PARLIAMENT OF VICTORIA

PARLIAMENTARY DEBATES (HANSARD)

LEGISLATIVE COUNCIL

FIFTY-SIXTH PARLIAMENT

FIRST SESSION

Thursday, 9 August 2007

(Extract from book 11)

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By authority of the Victorian Government Printer

The Governor

Professor DAVID de KRETSER, AC

The Lieutenant-Governor

The Honourable Justice MARILYN WARREN, AC

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Minister for Housing, Minister for Local Government and Minister for Aboriginal Affairs	The Hon. R. W. Wynne, MP
Cabinet Secretary	Mr A. G. Lupton, MP

Legislative Council committees

Legislation Committee — Mr Atkinson, Ms Broad, Mrs Coote, Mr Drum, Ms Mikakos, Ms Pennicuik and Ms Pulford.

Privileges Committee — Ms Darveniza, Mr D. Davis, Mr Drum, Mr Jennings, Ms Mikakos, Ms Pennicuik and Mr Rich-Phillips.

Select Committee on Gaming Licensing — Mr Barber, Mr Drum, Mr Guy, Mr Kavanagh, Mr Pakula, Mr Rich-Phillips and Mr Viney.

Select Committee on Public Land Development — Mr D. Davis, Mr Hall, Mr Kavanagh, Mr O'Donohue, Ms Pennicuik, Mr Tee and Mr Viney.

Standing Orders Committee — The President, Mr Dalla-Riva, Mr P. Davis, Mr Hall, Mr Lenders, Ms Pennicuik and Mr Viney.

Joint committees

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

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

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

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

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

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

Family and Community Development Committee — (*Council*): Mr Scheffer and Mr Somyurek. (*Assembly*): Ms Beattie, Mr Dixon, Mr Perera, Mrs Powell and Ms Wooldridge.

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

Law Reform Committee — (*Council*): Mrs Kronberg, Mr O'Donohue and Mr Scheffer. (*Assembly*): Mr Brooks, Mr Clark, Mr Donnellan and Mrs Maddigan.

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

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

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

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

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

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 COUNCIL

FIFTY-SIXTH PARLIAMENT — FIRST SESSION

President: The Hon. R. F. SMITH

Deputy President: Mr BRUCE ATKINSON

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Mr GAVIN JENNINGS

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Mr PHILIP DAVIS

Deputy Leader of the Opposition:
Mrs ANDREA COOTE

Leader of The Nationals:
Mr PETER HALL

Deputy Leader of The Nationals:
Mr DAMIAN DRUM

Member	Region	Party	Member	Region	Party
Atkinson, Mr Bruce Norman	Eastern Metropolitan	LP	Lenders, Mr John	Southern Metropolitan	ALP
Barber, Mr Gregory John	Northern Metropolitan	Greens	Lovell, Ms Wendy Ann	Northern Victoria	LP
Broad, Ms Candy Celeste	Northern Victoria	ALP	Madden, Hon. Justin Mark	Western Metropolitan	ALP
Coote, Mrs Andrea	Southern Metropolitan	LP	Mikakos, Ms Jenny	Northern Metropolitan	ALP
Dalla-Riva, Mr Richard Alex Gordon	Eastern Metropolitan	LP	O'Donohue, Mr Edward John	Eastern Victoria	LP
Darveniza, Ms Kaye Mary	Northern Victoria	ALP	Pakula, Mr Martin Philip	Western Metropolitan	ALP
Davis, Mr David McLean	Southern Metropolitan	LP	Pennicuik, Ms Susan Margaret	Southern Metropolitan	Greens
Davis, Mr Philip Rivers	Eastern Victoria	LP	Petrovich, Mrs Donna-Lee	Northern Victoria	LP
Drum, Mr Damian Kevin	Northern Victoria	Nats	Peulich, Mrs Inga	South Eastern Metropolitan	LP
Eideh, Khalil M.	Western Metropolitan	ALP	Pulford, Ms Jaala Lee	Western Victoria	ALP
Elasmar, Mr Nazih	Northern Metropolitan	ALP	Rich-Phillips, Mr Gordon Kenneth	South Eastern Metropolitan	LP
Finn, Mr Bernard Thomas C.	Western Metropolitan	LP	Scheffer, Mr Johan Emiel	Eastern Victoria	ALP
Guy, Mr Matthew Jason	Northern Metropolitan	LP	Smith, Hon. Robert Frederick	South Eastern Metropolitan	ALP
Hall, Mr Peter Ronald	Eastern Victoria	Nats	Somyurek, Mr Adem	South Eastern Metropolitan	ALP
Hartland, Ms Colleen Mildred	Western Metropolitan	Greens	Tee, Mr Brian Lennox	Eastern Metropolitan	ALP
Jennings, Mr Gavin Wayne	South Eastern Metropolitan	ALP	Theophanous, Hon. Theo Charles	Northern Metropolitan	ALP
Kavanagh, Mr Peter Damian	Western Victoria	DLP	Thornley, Mr Evan William	Southern Metropolitan	ALP
Koch, Mr David Frank	Western Victoria	LP	Tierney, Ms Gayle Anne	Western Victoria	ALP
Kronberg, Mrs Janice Susan	Eastern Metropolitan	LP	Viney, Mr Matthew Shaw	Eastern Victoria	ALP
Leane, Mr Shaun Leo	Eastern Metropolitan	ALP	Vogels, Mr John Adrian	Western Victoria	LP

