hearing

Section 25: rights in criminal proceedings

Section 26: right not to be tried or punished more than once

Section 27: retrospective criminal laws

For each right, clauses in the bill that will have an impact on that right are identified and analysed to determine whether they limit or restrict the right and, if so, whether they are compatible with the right. Where a clause or process involves considering more than one right I have made that clear.

Section 24: fair hearing

Section 24 of the charter guarantees the right to a fair and public hearing.

The purpose of the right to a fair hearing is to ensure the proper administration of justice. The right is fundamentally concerned with procedural fairness. This involves the right of a party to be heard and to respond to allegations made against them as well as the requirement that the court be unbiased, independent and impartial. As such, this right is about process rather than the substantive fairness of a court decision based on the merits of a particular case.

What amounts to a 'fair hearing' takes account of all relevant interests including those of the accused, the victim, witnesses and society. It also depends on the facts of a particular case and requires various public interest factors to be weighed, including the rights of the accused and the victim of the alleged offence.

In the criminal law context, an initial requirement is that there is a clear and publicly accessible legal basis for all criminal prosecutions and penalties. This ensures that the criminal justice system operates in a way that is predictable to the accused.

Section 25 of the charter sets out specific minimum rights in criminal proceedings and gives much of the content to the section 24 right to a fair hearing in the criminal legal context.

Beyond these aspects, the elements of the right to a fair hearing in criminal proceedings revolve around the procedures that are followed during a hearing. These procedures must protect the rights of the parties and respect the principle of 'equality of arms'. This principle means that each party to a proceeding must have a reasonable opportunity to present their case to the court under conditions that do not place that party at a substantial disadvantage in relation to their opponent.

Most fair hearing issues fit within a specific right in section 25 and I have chosen to analyse them in that way in this statement, while bearing in mind the overall right to a fair hearing. However, observance of the requirements of section 25 may not always be sufficient to ensure the fairness of a hearing under section 24. Consequently, I have chosen to analyse the following provisions as 'fair hearing' issues on that basis.

Section 25(2): minimum guarantees in criminal proceedings

Section 25 sets out detailed procedural rights in criminal proceedings and I will address the relevant rights in the context of the bill.

Section 25(2)(b) provides that a person charged is entitled, as a minimum guarantee:

> To have adequate time and facilities to prepare his or her defence and to communicate with a lawyer or adviser chosen by him or her.

This right ensures that accused is able to have adequate time to access legal representation, obtain advice and make an informed choice about the way in which their defence is conducted.

Appeals from the Children's Court

The bill substitutes a new appeals framework into the Children, Youth and Families Act 2005 at clause 69. Currently, part 5.4 of this act sets out procedure for appeals from the Children's Court by way of adaptation of appeal provisions in the Magistrates' Court Act 1989 and Crimes Act 1958. This results in unclear and complex provisions. The introduction of a new appeals framework, which is modelled on the provisions in the Criminal Procedure Act 2009, enhances the right of review by making appeals procedure clearer and more accessible for children and their parents.

The new appeals framework impacts on this right by providing time limits for the filing of a notice of appeal from the Children's Court. The court, however, retains a broad discretion both by way of the court's inherent power to manage its own proceedings.

Time limits are essential for criminal proceedings and I do not consider that providing time limits for the filing of appeals from the Children's Court limits the accused's right to prepare his or her defence.

Section 25(2)(i) provides that a person charged is entitled, as a minimum guarantee:

> To have the free assistance of an interpreter if he or she cannot understand or speak English.

This is an important right designed to ensure the full participation of the accused in a criminal proceeding. It extends to both understanding and speaking English so that the accused is able to both understand the proceedings and to participate meaningfully in the proceeding.

Section 430ZF of the new part 5.4 to be substituted into the Children, Youth and Families Act (see clause 69 of the bill) provides that a court must not hear and determine an appeal without an interpreter present if a child, parent of the child or any other party has difficulty communicating in the English language, sufficient to prevent that person from understanding or participating in the appeal.

While the section engages the right, I do not consider that it limits the right in any way. The court must assess whether the person is prevented from understanding or participating in the appeal, which necessarily captures both a person's ability to understand English and speak English. If the court is satisfied that a person is unable to do either one of these things sufficient to participate in the appeal, then the court must not hear and determine the appeal without an interpreter.

The section is also broader than a similar section in the Criminal Procedure Act 2009 (section 355) in applying not only to the child accused but also the child's parent and any other party to the appeal (for example the child's guardian).

Section 430ZG imposes a similar requirement on the court where the court explains the nature of the order made and the reasons for the order to the child, the child's parents and any other party. As noted above I consider that subsection (2) is sufficient in ensuring that a court must assess whether a person can both understand and speak English before explaining the court order through an interpreter.

Section 25(4): rights in criminal proceedings (right to review)

Section 25(4) provides:

> Any person convicted of a criminal offence has the right to have the conviction and any sentence imposed in respect of it reviewed by a higher court in accordance with law.

Section 25(4) protects the right to have a conviction and sentence for a criminal offence reviewed by a higher court. This right applies to all offences.

Under section 25(4), a person convicted of a criminal offence must be provided with an opportunity to seek review by a higher court of the conviction made against him or her and any sentence imposed.

Determination of application for leave to appeal

Clauses 26 and 27 of the bill give a discretion to a judge of appeal to refuse to give leave to appeal against sentence in relation to any ground of appeal. Such refusal can be made on the grounds that there is no reasonable prospect that the Court of Appeal would impose a less severe sentence than the sentence imposed by the County Court or the trial division of the Supreme Court. This clause also specifies that an application may be refused even if the judge of appeal

considers that there may be a reasonably arguable ground of appeal.

Under the Criminal Procedure Act, an accused requires leave to appeal to the Court of Appeal against both conviction and sentence. As discussed in the statement of compatibility for that act, this raises the issue of whether a requirement for leave is compatible with the charter right to review of conviction and sentence. This question needs to be considered in context and will depend on the nature of the leave process and the practices and principles developed by the Court of Appeal. I consider that the requirement to seek leave to appeal does not result in an appeals system that is incompatible with the charter. That is primarily because of the processes that the Court of Appeal has adopted in relation to leave for both conviction and sentence appeals.

The bill will allow a single judge of appeal to grant leave to appeal against sentence to be given for particular grounds of appeal and refused for others (clauses 26 and 27). This case management tool will promote a more focused appeal hearing as a result of the issues being narrowed and enumerated.

Specifically, clauses 26 and 27 apply to appeals against sentence. The requirement for leave to appeal and the ability of a single judge to refuse leave even where a reasonably arguable ground of appeal may exist, are both compatible with the charter right to review due to the absolute right of an accused to have a refusal of leave referred to the Court of Appeal itself (see s.315(2) of the Criminal Procedure Act). The Court of Appeal has also adopted a practice of full review of the merits when determining applications for leave to appeal against sentence, whether by a single judge or the Court of Appeal itself.

In this way, the right to review in section 25(4) is both engaged and not limited.

Extension of time for filing or serving notice of appeal or notice of application for leave to appeal

Clause 33 inserts a new provision into the Crimes (Mental Impairment and Unfitness to be Tried) Act 1997 (the CMIA) which gives the court a discretion to extend the time period for filing or serving notice of an appeal or notice of an application for leave to appeal.

In the absence of such an express power, there was no legislative basis for extending the time for appeals filed under the CMIA. In this way, clause 33 both engages and promotes the right to review in section 25(4).

Appeals from the Children's Court

Similar to the Criminal Procedure Act, the bill (clause 69 which substitutes a new part 5.4 into the Children, Youth and Families Act 2005) provides comprehensive appeal rights to the County Court (or the Supreme Court if the decision was made by the president) from the Children's Court against conviction and sentence on a de novo basis (new section 424). The superior court takes a fresh plea and re-hears all of the evidence in this process. A child may also appeal to the Court of Appeal where a sentence of detention is imposed on appeal in the County Court or the Supreme Court (as the case requires it), where a sentence of detention was not imposed in the Children's Court (new section 430R).

A child may, alternatively, choose to appeal on a question of law to the Supreme Court from the Children's Court (new section 430P). This right of appeal provides an avenue for a person who wishes to have a legal error corrected rather than the case reheard.

The bill ensures that costs are not awarded against a child who brings an appeal from a Children's Court decision (see new section 430ZH). This enhances the right of a child to seek review of the original decision as they will not be subject to a costs order. I consider there to be strong public policy interests in ensuring that a child is able to appeal a decision without fear of adverse consequences.

The bill also provides comprehensive appeal rights from the Children's Court to the Court of Appeal from the County Court or Supreme Court against conviction and sentence. These appeals are conducted on a review basis, focusing on identifying error in the primary proceedings rather than re-hearing a case afresh.

A child requires leave to appeal to the Court of Appeal against sentence under new section 430R of new part 5.4. This raises the issue of whether a requirement for leave is compatible with the charter right to review of conviction and sentence. This is a question that needs to be considered in context and will depend on the nature of the leave process and the practices and principles developed by the Court of Appeal. I consider that the requirement to seek leave to appeal does not result in an appeals system that is incompatible with the charter. That is primarily because of the processes that the Court of Appeal has adopted in relation to leave for sentence appeals.

The requirement for leave to appeal is also compatible with the charter. A single judge of appeal ordinarily hears applications for leave to appeal. However, a child has an absolute right to have a refusal of leave by a single judge referred to the Court of Appeal itself. The Court of Appeal has also adopted a practice of full review of the merits when determining applications for leave to appeal against sentence, whether by a single judge or the Court of Appeal itself.