CONTENTS

THURSDAY, 9 AUGUST 2007

Thursday, 9 August 2007

The PRESIDENT (Hon. R. F. Smith) took the chair at 9.32 a.m. and read the prayer.

SUMMARY OFFENCES AMENDMENT (UPSKIRTING) BILL

Introduction and first reading

Received from Assembly.

Read first time on motion of Hon. J. M. MADDEN (Minister for Planning).

PETITIONS

Following petitions presented to house:

Mordialloc Creek Bridge: reconstruction

To the Legislative Council of Victoria:

The petition of certain citizens of the state of Victoria draws to the attention of the Legislative Council the problems with the work being undertaken on the Mordialloc bridge, Nepean Highway, Mordialloc and the daily traffic transport delays that residents of Mordialloc, Carrum and bayside suburbs encounter.

The petitioners therefore respectfully request that the Legislative Council of Victoria demands that the Minister for Roads and Ports, Tim Pallas and VicRoads:

1. immediately review the work and schedules of the Mordialloc bridge construction, including the 16-month construction time frame given for the project;

2. conduct a public information session regarding the Mordialloc bridge construction to allow residents of Mordialloc, Carrum and bayside suburbs to consult with the minister and VicRoads for a timely resolution to the daily traffic transport delays.

By Mrs PEULICH (South Eastern Metropolitan) (1203 signatures)

Laid on table.

Ordered to be considered next day on motion of Mrs PEULICH (South Eastern Metropolitan).

Water: north–south pipeline

To the Legislative Council of Victoria:

The petition of certain citizens of the state of Victoria draws to the attention of the Legislative Council of Victoria the proposal to develop a pipeline which would take water from the Goulburn River and pump it to Melbourne.

The petitioners are opposed to this project on the basis that it will effectively transfer the region's wealth to Melbourne; have a negative impact on the local environment and lead to further water being taken from the region in the future. The petitioners commit to the principle that water savings which are made in the Murray–Darling Basin should remain in the basin.

Your petitioners therefore request that the state government abandons their proposal to pipe water from the Goulburn River to Melbourne and calls on the state government to address Melbourne's water supply needs by investing in desalination, recycling and capturing stormwater.

By Ms LOVELL (Northern Victoria) (108 signatures)

Laid on table.

Agriculture: genetically modified crops

To the Legislative Council of Victoria:

The undersigned citizens and residents of Victoria remind the Council that the government:

introduced a one-year moratorium on commercially growing genetically manipulated (GM) canola in May 2003;

passed the Control of Genetically Modified Crops Act 2004 to give the state general legislative power over planting GM crops, specifically to ban the commercial planting of GM canola until 2008;

but also gave the agriculture minister power to authorise GM crop 'trials' (to produce GM seed for export), in addition to trials licensed by the federal OGTR;

is required to review the act before 24 March, 2008.

The petitioners therefore call on members of the Legislative Council to intercede with the Victorian government, state cabinet and health minister Bronwyn Pike to:

set up independent and participatory processes to review the act;

make a firm commitment to extending the bans on GM crops till 2013;

urge all the state, territory and federal ministers on the Gene Technology Ministerial Council (GTMC) to also extend their GM crop bans;

encourage GTMC to lower thresholds of GM canola contamination allowed, from 0.9 per cent in grain and 0.5 per cent in seed, to 0.1 per cent as promised.

By Mr BARBER (Northern Metropolitan) (376 signatures)

Laid on table.

SUPREME COURT JUDGES

Report 2005–06

Hon. J. M. MADDEN (Minister for Planning) presented report by command of the Governor.

Laid on table.