Section 26: right not to be tried or punished more than once

Section 26 provides:

> A person must not be tried or punished more than once for an offence in respect of which he or she has already been finally convicted or acquitted in accordance with law.

There are no provisions in the bill that raise this right. The right not to be punished more than once does not apply to prevent prosecution appeals against sentence, or to increase a sentence on an appeal by an accused. That is because an increased sentence on appeal involves substituting one sentence for another, not imposing a second sentence on top of the first. I also consider that, as the Supreme Court of Canada has held in relation to an identical right, this right applies only after appeal proceedings are concluded (*R v. Morgentaler* [1988] SCR 30).

Clause 69 of the bill substitutes a new part 5.4 into the Children, Youth and Families Act 2005. New section 429(6) of this part removes consideration of 'double jeopardy' as a factor on DPP appeals against sentence. The DPP has the power to appeal against a sentence. Despite the fact that the DPP may show that a sentence is manifestly inadequate, the appeal court may currently decline to increase the sentence, or

reduce the amount of any increase, because of what is described as 'double jeopardy'. The bill removes this as a factor on such appeals in order to ensure that inadequate sentences are corrected. This is different from the principle of double jeopardy protected by the charter and does not raise section 26 issues.

Section 289 of the Criminal Procedure Act indicates that the Court of Appeal must not take into account any element of double jeopardy involved in the person being sentenced again. Clause 69 amends this provision by linking what the court must not take into account, to the court's consideration of whether to allow the appeal, rather than being limited to the court's consideration of whether a different sentence should be imposed. This amendment is more technical in nature and does not alter the purpose of the provision. The purpose of section 289 and the amendment in clause 69 is to ensure that inadequate sentences are corrected. This is different from the principle of double jeopardy protected by the charter and does not raise section 26 issues.

Section 17: protection of families and children

Section 23: children in the criminal process

Section 25(3): rights in criminal proceedings (accused children)

Children involved in criminal proceedings are afforded special protections under the charter. To avoid repetition, these protections are considered together below.

Section 17(2) provides:

> Every child has the right, without discrimination, to such protection as is in his or her best interests and is needed by him or her by reason of being a child.

Section 23 provides:

> (1) An accused child who is detained or a child detained without charge must be segregated from all detained adults.
>
> (2) An accused child must be brought to trial as quickly as possible.
>
> (3) A child who has been convicted of an offence must be treated in a way that is appropriate for his or her age.

Section 25(3) provides:

> A child charged with a criminal offence has the right to a procedure that takes account of his or her age and the desirability of promoting the child's rehabilitation.

Children are entitled to special protection because of their vulnerability as minors. The charter recognises two categories of children involved in the criminal process that hold specific rights in addition to the rights which apply to all people. These categories are children accused of criminal offences (sections 23 and 25(3)) and children who are witnesses in criminal proceedings (section 17(2)). This bill has provisions that raise the rights of children in both categories.

Children charged with offences

Criminal charges against children are primarily dealt with in the Children's Court, which uses its own modified criminal procedure rules.

The Criminal Procedure Act amended the Children, Youth and Families Act 2005 (CYFA) and the Magistrates' Court Act 1989 (MCA) to allow, in limited circumstances, joint committal proceedings where a child and an adult are charged in relation to the same offence. Joint committals avoid duplication of proceedings, save witnesses from having to give evidence twice and help to reduce delay. A joint committal raises the accused child's right to be treated in a way that is appropriate for their age.

A joint committal is only available where the relevant charges cannot ultimately be determined in the Children's Court, including murder, attempted murder, manslaughter, arson causing death or culpable driving causing death. The child accused must be over 15 years of age and the court must be satisfied that the charges against each accused would ordinarily be tried together in the County Court or the Supreme Court.

Clause 48 of the bill includes the offences of child homicide and defensive homicide in the list of offences for which joint committal proceedings can be conducted. Like the original included offences (in the Criminal Procedure Act), these homicide offences are offences for which the Children's Court does not have summary jurisdiction.

As discussed in the statement of compatibility for the Criminal Procedure Act, before a joint committal proceeding can be held, both courts must agree that such proceedings are appropriate in the particular case, having regard to the age and ability of the child, the effect on victims and the estimated duration of the proceedings. There may be other important matters to consider, for example, the availability of appropriate remand facilities for children in the court at which the joint proceeding is proposed to be conducted. Therefore the Criminal Procedure Act provided for a broad discretion to have regard to any other relevant matter. Finally, at the committal hearing the provisions of the CYFA apply, as far as practicable, to the child accused.

These safeguards will ensure that joint committals will be ordered only when adequate protections for the child exist in the particular case. Accordingly, I do not consider that including these two homicide offences as offences for which joint committals may be held limits the sections in the charter which afford special protections to children.

Section 27: retrospective criminal laws

Clause 58 of the bill inserts a new schedule 4 into the Criminal Procedure Act. This schedule contains the transitional arrangements setting out when provisions of the Criminal Procedure Act commence operation. By raising issues of timing, section 27 of the charter, concerning the right against retrospective criminal laws, is engaged.

A person has a right not to be prosecuted or punished for acts or omissions that were not criminal offences at the time they were committed. This can also be stated as the right of an accused to be judged by the law for their conduct at the time that it occurred. Underlying this right is the general principle that a person must be able to predict the criminal culpability that attaches to their actions.

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

Section 27 therefore reflects the common law assumption that legislation is not retrospective and explicitly embeds that position within the charter in relation to the criminal law. This position is summarised in the statement of principle in *Fisher v. Hebburn Ltd* (1960) 105 CLR 188 that '[t]here can be no doubt that the general rule is that an amending enactment — or, for that matter, any enactment — is prima facie to be construed as having prospective operation only. That is to say, it is prima facie to be construed as not attaching new legal consequences to facts, or events which occurred before its commencement'.

Importantly, this position against retrospectivity has been accepted and applied by the courts in relation to legislation concerned with substantive matters as opposed to procedural matters only. The common law and statutory prohibition on retrospectivity in the criminal legal context has traditionally been understood as preventing only the retrospective imposition of criminal liability, not the application of new procedural rules that are different from those in force at the time of the commission of the offence (see *Maxwell v. Murphy* (1957) 96 CLR 261). This is reflected in section 27 which does not extend to prevent retrospective changes to procedural law. If, however, a legislative change that appears procedural in character may adversely affect a substantive right, the general principle against retrospectivity will most likely apply.

The transitional arrangements in clause 58 of the bill do not retrospectively criminalise conduct nor do they impose penalties for a criminal offence that are greater than the penalties that applied when the offence was committed. This is because the transitional provisions in schedule 4 concern amendments which are literally concerned with criminal procedure and do not involve substantive rights. Under the rules of statutory construction, this means that the bill extends to actions that are only part completed when the change in procedure is made (Pearce & Geddes, 10.20).

For the sake of clarity, I will specify the aspects of clause 58 which could be thought to raise substantive issues and explain how they do not limit the right against retrospectivity in section 27 of the charter.

Clause 58(10) specifies when the provisions of the act concerning appeals come into operation. These provisions include the amendments removing consideration of 'double jeopardy' as a factor affecting DPP appeals against sentence. As discussed in the statement of compatibility for the Criminal Procedure Act, this operated previously in the accused's favour in that, despite the fact that the DPP may show that a sentence is manifestly inadequate, the appeal court could decline to increase the sentence or reduce the amount of any increase. The act removes this as a factor in such appeals in order to ensure that inadequate sentences are corrected. This is different from the principle of double jeopardy (which concerns convictions) as protected by the charter. The bill specifies that the provisions removing double jeopardy as a consideration in Crown appeals will apply only to appeals where the sentence is imposed on or after the commencement of the act. In this way, the bill does not operate retrospectively to affect any perceived procedural advantage that the accused otherwise would have had. Therefore, section 27 is neither engaged nor limited.

New schedule 4 to be inserted into the Criminal Procedure Act sets out transitional provisions for much of that act. Because substantive rights are not engaged, the transitional provisions provide that in a number of instances the Criminal Procedure Act will apply to proceedings that commenced before that act will commence and will apply to offences alleged to have been committed before the commencement of the act. These instances include the following significant steps that may arise in a criminal proceeding:

Summary proceedings — the Criminal Procedure Act will apply to any proceeding which commences on or after the commencement day. Section 5 of that act defines when a criminal proceeding commences. It does not matter whether the offence is alleged to have been committed before or after the act commences.

Committal proceedings — the act will apply to any proceeding which commences on or after the commencement day.

Transfer of relevant summary offences — these offences will be transferred to the court to which the accused is committed for trial where the accused is committed on or after the commencement (i.e. where the charges were filed before the commencement of the act).

Trial — the act will apply where the accused is committed for trial or directly indicted on or after the commencement day. There are several exceptions to this as outlined in clause 8 of schedule 4. These provisions will be of assistance in proceedings already under way at the time of commencement.

New trial — clause 9 provides that where the Court of Appeal, following an appeal against conviction, orders a new trial, the new trial must be conducted in accordance with the act. A person does not have a right to be tried using the same procedural laws that applied when they were tried on the first occasion.

Appeals — appeals against conviction and sentence to the County Court or the Court of Appeal apply where the accused was sentenced on or after the commencement day.

Interlocutory appeals process and case-stated procedure — these procedures will apply to any decision made, or question which is reserved, on or after the commencement day, irrespective of when the proceeding commenced.

Different transitional provisions will apply in relation to the proposed new part 8.2 of the Criminal Procedure Act. Part 8.2 deals with evidence in sexual offence cases. Given the connections between part 8.2 and the Evidence Act 2008 the bill aligns the transitional provisions for part 8.2 with the transitional provisions for the Evidence Act. Consistent with the transitional arrangements proposed for the Evidence Act, the bill provides that part 8.2 applies to all hearings on or after the commencement day. However, if a hearing is part heard on the commencement day, existing laws will continue to apply.

Given the way in which the above transitional provisions operate and the matters that they deal with, section 27 is neither engaged nor limited by these transitional provisions.

Clause 53 specifies when the provisions of the act modifying the offence of perjury come into effect. The amendments concern how the offence works with respect to statements to be included in briefs used in summary and committal proceedings. Currently when a witness statement is taken, the usual practice is for the witness to acknowledge 'that the statement is true and correct and is made in the belief that a person making a false statement in the circumstances is liable to the penalties of perjury'. This is essential for a statement to be used in a brief of evidence in summary or committal proceedings. However, the offence is only committed if the informant intended to include the statement in a brief of evidence. This means that in many situations if a person includes false information in their statement they cannot be prosecuted for perjury. The bill removes this limitation of the offence and focuses on whether the contents of the statement were true and correct.

The amended elements of the offence are clearly defined and have not been given retrospective effect. The offence will only apply where it is alleged to have occurred on or after the commencement of the bill. Consequently, section 27 is neither engaged nor limited.

Item 110 of the schedule sets out transitional provisions in relation to the Sentencing Act 1991. Importantly, this clause deals with the change to jurisdictional maximum penalties for indictable offences which may be heard and determined summarily. This change occurs via the insertion of new section 112A into the Sentencing Act by the Criminal Procedure Act.

New section 112A sets a maximum fine of 500 penalty units for a natural person found guilty of an indictable offence heard and determined summarily by the Magistrates Court. The maximum applies irrespective of whether the offence is also punishable by imprisonment. The same approach is taken in relation to penalties for a body corporate in section 381, which sets a maximum fine of 2500 penalty units for a body corporate. Both are subject to contrary intention.

Section 113A of the Sentencing Act 1991 limits the maximum term of imprisonment that may be imposed for an indictable offence that is heard summarily to two years, subject to a contrary intention being expressed in an act. This limit applies despite a higher maximum penalty that applies to the offence when tried in the County or Supreme Court. Previously, the Sentencing Act 1991 did not contain an equivalent maximum financial penalty limit. As a result, there was no consistency between the maximum fines for these offences when they were heard summarily.

Fixing a maximum penalty for when the offence is tried summarily also assists the Magistrates Court when deciding whether to grant summary jurisdiction as the court must consider the adequacy of sentencing orders available to the court (see section 29(2)(b) of the Criminal Procedure Act).

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

The transitional provision explicitly sets out that this penalty change is to operate to the benefit of the accused. In this way, item 110 of the schedule is consistent with the principle underlying section 114 of the Sentencing Act. Section 114 provides that if legislation reduces the maximum penalty for an offence, the reduction extends to offences committed before the commencement of the provision when no penalty has yet been imposed. Item 110 applies this principle to the jurisdictional limits setting out the extent of the court's sentencing power. This means that the timing of when the court decides an issue is relevant. If the court grants jurisdiction after commencement of the provision, the new penalties will apply. If the court granted jurisdiction before commencement of the provision, a version of the section 114 principle applies. That is, if the penalty is lowered then the accused will get the benefit of the reduced penalty. If the penalty is increased, then the old (lesser) penalty will still apply. In this way, the right in section 27(3) to benefit from a lesser penalty when penalties change is positively engaged and promoted.

Amendment of the Charter of Human Rights and Responsibilities Act 2006

I note that the bill makes three amendments to the charter. None of these amendments limit any rights under the charter.

First, clause 18 of the schedule replaces the word 'appear' in section 21(6) with the word 'attend'. The purpose of this change is to align the charter with the changes introduced by the Criminal Procedure Act clarifying when an accused is required to attend and when they are required to appear.

The Criminal Procedure Act draws a distinction between the words 'attend' and 'appear'. 'Attend' is used throughout the act to refer to a person being physically present in court and 'appear' to describe when a person need not be physically present in court, if they are represented.

Previously, there was a lack of consistency as to when an accused could appear and when they were obliged to attend. The approach significantly differed between different stages of the criminal process. The act takes a presumptive position in favour of appearance in the Magistrates Court. The accused will be required to attend if they are bailed, remanded in custody to any court date, as well as at committal and trial proceedings unless excused.

The approach the act takes is intended to reflect the current law and practice, to make the law clearer and to provide flexibility where the accused's attendance or non-attendance will be useful for case management purposes.

By changing appearance to attendance in section 21(6) of the charter, clause 18 of the schedule introduces the concept that the release of a person awaiting trial may be subject to guarantees to physically attend for trial, at any other stage of the judicial proceeding and if appropriate, for execution of judgement. This introduces no substantive change. It clarifies what was originally intended by the section and a power that the court already had.

Second, clause 18 of the schedule inserts into the definition section of the charter a definition of trial in relation to the Magistrates Court. This change is based on the fact that the Criminal Procedure Act uses the term 'trial' to describe a jury trial in the County and Supreme courts rather than a summary hearing in the Magistrates Court. Currently, however, the

charter uses 'trial' to apply to proceedings in different jurisdictions. On this basis, and for the sake of clarity, the definition requires amendment to ensure that the relevant protections are not excluded. This new definition, therefore does not introduce a substantive change. Rather it makes explicit the original intention underlying the charter provisions in the context of the introduction of the Criminal Procedure Act.

Last, clause 18 of the schedule simplifies and improves the review process for questions concerning the operation of the charter.

The current process precludes the County Court from referring a charter question directly to the Court of Appeal. Rather, the question must first proceed to a single judge of the Supreme Court. As a result, the process involves considerable delay in getting an issue ultimately resolved by the Court of Appeal.

The bill amends section 33 to enable issues to be referred directly from the County Court to the Court of Appeal. This amendment makes this process similar to the process used for cases stated under the Criminal Procedure Act. This amendment engages and promotes the right to review by expediting the process for obtaining an authoritative judgement from the Court of Appeal which can, in turn, be of broad use where the issue in question is common to a number of trials or civil proceedings.

Rules and procedures for the giving of evidence in sexual offence proceedings

The bill, at clause 50, inserts into the Criminal Procedure Act 2009 rules and procedures in sexual offence and family violence proceedings for the giving of evidence by complainants and witnesses. This is essentially a re-enactment of sections 37A to 37E and 41A to 41H of the Evidence Act 1958. The scheme is largely procedural and is more appropriately located with other procedural provisions in the Criminal Procedure Act 2009.

While the bill re-enacts existing provisions from the Evidence Act 1958 it is important that the scheme is consistent with the charter. In considering how the scheme interacts with the charter, I consider it to be a balancing act between competing rights, namely the fair hearing rights and minimum guarantees the accused enjoys in a criminal proceeding and the protection of children and vulnerable witnesses.

As the policy justifications for the scheme and the charter rights the scheme engages are similar, I will avoid repetition by broadly considering how competing rights and interests are balanced against each other rather than undertaking a right-by-right analysis. There are, however, several aspects of the scheme that require a more detailed analysis which follows below.

Balancing competing rights

The scheme broadly engages a number of competing charter rights. One of the important rights the scheme engages is the section 24 right to a fair hearing. The consideration of the fair hearing right involves, in itself, a balancing of interests of not only the accused, but also that of witnesses and the public. Accordingly, there are some instances where the interests of victims and witnesses is given increased weight resulting in different processes applying in limited circumstances.

There are several reasons why special procedures and rules are justified in these cases, which include the low reporting and prosecution of sexual offences, particularly where the victim is a child or cognitively impaired as well as the reluctance of complainants to participate in proceedings.

In my opinion, the scheme strikes the right balance through a number of measures that protect vulnerable witnesses whilst ensuring the accused can challenge the evidence against them. New division 2 of the scheme restricts the right of the accused to admit evidence or cross-examine with respect to the complainant's chastity and sexual history. The protections are designed to preserve the privacy and reputation of the complainant in sexual offence proceedings. I consider this protection to be well balanced against the right of the accused to examine witnesses and present relevant evidence to the court. New section 344 provides that the accused may seek leave to admit evidence or cross-examine a witness and the court may grant leave if it is satisfied that the evidence has substantial relevance to a fact in issue and it is in the interests of justice (new section 349). The bill also improves the scheme from its current form in section 37A of the Evidence Act 1958 by making it easier for an accused to apply for leave out of time or to waive the requirement that the application be in writing by amending the test from 'exceptional circumstances' to 'interests of justice' (new sections 345 and 347).

New division 4 also provides a similar balance in providing alternative arrangements for witnesses and complainants to give evidence in an environment that is less traumatic and intimidating. While a fair hearing right incorporates the concept that an accused should be able to 'face their accuser' this is not always appropriate, such as in sexual offence and family violence proceedings where the witness often has a personal relationship with the accused. The alternative arrangements do not, in any way, limit the accused's ability to challenge the evidence against them either by presenting their own evidence or through cross-examination of witnesses for the prosecution. New section 361 also requires the judge to provide an appropriate warning to the jury not to draw adverse inferences about the arrangements that have been made or to give the evidence any greater or lesser weight.