PAPERS

Laid on table by Clerk:

Planning and Environment Act 1987 — Notices of Approval of the following amendments to planning schemes:

Ballarat Planning Scheme — Amendment C125.

Corangamite Planning Scheme — Amendment C20.

East Gippsland Planning Scheme — Amendment C57.

Glenelg Planning Scheme — Amendment C37.

Golden Plains Planning Scheme — Amendment C50.

Greater Dandenong Planning Scheme — Amendment C95.

Horsham Planning Scheme — Amendments C40.

Mitchell Planning Scheme — Amendment C48.

Moorabool Planning Scheme — Amendment C50.

BUSINESS OF THE HOUSE

Adjournment

Mr LENDERS (Treasurer) — I move:

That the Council, at its rising, adjourn until Tuesday, 21 August 2007.

Motion agreed to.

Orders of the day

Mr LENDERS (Treasurer) — By leave, I move

That the resolution of the Council appointing the next day of meeting for the second reading of the Summary Offences Amendment (Upskirting) Bill be read and rescinded and that the second reading of the bill be made an order of the day for later this day.

Motion agreed to.

MEMBERS STATEMENTS

Mansour Osanloo

Ms HARTLAND (Western Metropolitan) — My members statement today is in support of Mansour Osanloo, president of the Syndicate of Workers Tehran and Suburbs Bus Company. Mansour was abducted on Tuesday, 10 July, severely beaten and taken to an unknown destination. There is strong reason to believe that the authorities were involved. The Australian Council of Trade Unions, the International Transport Workers Federation and the International Trade Union Confederation have called upon governments and other unionists around the world to show support today and demand Mansour's safety and immediate release.

Today a delegation from the ACTU, the Rail, Tram and Bus Union, the Maritime Union of Australia, Unions ACT and members of the Iranian community will seek an audience with the Iranian ambassador and deliver a letter of protest at the Iranian embassy in Canberra. Also, in Melbourne there will be a similar rally with a number of unions. I hope that this international day of action is successful in its demands on the Iranian government to release Mansour.

Wally Tew

Mr ATKINSON (Eastern Metropolitan) — I wish to acknowledge the death of Mr Wally Tew, a former councillor of the City of Knox. Mr Tew was a councillor for 23 years from 1966 and served four terms as mayor of that city at a time of rapid development in the eastern suburbs. Obviously Knox moved from being a shire to a city at that time, and Wally Tew was one of the driving forces of the success of that municipality.

Wally Tew obviously had a long and distinguished career on the council and in fact became a member of the Order of the British Empire and was later awarded the Medal of the Order of Australia in recognition of his contribution both at the council level and indeed to many other organisations within the community.

Mr Tew lived in Ferntree Gully for most of his life. He was actually a driving force behind the establishment of Amaroo Gardens, a retirement hostel community for the aged, where in fact he lived for the last seven years of his life.

Mr Tew's contribution to the City of Knox cannot be underestimated. He was a giant of local government and a man who was recognised by all who knew him as a compassionate person, an enthusiastic and energetic

man, and a man who placed community ahead of any politics.

Timor-Leste: election

Ms BROAD (Northern Victoria) — I wish to thank the Electoral Matters Committee of the Victorian Parliament for providing me with the opportunity to attend the 2007 parliamentary elections in Timor-Leste as an international observer representing the EMC. In particular I wish to thank the chair of the EMC, Mr Somyurek; the Speaker, Ms Lindell; as well as the parliamentary staff who made the necessary arrangements in a remarkably short time.

I also wish to thank the Victorian Local Governance Association for agreeing to add a representative of the EMC to its observer mission. The VLGA had the largest independent observer mission, with more than 60 volunteers, including councillors from the Northern Victoria Region.

I wish to acknowledge the contribution of the Australian government through the federal Department of Defence and the Minister for Defence, who assisted with helping to fly observers, including me, into and out of Timor-Leste. I also wish to thank Joao Jong from the consulate-general for Timor-Leste in Melbourne, who provided great assistance.

Most of all I wish to congratulate the people of Timor-Leste for the remarkably free and fair conduct of the parliamentary elections — another milestone in building an independent nation for Timor-Leste.

Disability services: support funding

Mr RICH-PHILLIPS (South Eastern Metropolitan) — I draw the house's attention to representations I have received from certain citizens in Noble Park. I have been contacted by an elderly couple regarding their daughter, who is 42 years old and suffers from spina bifida, hydrocephalus and severe cognitive dysfunction. The lady involved needs a high level of physical and emotional care and is confined to a wheelchair. Up until now she has been cared for by her parents without outside assistance. The elderly couple concerned are now becoming increasingly frail and finding it harder to cope with the demands of looking after an adult daughter with this type of disability.