The scheme also positively engages a number of rights including the section 13 right to privacy and reputation of the victim as well as the obligation in section 17 to provide special protection to families and children. New division 6 of the scheme, in particular, enhances the section 17 right by providing special rules and procedures for children in trial proceedings, in requiring a special hearing to be held within three months of the accused being committed for trial. This ensures that the evidence of a child is captured earlier rather than later and in an environment that is less stressful and intimidating.

The criminal justice system must ensure fair outcomes not only for the accused but also complainants and witnesses. The scheme recognises the special issues which arise in sexual offence and family violence cases, in relation to the trauma and embarrassment experienced by the victim as well as the domestic and personal nature of such offences. The scheme provides appropriate protections to witnesses as well as ensuring there are appropriate safeguards in place to ensure fairness to the accused.

Important aspects of the scheme that engage specific rights

Admissibility of recorded evidence

Section 25(2)(g) effectively creates a presumption of cross-examination, to ensure that the accused has an adequate opportunity to challenge and question a witness who will give or has given evidence against him or her.

The right to cross-examine prosecution witnesses is qualified by the words 'unless otherwise provided by law'. This recognises that there can be good reasons for departing from the general rule but that they must be prescribed by law and be carefully designed to ensure an appropriate balance between competing interests. The restrictions on cross-examination in the bill meet these criteria.

On the face of it, new division 6 of the scheme engages the right by providing that recorded evidence of a complainant who is a child or cognitively impaired (taken at a special hearing) may be admitted in a subsequent hearing, for example a re-trial. It is my view, however, that new division 6 is reasonable, circumscribed and ensures an appropriate balance between competing interests. There are important safeguards to protect the accused in this division. New section 374(3) provides that the court may rule the whole or any part of the recording inadmissible in a subsequent hearing. Further to this, the accused may apply to cross-examine the complainant at a subsequent hearing in particular circumstances (new section 376). The trial judge must also provide an appropriate jury warning regarding use of recorded evidence (new section 375). These measures ensure that the court makes an assessment of the appropriateness of admitting recorded evidence on a case-by-case basis, having regard to the fairness to the accused.

New division 7 broadens the existing recorded evidence provisions beyond special hearings to apply to evidence given by other complainants in trial proceedings, for example an adult complainant. The law is sufficiently circumscribed in that it has important safeguards to protect the accused's right to a fair trial. Unlike division 6, the presumption is that a complainant will give direct testimony in a subsequent hearing unless the prosecution applies to admit a record of their evidence given at trial. This ensures that it applies only in cases where a complainant is particularly traumatised and unable to give evidence again.

If the prosecution makes an application, the court may admit the evidence if it is satisfied that it is in the interests of justice to do so, having regard to a list of factors (new s.380). This list of factors includes whether there will be an unfair disadvantage to the accused if the recorded evidence is admitted. The trial judge must also provide an appropriate jury warning regarding use of recorded evidence (new s.382). This ensures that the court makes an assessment of the appropriateness of admitting recorded evidence on a case-by-case basis, having regard to the fairness to the accused.

Personal cross-examination of protected witnesses

Section 25(2)(d) of the charter protects the right of an accused to be tried and to defend himself or herself in person or through legal assistance. The right to defend oneself personally is not absolute, rather the reference to legal assistance suggests that the accused may choose one or the other.

Division 3 relates to a category of witness that is 'protected' from personal cross-examination of the accused. The division provides that where an accused is not legally represented the court may order Victoria Legal Aid to provide legal representation for the purposes of cross-examination of the protected witness. A protected witness is a complainant, a family member of the complainant or the accused or any other witness the court declares to be protected.

The right of the accused to defend him or herself in person or with legal assistance is engaged as the court may order that the accused be legally represented for the purposes of cross-examining a protected witness. Given the importance of the right, I have undertaken an analysis below of whether the division is a reasonable limitation on the right.

Consideration of reasonable limitations — section 7(2)

Division 3 raises and, and on its face, limits the section 25(2)(d) right of an accused to be tried in person and to defend him or herself. However, in my opinion it is a reasonable and justifiable limitation in a free and democratic society for the purposes of section 7(2) of the charter having regard to the following factors:

(a) The nature of the right being limited

The right provides a minimum guarantee that the accused may defend him or herself personally or with legal representation in a criminal proceeding. A person's right to defend him or herself against a criminal charge is a significant right.

(b) The importance of the purpose of the limitation

There are important public policy reasons for protecting witnesses and complainants when giving evidence in sexual offence and family violence cases. The nature of these cases are such that the complainant and other witnesses often have a personal relationship with the accused. This may act as a deterrent for complainants to report offences and for witnesses to give evidence in such cases.

(c) The nature and extent of the limitation

The nature of the limitation is to provide protection to complainants and witnesses from cross-examination personally by the accused. The division does not limit the accused from conducting their defence personally for any other aspect of the trial. Legal representation is restricted to cross-examination of a small category of protected witnesses.

(d) The relationship between the limitation and its purpose

The relationship between the limitation and its purpose is both reasonable and justifiable. The purpose is quite specific, namely, to protect the witness from being personally cross-examined by the accused. As such, the only meaningful way this may be achieved is to prohibit the accused from personal cross-examination. The division does this without unreasonably limiting the accused's rights.

(e) Any less restrictive means reasonably available to achieve the purpose

There are no less restrictive means of achieving this purpose, when the purpose is to protect the witness from cross-examination personally by the accused. The new sections incorporate appropriate safeguards to ensure that the limitation is no more restrictive than necessary.

(f) Other relevant factors

These limitations are also relevant to rights that the accused enjoys including the right to adequate time and facilities to prepare a defence in section 25(1). The court has an inherent power to grant the accused an adjournment in order to prepare for his or her defence. Further to this, new section 357 provides that:

> The court must provide certain information to the accused, including that the accused is not permitted to personally cross-examine the witness and the consequences of not questioning a protected witness about a matter if the accused intends to adduce evidence to contradict the protected witness.
>
> The court must grant an adjournment in order for the accused to obtain legal representation.
>
> The court may order Victoria Legal Aid (VLA) to represent the accused and if the court does so, VLA must represent the accused.
>
> If the accused does not provide instructions to their assigned legal practitioner, the legal practitioner must act in the best interests of the accused.
>
> The trial judge must provide certain warnings to the jury about the process involved including not drawing any adverse inferences from the accused not being permitted to cross-examine a witness personally.

Conclusion

The extent of the limitation is proportionate to protecting witnesses and addressing the underreporting and prosecution of sexual and family violence offences while still maintaining the right to a fair hearing for the accused.

Power to close a hearing

The alternative arrangements include, in new section 360(1)(d), a power of the court to specify who may be present in the courtroom at the time a witness is giving evidence. A similar power exists in new section 372(1)(c), with respect to who may be present during a special hearing (where a child or cognitively impaired complainant is giving evidence for a proceeding in the County Court or Supreme Court). This power does not extend to excluding the accused from being present at the hearing.

On the face of it, these sections limit the right of an accused to have a public hearing. Section 24(2) of the charter qualifies this right however, in providing that a law may exclude the public from a hearing. While the law may codify an exception to section 24(1) it is important that any such law be precise and circumscribed.

I consider that it is appropriate in sexual offence and family violence proceedings for the law to permit the court to exclude the media and public in certain circumstances. The law is important in a free and democratic society to protect witnesses from the trauma, distress and embarrassment of giving evidence that may be of a highly personal, sensitive and traumatic nature. The power to close a hearing is important in more broadly addressing the problems with low reporting and prosecution rates for sexual and family violence offences by providing a level of protection from public exposure and embarrassment for witnesses.

I am satisfied that the law is sufficiently circumscribed and precise as the power is limited to specifying who may be present for the duration of the witness's evidence only. It is also a discretionary power therefore the court has the opportunity to assess the appropriateness of such an order on a case-by-case basis.

Rob Hulls, MP
Attorney-General

Second reading

Mr HULLS (Attorney-General) — I move:

That this bill be now read a second time.

The Criminal Procedure Act 2009 was passed by Parliament in February 2009. The Criminal Procedure Act overhauls existing laws that deal with criminal procedure (including summary procedure, committals, trial procedure and appeals) by rationalising and clarifying provisions, modernising language and processes and improving the efficiency, fairness and effectiveness of the criminal justice system.

In order to implement this comprehensive and far-reaching legislative regime, the Criminal Procedure Amendment (Consequential and Transitional Provisions) Bill makes a significant number of consequential amendments to other acts where those acts deal with matters connected to criminal procedure. In total, 137 acts require amendment, including the Children, Youth and Families Act 2005, the Crimes Act 1958, the Evidence Act 1958, the Magistrates' Court Act 1989, the Public Prosecutions Act 1994 and the Supreme Court Act 1986.

The bill makes two main types of consequential amendments, namely:

> modernising language and terminology; and
>
> updating cross-references to acts or provisions which will be repealed by the Criminal Procedure Act.

In addition to these consequential amendments, the bill also:

> introduces further improvements to criminal procedure; and

provides transitional arrangements for the commencement of the Criminal Procedure Act.

Modernising language and terminology

The Criminal Procedure Act modernises criminal procedure laws by using plain English and clear and consistent terminology. Some of the more common changes include the following:

'accused' replaces 'defendant';

'charge-sheet' replaces 'charge';

'indictment' replaces 'presentment';

'sentence' replaces 'sentencing order';

'set aside' replaces 'quash' or 'quashed'.

Many acts also use the term 'appear' to describe an obligation on an accused to attend personally or be represented at a criminal proceeding. In the light of the new definitions given to the terms 'appear' and 'attend' in section 3 of the Criminal Procedure Act, certain references to 'appear', 'appears' or 'appearance' in other acts have been replaced with 'attend', 'attends' or 'attendance' in order to clarify that an accused is required to appear personally and physically at a proceeding.

In the Criminal Procedure Act, the distinction between 'attend' and 'appear' significantly clarifies how the legislation should operate and what the accused is required to do. These distinctions are important in acts which are frequently used in criminal proceedings.

Updating cross-references

Many acts refer to aspects of current criminal procedure laws, such as the commencement of a criminal proceeding under the Magistrates' Court Act 1989. The bill amends these acts to ensure that that they cross-refer to the new provisions in the Criminal Procedure Act to remain effective.

The bill also amends references in acts, which refer to a section of an act repealed or replaced by the Criminal Procedure Act. For example, acts such as the Gas Industry Act 2001, the Occupational Health and Safety Act 2004 and the Rail Safety Act 2006 contain explanatory notes concerning indictable offences. The bill amends these notes, to reflect the fact the section 28 of the Criminal Procedure Act (rather than section 53 and schedule 4 to the Magistrates' Court Act 1989) now indicate whether an indictable offence may be heard and determined summarily.

Substantive amendments

As I indicated previously, the bill makes a number of changes to further improve the operation and policy objectives of the Criminal Procedure Act. I will now discuss these changes.

Sexual offence cases

The bill inserts into the Criminal Procedure Act sections of the Evidence Act 1958 that relate specifically to sexual offence cases. Given the importance of special rules in sex offence cases and the extent to which they involve procedural laws, these provisions are more appropriately located with other procedural provisions in the Criminal Procedure Act.

For many years the law has prohibited or restricted questions about the prior sexual history of a complainant in a sexual offence case. These laws have been amended and improved on several occasions. This bill overhauls these provisions, making them much clearer and easier to understand. The bill also clarifies that these laws apply in summary proceedings and sets out clear time limits for applications for leave to cross-examine. The protection afforded by these provisions has also been extended to cover offences of sexual servitude.

The bill also rationalises the existing provisions. For instance, currently three separate sections provide for alternative arrangements for giving evidence by witnesses in sexual offence or family violence proceedings. The bill replaces these provisions with one scheme for alternative arrangements, making the relevant law easier to find, understand and apply.

In 2006, this government introduced new laws to create a 'special hearing' in sexual offence cases. A special hearing involves recording, before trial, the evidence of a complainant who is a child or cognitively impaired witness. This means that in most sexual offence cases a child or cognitively impaired complainant only needs to give evidence on one occasion. If there is a new trial following an appeal, the court can replay the recording of the complainant's evidence.

However, in other situations a complainant in a sexual offence case may be required to give evidence on a number of occasions. For example, an adult complainant in a rape trial may be required to give evidence a number of times where there is a mistrial or a new trial is ordered on appeal or a mistrial. This can be very traumatic and stressful. It may also lead to the discontinuation of a case if a complainant decides not to give evidence at a subsequent trial.

Accordingly, the bill complements the special hearing provisions by providing that the recorded evidence of a complainant in a trial for a sexual offence can be used in a subsequent trial.

The bill provides that the prosecution must apply for this recorded evidence to be admitted and gives the court a discretion to determine whether to admit the recorded evidence or to require the complainant to give supplementary evidence or fresh evidence. This discretion is modelled on the approach used in New South Wales. The court must have regard to the interests of the accused in receiving a fair trial or hearing. This provides a balanced approach to these issues to reduce the risk of further stress and trauma to the complainant while ensuring that the accused receives a fair trial.

These laws involve both criminal procedure and evidence. Section 8 of the Evidence Act 2008 provides that it does not affect the operation of the provisions of other acts. In some areas the amendments provided in this bill address issues not covered in the Evidence Act 2008, such as the provision of special hearings in sexual offence cases and the use of recorded evidence. In other situations, the amendments supplement the Evidence Act 2008. For instance, the bill deals with the admissibility of hearsay evidence given by children in sexual offence cases and these amendments provide for additional circumstances in which evidence given by a child may be admissible.

Appeal provisions in the Children, Youth and Families Act 2005

The current scheme for appeals in the Children, Youth and Families Act is very complex because it adopts provisions from the Magistrates' Court Act, then makes express modifications and then also provides that any necessary modification to the provisions must be made. The bill amends the Children, Youth and Families Act to introduce the modern appeals scheme that the Criminal Procedure Act has created for adults, expressly adapted to meet the needs of children. As a result, the criminal appeal provisions in the Children, Youth and Families Act will be clearer and more accessible.

These new appeal provisions will then apply with some small adaptation to appeals in the family division.

The bill also provides that costs cannot be granted against a child in appeals where the child loses the appeal or where the child appellant abandons the appeal. Being able to award costs against a child may inappropriately discourage a child from appealing. In most cases a child is unlikely to be able to pay costs. Further, in the majority of appeals to the County Court and the Supreme Court a child will be legally represented and acting on advice that their appeal has merit.

Statement under section 85(5) of the Constitution Act 1975

Clause 69 of the bill inserts a new part 5.4 into the Children, Youth and Families Act 2005. Clause 85 amends section 599 of the Children, Youth and Families Act 2005 to provide that it is the intention of section 430Q to alter or vary section 85 of the Constitution Act 1975.

I make the following statement under section 85(5) of the Constitution Act 1975 of the reasons why it is the intention of new section 430Q of the bill to alter or vary section 85 of the Constitution Act 1975.

New division 5 of part 5.4 of the Children, Youth and Families Act 2005 provides for a right of appeal from the Criminal Division of the Children's Court to the Supreme Court on a question of law. New section 430Q provides that if a person appeals to the Supreme Court under this division, that person abandons finally and conclusively any right to appeal to the County Court or to the trial division of the Supreme Court in relation to that proceeding.

The trial division of the Supreme Court hears appeals from a decision of the President of the Children's Court under new divisions 1 and 2 of part 5.4. If a person appeals to the Supreme Court on a question of law from a final order of the President of the Children's Court under new division 5, new section 430Q means that the person cannot appeal to the trial division of the Supreme Court.

Two important considerations in developing a framework for appeals are that a person should have a right to appeal and that there should be finality to proceedings. New part 5.4 provides two avenues for appeals. One appeal provides a fresh hearing of all of the evidence. This is provided in divisions 1 and 2 of new part 5.4. The other appeal involves an appeal on a question of law to the Supreme Court. This is provided in division 5 of new part 5.4. Because there are two types of appeal, the bill provides in new section 430Q that where a person chooses to appeal on a question of law, they abandon any right to an appeal involving a fresh hearing of the matter. This ensures that there is appropriate finality to proceedings and prevents the proliferation of proceedings in relation to decisions of the Children's Court.

Charter of Human Rights and Responsibilities

The Charter of Human Rights and Responsibilities (the charter) enables questions of law relating to the application of the charter or the interpretation of a statutory provision in accordance with the charter to be referred:

from the County Court to the trial division of the Supreme Court; and

from the trial division of the Supreme Court to the Court of Appeal.

The Criminal Procedure Act provides for a new case-stated process that will enable the Court of Appeal to quickly consider important legal issues from either the County Court or the trial division of the Supreme Court. Consistent with this new approach, the bill amends section 33 of the charter to allow charter-related questions to be referred from the County Court to the Court of Appeal. This will provide a quicker and more direct way of dealing with charter issues. This amendment will apply to both civil and criminal proceedings in the County Court.

Broadening the offence of perjury

Currently when a police officer or investigator under the Magistrates' Court Act 1989 (which will be replaced by schedule 3 to the Criminal Procedure Act) takes a statement from a witness, the usual practice is for the witness to acknowledge 'that the statement is true and correct and is made in the belief that a person making a false statement in the circumstances is liable to the penalties of perjury'. This is essential for a statement that is to be used in a brief of evidence in summary or committal proceedings.

However, the actual offence is only committed if the informant intended to use the statement by including it in a brief of evidence. This means that in many situations where a person includes false information in their statement they cannot be prosecuted for perjury. Purely technical reasons which will prevent a prosecution include where the investigator does not know at the time of making the statement whether the statement will be included in a brief for summary prosecution or a committal proceeding. Further the offence does not apply in other situations such as where a statement is taken after the committal proceeding, for the purposes of a trial. It is important for both the prosecution and the accused that statements are accurate and that those who knowingly provide false information in a statement should be guilty of the offence of punishment.

The bill removes this technical element of the offence and focuses on whether the contents of the statement were true and correct.

Miscellaneous amendments

The bill also makes other amendments including:

improving case management powers by enabling a single judge of appeal to allow leave to appeal against sentence to be given for particular grounds of appeal and refused for others;

providing the Children's Court with a rule-making power for criminal procedure;

providing clear time limits for the filing and service of a notice of appeal, and extensions of time limits, for appeals under the Crimes (Mental Impairment and Unfitness to be Tried) Act 1997.

Statement under section 85(5) of the Constitution Act 1975

Clause 96 of the bill substitutes a new section 49 into the Public Prosecutions Act 1994 to provide that it is the intention of this section to alter or vary section 85 of the Constitution Act 1975.

I make the following statement under section 85(5) of the Constitution Act 1975 of the reasons why it is the intention of clause 96 of the bill to alter or vary section 85 of the Constitution Act 1975.