The family has worked through the Department of Human Services in an effort to find suitable accommodation for their daughter, who was assessed a few years ago as being suitable for shared accommodation, but in that time has had no success. The couple have now found suitable accommodation for their daughter, but placement is reliant on DHS funding to cover a minimum of 34 hours per week. The couple have since been advised by the department that their daughter would have to be reassessed for an individual support package and that not only was there a three-month waiting list for the reassessment but there was already a waiting list of 40 people, and with only two or three packages allocated each year there would likely be more than a 10-year wait for the funding.

That such a situation exists in 2007, when we have a human services budget exceeding $13 billion, is a disgrace. I call on the Minister for Community Services in the other place to ensure that these residents do not have to endure a 10-year wait to access an individual support package for their daughter.

Jean Fields

Ms PULFORD (Western Victoria) — Elsie Jean McKenzie was born in Richmond on 3 July 1922 and started work at the age of 14 as a machinist at Smart Style Clothing in Stewart Place, Richmond. In 1947 she married Harold Fields, and they were blessed with three children — Michael, Stephen and Elizabeth.

Jean and Harold took up a soldier settlement block at Condah and then moved to Warrnambool in 1973. It was there that Jean started work at Fletcher Jones, where she became involved with the Clothing Trade Union and became a founding member of the South West Trades and Labour Council (SWTLC).

Jean became the first female president of the SWTLC in 1988, and in 1992 she was the first woman to win the Bob McClure award for services to unionism. Her son Stephen also won the Bob McClure award. Jean remained active with the SWTLC for over 30 years. She and her daughter Liz always took plates of sandwiches to the meetings until illness prevented her attending them.

Even after retirement Jean kept herself busy as coordinator of the voluntary ushers at the Warrnambool Performing Arts Centre from 1983 until 2004. She also helped with cleaning and doing messages at the St John Ambulance office in Warrnambool.

Jean went into a retirement home in Warrnambool until her death on 28 June 2007. Jean is survived by her three children, two daughters-in-law, seven grandchildren and their partners, and eight great-grand children. In Jean's passing, working people of the south-west lost a true friend.

Koo Wee Rup Regional Health Service

Mr O'DONOHUE (Eastern Victoria) — Koo Wee Rup is a wonderful town, with a strong backbone of dairy farms and a strong local community. Sadly, it needs a bypass and the state government refuses to match federal funding for that bypass.

One of the largest employers in Koo Wee Rup — in fact, one of the largest in the shire of Cardinia — is the Koo Wee Rup Regional Health Service. The health service is well liked, not just by the people of Koo Wee Rup but also by the broader community, because of its country atmosphere, friendly staff and excellent management.

The Koo Wee Rup Regional Health Service has a plan to take it forward for the next 20 years. Part of that plan is to provide ongoing respite care of people with dementia, difficult behavioural problems, disabilities and palliative care needs. There is a tragic need for the provision, and indeed expansion, of the services. Over the last 18 months the health service provided over 1052 nights of respite care for people from the Bass Coast, Cardinia and elsewhere.

The federal government, pursuant to the National Respite for Carers Program, has committed recurrent funding to the respite unit. What is required is $1.5 million of capital funding to build the new respite unit. Sadly, the state government has so far refused to play its part to help these people. I call on the state government to work with the federal government and the Koo Wee Rup regional health service to ensure that capital funding is provided for the respite unit so that carers and others have a place to go in their time of need.

Federal government: interest rates

Mr SOMYUREK (South Eastern Metropolitan) — On behalf of mortgage holders in my electorate I rise to condemn the Howard government for reneging on its 2004 election commitment to keep interest rates down.

The south-eastern growth corridor is located within my electorate. The corridor is also referred to as the mortgage belt, as regions such as the city of Casey have among the highest ratios of mortgagees in Australia. Many of these people voted for the coalition in 2004 because the Prime Minister, Mr Howard, appealed to these highly geared householders to trust him on interest rates. Yesterday's ninth straight rate rise has seriously damaged Mr Howard's economic credentials and will make it very difficult for these families to believe anything he says in the upcoming election campaign.

The Reserve Bank of Australia's decision to lift interest rates is a significant blow to families in my electorate who are already stretched by record high mortgage repayments. In explaining its decision yesterday, the RBA pointed to higher than expected inflationary pressures in the economy.