Section 49 of the Public Prosecutions Act 1994 currently limits the jurisdiction of the Supreme Court.

Clause 96 of the bill substitutes a new section 49 into the Public Prosecutions Act 1994 to modernise the terminology as a result of changes introduced by the Criminal Procedure Act. Specifically reference to 'presentment' is replaced with 'indictment', the term 'making a presentment' is replaced with 'filing an indictment' and the term 'set aside' is included.

With the exception of these changes to terminology, the proposed new section 49 re-enacts the existing section 49 of the Public Prosecutions Act 1994.

Proposed new section 49(a) provides that it is the intention of this section to alter or vary section 85 of the Constitution Act 1975 to the extent necessary to prevent the Supreme Court from entertaining any proceeding in which a verdict returned by a jury on a trial on indictment or an order made by a court on or in connection with such a verdict is sought to be challenged, appealed against, reviewed, quashed, set aside or called into question on the ground that the

filing of the indictment was dependent on the making of a special decision and the procedures prescribed by the act for the making of a special decision had not been complied with.

The reason for preventing any challenge to a jury verdict or court order in these circumstances is to provide certainty and efficiency in the administration of justice. Further, any irregularity in compliance with the special decision process does not concern the substantive issue of whether the accused is guilty or not guilty of the offence charged.

Proposed new section 49(b) provides that it is the intention of this section to alter or vary section 85 of the Constitution Act 1975 to prevent any application by a person for an order in the nature of prohibition, certiorari or mandamus or for a declaration or injunction or for any other relief in respect of a verdict returned by a jury on a trial on indictment or a court order on or in connection with such a verdict on the ground referred to in proposed new section 49(a).

The reason for preventing these applications under the circumstances stated is to provide certainty and efficiency in the administration of justice. Again, any irregularity in compliance with the special decision process does not concern the substantive issue of whether the accused is guilty or not guilty of the offence charged.

Transitional provisions

New schedule 4 to the Criminal Procedure Act provides the transitional arrangements for the commencement of the Criminal Procedure Act. The Criminal Procedure Act will apply to all criminal proceedings commenced on or after the day of commencement. It will also apply where the accused is committed for trial or directly indicted on or after the commencement day. Special provisions also apply for appeals. Appeals against conviction and sentence to the County Court or the Court of Appeal apply where the accused was sentenced on or after the commencement day.

The new interlocutory appeals process will be made available as soon as possible. It will apply to any decision which is made on or after the commencement day, irrespective of when the proceeding commenced.

Different transitional provisions will apply in relation to the proposed new part 8.2 of the Criminal Procedure Act. Part 8.2 deals with evidence in sexual offence cases. Given the connections between part 8.2 and the Evidence Act 2008, the bill aligns the transitional provisions for part 8.2 with the transitional provisions for the Evidence Act. Consistent with the transitional arrangements proposed for the Evidence Act, the bill provides that part 8.2 applies to all hearings that commence on or after the commencement day. Provisions that are more detailed apply to specific aspects of the transition process for matters that commenced before the commencement day and continue after the commencement day.

The transitional provisions set out clearly the circumstances in which the Criminal Procedure Act will apply and when existing proceedings will continue to apply to proceedings which commence before the Criminal Procedure Act commences. This will assist all participants in managing the transition process until the Criminal Procedure Act governs all proceedings.

Conclusion

The Criminal Procedure Act is a major initiative of the government's justice statement to modernise our criminal justice system. It is the most comprehensive and far-reaching reform of criminal procedure in Victoria's history. This bill provides the necessary amendments for the Criminal Procedure Act to work effectively. It supports and gives effect to the reforms introduced by that act.

I commend this bill to the house.

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

Debate adjourned until Thursday, 1 October.

Remaining business postponed on motion of Mr WYNNE (Minister for Housing).

ADJOURNMENT

The DEPUTY SPEAKER — Order! The question is:

That the house do now adjourn.

Water: toilet retrofit program

Ms ASHER (Brighton) — The issue I have is for the Minister for Water and the action I am seeking from him is to introduce a toilet retrofit program across Melbourne. Many homes in Melbourne still have a single-flush toilet. It may be of great interest to members to know that a single-flush toilet can use up to 11 litres, and in some cases even 12 litres, of water. This is very wasteful. The estimate that I have been given is that there are 440 000 single-flush toilets in homes and businesses right across Melbourne.

Mr Wynne — How many?

Ms ASHER — There are 440 000. The government is concentrating on showers and showerheads and I suggest it should be looking at upgrading toilets now rather than at the point of sale of the premises. There are efficient dual-flush toilets on the market. They use 4.5 litres for a full flush and 3 litres for a half flush. The estimate of this is that it would save 35 000 litres per household on average. The estimate over Melbourne — this is only an estimate that I have been given — is that it could save 11 to 15 gigalitres per annum. In New York 1.3 million toilets have been replaced under a scheme that commenced in 1992. Sydney Water has a toilet replacement program and there are other examples throughout the world and indeed in Australia such as in the Australian Capital Territory. This is an example of demand management without loss of amenity. The problem for this government is that many of its management solutions in Melbourne involve loss of amenity. This is a really good example of one without loss of amenity, and I would urge the minister to look at this program.

City West Water and South East Water have a reference on their websites to a new toilet program where the householder has savings and a rebate of $50. The consumer obviously pays some money. However, this is ad hoc and is not complete. Yarra Valley Water is not part of the program and I suspect it is not a full program — in other words, it is only to change a limited number of toilets. Industry is not part of the program, although I am certainly not suggesting consumer subsidies for industry. The government also needs to have a program of retrofit of government buildings.

I would urge the minister that rather than having an ad hoc approach he should have a coordinated approach. The minister has advised members of the public that he has become more reflective in recent times and I urge him to reflect on this very good suggestion and implement such a program rather than dismissing it with his previous arrogance.

Consumer affairs: Australian National Car Parks Pty Ltd

Mr SCOTT (Preston) — The matter I wish to raise is for the Minister for Consumer Affairs. The action I seek is that Consumer Affairs Victoria investigate the operation of Australian National Car Parks Pty Ltd (ANCP) and alert consumers of their rights in private car parks. Safeway's car park in Murray Road, Preston, used to be managed by the City of Darebin. Council inspectors would issue fines to those who exceeded the allotted time allowed for parking. During this time my office did not regularly receive complaints about council parking inspectors' conduct.

About two years ago Safeway handed over management of the car park to Australian National Car Parks. Since then my office has received regular complaints. The chief complaint is that people do not understand the charging arrangements and ANCP does not take pains to make the arrangements clear and is ruthless in demanding money. On entering the car park a driver is expected to take a ticket from the machine and display it on their windscreen. This applies no matter how brief the visit. However, the signs instructing people to do this have not always been seen by people driving into the car park, especially if they are entering from Clinch Avenue, as the signs are at right angles to the direction of travel and easily missed. Other signs indicate that one can park up to 2 hours without charge. This leads people to believe they can simply drive into the car park and shop for up to 2 hours as they have done previously. If they do this and have not displayed a ticket, an ANCP inspector may attach to their windscreen a document that resembles a council penalty notice but which is actually a 'claim for liquidated damages' which is expressed in small letters on the back.

The document attached by the car parking officer so strongly resembles a council parking ticket as to ensure that most people believe they have no choice but to pay. The wording, employing expressions such as 'payment notice and tax invoice' and 'offence date', is clearly designed to ensure that members of the public believe ANCP has authority to issue fines. The greatest group of complainants to my office have failed to notice the requirement to display a ticket and most have parked for no more than 30 minutes. They have been issued with a 'claim for liquidated damages' amounting to $88. The 'claim for liquidated damages' and the follow-up letters are both worded in a legalistic tone clearly intended to ensure that people pay. Constituents who have visited my office regarding ANCP have generally been elderly and they have been quite upset over the wording of the letters and notices.

In fact ANCP is not the council and does not have the power to fine and may fail in any attempt to recover its so-called damages. My office has been contesting letters and notices from ANCP and has been successful in having such notices cancelled by ANCP. I urge the minister to investigate Australian National Car Parks Pty Ltd and warn consumers.

Sir Murray Bourchier: memorial

Mrs POWELL (Shepparton) — I raise a matter for the Premier in his role as Minister for Veterans' Affairs. The action I seek is for the Premier to assist in honouring Brigadier Sir Murray Bourchier, CMG, DSO, VD, a former member of the Victorian Parliament with a distinguished record of service to his country. I have raised with the Premier before the issue of erecting a statue in honour of Brigadier Bourchier. His response was that it is not something that the state government is able to provide and he suggested that local government would be the appropriate body to arrange a memorial plaque for a local individual who made a significant contribution to the community. He gave me the contact phone number for Greater Shepparton City Council.

I had already contacted the Shepparton council. It responded on 24 June last year saying it was supportive and making inquiries as to the costs involved. I have also gained support from Mr Peter McPhee, who is the president of the Shepparton RSL and the deputy chair of region 9 RSL, which is also supportive.

I recently had discussions with the Leader of The Nationals, who is keen to ensure there is a memorial to Brigadier Bourchier and who reminded me that it will be the 100th anniversary of the Anzac landing at Gallipoli on 25 April 2015 and the 100th anniversary of the Battle of Beersheba on 31 October 2017; I understand the federal government may be undertaking initiatives to commemorate those special dates.

I ask the Premier to support the erection of a statue as a monument to honour Brigadier Sir Murray Bourchier's service to Victoria and the nation and his heroic courage and ask him to urge the federal government to also honour this great Victorian and his legacy. The Australian film *The Lighthorsemen* depicts the charge of the light brigade and Australian actor Tony Bonner plays Brigadier Sir Murray Bourchier.

In 1936 Brigadier Sir Murray Bourchier accepted the position of agent-general for Victoria in England. Before entering the Victorian Parliament Brigadier Sir Murray Bourchier served in the 4th light horse regiments at Gallipoli. He led the charge of the light horse on Beersheba in World War I in 1917 and was awarded the distinguished service order. In Kaukab in 1918 he led the 4th and 12th light horse regiments in what was the last ever cavalry charge and was awarded the most distinguished order of St Michael and St George.

After the war the Brigadier returned to his farm at Katandra and continued as a leader of the 5th cavalry brigade. He was awarded the volunteer decoration for his community work and his work caring for returned soldiers. Brigadier Bourchier died in London in 1937. He was knighted posthumously and is buried at the Shepparton Cemetery.

I urge the Premier, as the Minister for Veterans' Affairs, to do whatever he can to make sure that this heroic Victorian is given the dignity he deserves so that Victorians, and particularly local people, in the future can understand the role he played in serving Victoria and the nation.

Berwick: broadband access

Ms GRALEY (Narre Warren South) — My adjournment matter today is for the Treasurer and Minister for Information and Communication Technology and concerns access to broadband in Berwick. The action that I seek from the minister is that he raises with his federal counterpart the urgent need for broadband access in Berwick when they meet as part of the Online and Communications Council within the Council of Australian Governments.

As I have said in the house before, substantial pockets of my electorate, which is only 35 minutes away from here down the Monash Freeway, do not have access to broadband. The information superhighway does not go all the way to the outer suburbs. Broadband access in Berwick is a particular problem. I have received emails and phone calls from new constituents about this matter. People are moving into Berwick and finding that there is no broadband access, which is the result of 12 years of inaction by the previous Howard Liberal-National government — wasted years when successive ministers failed to invest in important infrastructure fit for 21st century Australia.

I commend the Rudd Labor government for taking action with its very innovative plan to rollout broadband access across Australia but I must stress that Berwick has an urgent need. Berwick is a growth area. It is one of the fastest growing areas in the state. It is the baby boom capital of Victoria. It is also an area where people are establishing new businesses, creating jobs and contributing to the economy but also where their work is being made so much more difficult because of the lack of broadband access. It really defies belief that people in the outer suburbs of a major city do not have broadband access and are wasting their valuable time and energy on lengthy waits for downloads.

I would like to read a letter from two of my constituents, Terry and Janette. It states:

> As a new resident to the Berwick area, I was very surprised to discover that there is currently no broadband internet access available in my estate … Telstra is saying that the Berwick South exchange is currently at capacity and they have no immediate plans for an upgrade, mainly due to cost.
>
> My only choices presently are dial-up or wireless broadband which is quite expensive by comparison and is also not reliable in my area.
>
> I imagine that there will be many other families in the same situation. While not high on some people's priority list, broadband is expected to be available for a number of needs in today's society.

I have since received another email from Terry and Janette saying they had spent an hour the other night trying to download some information. As they said:

> I am hoping that as our local member that you may be able to exert some influence on Telstra to have them upgrade our local exchange.

I would certainly like to urge Telstra to get its act together and upgrade the Berwick South exchange. It should have fixed the problem by now. Meanwhile it is totally unacceptable that we do not have broadband access right across metropolitan Melbourne, and I call on the minister to take action on behalf of my constituents.

Commercial Road, Koroit: traffic lights

Dr NAPTHINE (South-West Coast) — The issue I wish to raise is for the Minister for Roads and Ports. The action I seek is for the minister to fund through VicRoads the installation of pedestrian-controlled traffic lights at the pedestrian crossing in Commercial Road, Koroit. Commercial Road is the main street in Koroit and has along it two hotels, the local post office, the state primary school, the ANZ Bank, the local IGA supermarket and many other local businesses. It is a busy local shopping centre.

In addition, Commercial Road is part of the main highway between Warrnambool and Hamilton, which and passes through a number of towns and communities on the way, including Hawkesdale and Penshurst. Many milk tankers use this street to travel to the Koroit Murray Goulburn Cooperative factory, and it carries numerous B-double trucks, tourists and local traffic. The development of the Shaw River gas-fired power station will mean this road will be used by people travelling to and from that development.

Mr Wynne interjected.

Dr NAPTHINE — Mick Bourke's hotel at Koroit, yes.

Mr Wynne — Is it still there?

Dr NAPTHINE — Absolutely. It serves green beer every St Patrick's Day. It is a fantastic hotel.

In an effort to improve pedestrian safety, a pedestrian crossing with flashing lights was installed several years ago. It was seen as so important that Moyne Shire Council funded the lights. The crossing is well used by children, parents with prams and older people who need a safe crossing to cross this very busy road. What we now need is to replace those flashing lights with pedestrian-controlled traffic lights so that the traffic will be much more aware of the crossing, pedestrians will be much safer and traffic will definitely have to stop when people are using the crossing. The upgrading is supported by the Moyne Shire Council and local police. An article in the *Moyne Gazette* of 6 August states:

> In a letter of support, Koroit police sergeant Pat McKinnon said he believed the best way to remove any doubt or confusion would be the introduction of traffic control signals.

On 30 July the *Moyne Gazette* reported that the change was supported by:

> Koroit primary schools, Murray Goulburn, the Koroit police, the Victoria Park Playgroup, the Irish Festival, the Lake School and the Koroit Business and Tourism Association … the Koroit basketball association, the Koroit Cricket Club and both senior and junior football clubs.

Indeed Koroit Primary School president, Steve Hoy, told the council he was concerned that the crossing was a 'major accident waiting to happen'. On 7 August Commercial Road shopkeeper Peter Daly said:

> Somebody is going to get killed there in 12 months. I truly believe that.

There is also concern from truck drivers, who say the current flashing lights are not visible enough and they want pedestrian-controlled traffic lights at the crossing.

Wattle Park Primary School: upgrade

Mr STENSHOLT (Burwood) — My adjournment matter is directed to the Minister for Education. The action I seek is for the minister to support the total refurbishment of Wattle Park Primary School by providing funding under Building Futures to complement the federal funding the school has received under the Building the Education Revolution program. I thank local federal member, Anna Burke, who voted for that, unlike the other local federal members —

namely, Petro Georgiou and Peter Costello — who voted against it.

Wattle Park Primary School is an excellent school that is well led by principal Nick Farley. I commend Nick on the work he has done in the school and place that on the record in this Parliament. Currently there are 356 students, and the school is expecting 385 next year. It is anticipated the number will grow to 420 in 2012. The school has 12 portable classrooms and 7 permanent ones, but the 7 permanent ones are all of light timber construction and are known as LTCs. It even has 3 Bristol buildings, for those who know what Bristols are. There is a range of other buildings, none of which is really of recent vintage — in fact, they are vintage buildings. The school has a well-thought-out and modern learning philosophy but needs modern facilities to further enhance that philosophy. I know the Brumby Labor government aims to rebuild and modernise all schools throughout Victoria, and some $1.9 billion has been provided over four years for that, including through the Building Futures program. I ask that Wattle Park Primary School be included in the program now and that it be funded as soon as possible.

Wattle Park has prepared a master plan. I will not ask for it to be included in *Hansard*, but we do have a copy. The school has been working on it since 2007, and I have had quite a number of discussions with school representatives about the plan The federal Building the Education Revolution program will provide $2.5 million for eight permanent classrooms, reflecting the school's needs and to enhance its pedagogic approach, but the master plan needs to be completed. The main aspect of the plan is that it needs to be supported under the Building Futures approach of developing highly functional teaching and specialist spaces. These provide a variety of learning areas and work spaces.

The plan includes redeveloping the current hall into a music and art and craft facility; expanding the library and technology centre, including adding more IT into this area; relocating the staff room to the old art room; and providing space for the requirements of a growing school. The plan also envisages that the current staff room will become a further administrative area and that there will be a new multipurpose hall complete with a canteen, sports storage rooms and toilets. These are magnificent ideas for the school. I ask the minister to make sure that the school goes on to the Building Futures program as soon as possible.

Bushfires: roads

Mr TILLEY (Benambra) — I wish to raise for the attention of the Minister for Roads and Ports a matter concerning bushfire preparedness and safety. The action I seek from the minister is the implementation of improved bushfire safety through the prescribing and ongoing maintenance of a specific network of roads to be known as bushfire-ready roads. The genesis of the concept of a bushfire-ready road network came through investigations I have conducted as part of my fuel reduction watch campaign. While I was investigating the appalling local fuel load levels it became obvious that one of the major fuel-related fire hazards is the build-up of fuel along roads linking towns. Lack of maintenance and the long-term build-up of fuel render many key rural access roads potential death traps.

A bushfire-ready road network would consist of expertly prescribed roads, including fire access tracks, where the current convoluted roadside maintenance regulations would be simplified, providing an easily understood framework of regulations for state and local government authorities, the Country Fire Authority and local residents to follow when removing all ground fuel and which would permit intensive maintenance of roadside vegetation to minimise the susceptibility of roads to being blocked by fire and debris.

Not every road should or could realistically be a designated bushfire-ready road. However, from the Benambra perspective, roads such as the Wodonga–Beechworth Road, the Yackandandah Road and the Stanley Road, which in many cases serve as a town's sole access and egress points, are prime examples of roads that should form part of this statewide plan, including but not limited to the many local overgrown fire access tracks.

A bushfire-ready road network would minimise the occurrence of critical roads acting as fuses and bringing bushfires into towns; improve road safety in times of fire through minimising possible road debris such as fallen tree branches; give emergency services safer corridors to better combat fire and allow them to operate further away from the anchor points with the knowledge that a solid, clear path will allow them to fall back and regroup in a safer manner; and act generally as well-maintained firebreaks. A network of bushfire-ready roads would enhance the recommendations of the Victorian bushfires royal commission's interim report, in particular recommendation 6.4, which calls for further designation of neighbourhood safer places, and would allow residents safer passage to those places.

Rural towns need access protection, and I hope this plan will be implemented in the most environmentally sensitive and economically responsible way. We need to put all the options on the table and come up with better solutions going forward. I call upon the Minister for Roads and Ports to enact this positive proposal to improve bushfire safety for all Victorians.

Cheltenham Light Opera Company: theatre rental

Ms MUNT (Mordialloc) — The action I seek is from the Minister for Skills and Workforce Participation. I request that the minister make representations to Monash University to reach a satisfactory resolution of the terms of use for CLOC's (Cheltenham Light Opera Company) use of the Alexander Theatre located at the university.

A recent change of conditions has been imposed by Monash University on the use of the Alexander Theatre by the Cheltenham Light Opera Company. I recently visited CLOC and it advised me that its ongoing use of the Alexander Theatre is conditional on Monash University taking control of ticket sales for all future CLOC shows. In effect this new arrangement will mean that the company will incur additional fees of over $50 000 per year, which constitutes an 80 per cent increase to the current rental agreement between CLOC and the university.

CLOC is a highly respected company which has been in existence for some 38 years. It plays an important role in our local community. With its many dedicated and talented volunteers, it provides not only high-quality, affordable entertainment but also opportunities for many people, both young and old, to experience the joy and pleasure of working in the theatre. Indeed a number of young people who have served their apprenticeships with CLOC have gone on to careers in professional theatre.

CLOC has established a large database of supporters which is administered by a highly professional team of volunteers, ensuring that ticket prices are kept as low as possible. As the organisation receives no external funding or government grants and is entirely dependent on its ticket sales to survive, the proposed changes will threaten the company's survival if it continues to use the Alexander Theatre for its performances.

I strongly urge Monash University to reconsider this matter and allow the Cheltenham Light Opera Company to continue using the Alexander Theatre on the same terms as it has in the past. Once again I ask the Minister for Skills and Workforce Participation to do all she can to facilitate a good outcome for both Monash University and CLOC.

Crime Stoppers: directory listing

Mr McINTOSH (Kew) — I wish to raise a matter for the attention of the Minister for Police and Emergency Services. The matter concerns the Victorian government's decision to cease its Crime Stoppers listing in the *White Pages* directory. The action I am seeking from the minister is to that he immediately stop this penny-pinching measure, rescind this decision and reinstate the Crime Stoppers 1800 333 000 listing in the *White Pages*.

The Crime Stoppers telephone hotline provides the public with contact through a 1800 number whereby valuable information can be supplied, helping police to solve all sorts of crimes from assaults to armed robberies. Even yesterday when it finally reported a brutal racist bashing in Epping on Saturday night the police media alert finished with a plea for information to be provided by the public by calling the Crime Stoppers telephone number.

Crime Stoppers has been around since the late 1980s and is well known and well used. Its 1800 number is a free call from standard phones and a local call from mobiles. Literally thousands of people call Crime Stoppers every year to share information about crimes. The bottom line is that the system works, the public likes it, the police like it and there is high community recognition and participation, which was shown in last year's results — over 43 000 phone calls leading to some 13 000 reports sent for investigation and over 1000 arrests.

While Crime Stoppers provides an online contact point through its website, it is the telephone service that is most important because, in the words of Crime Stoppers itself:

> Crime Stoppers prefers to receive telephone calls, to enable a conversation about the crime with the caller.

According to White Pages, some 43 per cent of consumers surveyed said that they believed the *White Pages* directory was the best place to look for government contact information and some 65 per cent considered Sensis products to be the best way to find the details of all government agencies and councils. *White Pages* lists Crime Stoppers in other states but not in Victoria. If you call Crime Stoppers in Victoria, that is fine, but if you look it up on the White Pages website, you only find New South Wales and South Australian listings. Frankly this is just plain stupid. Why any government would do anything to jeopardise such a

successful program is beyond me. Why would a government want to make the telephone number for this crucial telephone-based service less available?

As I said, the action I am seeking from the government and the minister is to, most importantly, ensure that this particular product, Crime Stoppers, which is a valuable service, is listed in the *White Pages*. It is an important service, and a listing is not that expensive — I am told it is less than $10 000 a year. For the life of me I cannot understand why the government has stopped Crime Stoppers being advertised in the *White Pages.*

Glen Eira sports and aquatic centre: funding

Mr HUDSON (Bentleigh) — I seek action from the Minister for Sport, Recreation and Youth Affairs in relation to state government funding for the Glen Eira sports and aquatic centre. The East Bentleigh pool is over 50 years old and has declining attendances. It gets less than 50 000 visits per annum. It leaks, and it has failing pumping and filtration systems. Frankly, it needs to be rebuilt.

Shortly after I was elected as the member for Bentleigh the Glen Eira City Council tried to close the East Bentleigh pool. I led a campaign with the community to prevent that from happening. In fact we got 7000 signatures on a petition, which is the largest petition ever collected in the city of Glen Eira. Following that campaign the council relented and indicated that it would keep both the East Bentleigh pool and the Caulfield pool open. However, that did not resolve the question of how the pool would be redeveloped. After a lot of further work by the community the council finally agreed that it needed a new sports and aquatic centre and that it should be located on the East Bentleigh pool site.

Since that decision was made the council has spent a considerable amount of time and money on detailed design and costing work. That work indicates that the new sports and aquatic centre is going to cost in the order of $45 million. The design includes indoor and outdoor pools, a waterslide, a hydrotherapy pool, a gymnasium, a cafe and a indoor-outdoor sports stadium. Obviously it is a big project. If you look at any of these projects for major facilities these days, you see they cost a lot of money.

The council has indicated that it cannot possibly build the facility without federal and state government assistance. I did a considerable amount of work with Simon Crean, the federal member for Hotham. We were able to secure $10 million out of the federal government's regional and local government infrastructure program for the project, and the state government has provided $2.5 million under the Better Pools program toward the aquatics part of the facility.

However, this is going to be the biggest community infrastructure project ever built in Glen Eira. It will involve 132 full-time construction jobs and 44 full-time jobs when the centre is operational. The council expects there to be over 500 000 visits per annum. The council needs additional assistance to build the indoor basketball-netball stadium as part of the centre. There is no such facility provided by the council within the city of Glen Eira. It is something that is sorely needed — both the Caulfield and District Netball Association and the McKinnon Basketball Association need indoor courts. I request that the Minister for Sport, Recreation and Youth Affairs provide some additional funding towards this facility.

Responses

Mr WYNNE (Minister for Housing) — The member for Brighton raised a matter for the Minister for Water, seeking his support for a toilet retrofit program across metropolitan Melbourne. I will make sure the Minister for Water is appraised of that initiative.

The member for Preston raised a matter for the Minister for Consumer Affairs, seeking his support for an investigation into the activities of the Australian National Car Parks company in his electorate and, I gather, some other parts of metropolitan Melbourne as well.

The member for Shepparton raised a matter for the Premier in his capacity as Minister for Veterans' Affairs, seeking his support for a suitable monument to Brigadier Sir Murray Bourchier. I will make sure that the Premier is made aware of that request.

The member for Narre Warren South raised a matter for the Treasurer in his capacity as Minister for Information and Communication Technology, seeking his support in encouraging the federal Minister for Broadband, Communications and the Digital Economy, Minister Conroy, to advocate for a better broadband service for the suburb of Berwick. I will make sure that the minister is aware of that.

The member for South-West Coast raised a matter for the Minister for Roads and Ports, seeking funding support for the installation of pedestrian lights in Commercial Road, Koroit — close to that excellent hotel with the dancing cockatoo.

The member for Burwood raised a matter for the Minister for Education, seeking financial support from the Building the Education Revolution investment fund for the Wattle Park Primary School, the alma mater of my good wife and an excellent primary school.

The member for Benambra raised a matter for the Minister for Roads and Ports, seeking funding for a bushfire-ready roads network. I will make sure that the minister is aware of that particular initiative.

The member for Mordialloc raised a matter for the Minister for Skills and Workforce Participation, seeking her support in advocating that Monash University clarify the tenancy arrangements at the Alexander Theatre for the Cheltenham Light Opera Company, known as CLOC.

The SPEAKER — Everyone knows about CLOC.

Mr WYNNE — I certainly know about it now, Speaker.

The member for Kew raised a matter for the Minister for Police and Emergency Services, seeking his intervention to ensure that the Crime Stoppers listing in the *White Pages* is reinstated.

The member for Bentleigh raised a matter for the attention of the Minister for Sport, Recreation and Youth Affairs, seeking the minister's support for the substantial upgrade of the Glen Eira sports and aquatic centre. I will make sure that the minister is aware of that matter. And that will do us, I would say — if that is your will, Speaker.

The SPEAKER — Order! The house is now adjourned.

House adjourned 5.23 p.m. until Tuesday, 13 October.