The RBA has repeatedly warned Mr Howard about inflationary pressures caused by capacity constraints, particularly skills shortages and infrastructure bottlenecks. But despite giving a commitment to the Australian public at the last election to keep interest rates down, Mr Howard has refused to address these inflationary pressures. Australian families are now paying the price for Mr Howard's neglect — a ninth interest rate rise, which is the fifth since Mr Howard promised at the last election to keep rates at record lows.

Joleen Ryan

Ms TIERNEY (Western Victoria) — On 2 July I had the pleasure of attending the Wathaurong Aboriginal Co-operative NAIDOC flag raising in Geelong. At the flag raising many people, including Joleen Ryan, a Geelong resident who was awarded the title of Miss NAIDOC 2007 by the Victorian NAIDOC Week Committee, were recognised for the work they do in Aboriginal communities.

Ms Ryan has achieved a phenomenal amount for a 24-year-old. She has co-written a book, titled *Urgent*, about Aboriginal health issues. She won the youth health award from the Australian Medical Association in 2004.

Her involvement in the Victorian Indigenous Family Violence Task Force and the National Indigenous Youth Leadership Group gave her an opportunity to contribute to her community, and as such she was recognised for her efforts with the national NAIDOC Youth of the Year award and the Victorian Ricci Marks Young Aboriginal Achiever award in 2005.

Ms Ryan is an exceptional leader, not only for the Aboriginal youth, but for all Australians to aspire to be their best. As she said:

> Being Miss NAIDOC is a chance to represent my community and show other young people they can make their dreams and aspirations come true.

Ms Ryan continues to be an asset to the Aboriginal community in Geelong, working full time as an Aboriginal liaison officer with the MacKillop Family

Services. I congratulate Ms Ryan on a thoroughly well-deserved title and the Wathaurong cooperative and all other indigenous communities on a very thought-provoking, enjoyable and successful NAIDOC week.

STATEMENTS ON REPORTS AND PAPERS

Auditor-General: annual plan 2007–08

Ms LOVELL (Northern Victoria) — This morning I would like to make a statement on the Auditor-General's annual plan for 2007–08, and in particular I would like to talk about page 15 of his plan, which talks about the renewal and extension of water infrastructure. The Auditor-General plans to examine how well projects to renew, upgrade and extend the water infrastructure have been managed.

If we look back over the past seven and a half years — the first seven and a half years of this Labor government — we see that the government has done nothing to renew and extend water infrastructure in this state. What it has done is sat on its hands and prayed for rain and placed all the burden for water conservation onto householders and industry, expecting them to do the conservation of water. It was only when Melbourne approached level 4 water restrictions that the government came up with a policy of panic. I am sure that when the Auditor-General conducts his audit he will find that this government's plans are plans of panic. They are flawed plans, especially the north–south pipeline, which is a plan that will rob northern Victoria of water by piping water from an already stressed system to the Sugarloaf Reservoir to supplement Melbourne's water supplies.

This is a plan that will break a 50-year commitment by successive governments not to pipe water from north of the Divide to the south, where rainfall is more ample than it is in the north. It is a plan that breaks the Bracks government's own pre-election commitment not to pipe water from north of the Divide to the south. It is also a plan that goes against the government's own central region sustainable water strategy that gave a commitment that the government did not support buying water from irrigators in northern Victoria to meet Melbourne's future consumptive needs.

The pipeline is highly expensive, at $10 million per kilometre. This is far in excess of what the pipeline to Bendigo and Ballarat is costing, at $2 million per kilometre. Everyone in the north of Victoria supports upgrades of irrigation infrastructure, but we need at least $2.2 billion invested in our infrastructure, not the $600 million that has been promised by this state government. This government's plan looks only to solve Melbourne's water crisis and fails to acknowledge the desperate plight of irrigators who last year received only 29 per cent of their irrigation water supplies, and this year are so far on a zero allocation. Eildon is at only 18 per cent capacity. It is lower than it was at this time last year.

This plan fails to provide additional water for the urban water users north of the Divide who are already on level 4 water restrictions, and this government could not care less — neither could the two Labor representatives for Northern Victoria Region, Ms Broad and Ms Darveniza, who is just leaving the chamber. It also fails to acknowledge that agriculture, industry and communities north of the Divide need additional water for growth.

This is a plan that will take 75 gigalitres out of the Goulburn system by 2010, even though irrigation infrastructure upgrades are not scheduled for completion until 2015.

It is a plan that will guarantee 75 gigalitres for Melbourne regardless of whether water savings are found. The savings are not guaranteed, but Melbourne will still take its 75 gigalitres of water. Last year the entire Goulburn system delivered only 354 gigalitres of water, which equated to 29 per cent of irrigator supply. If the savings are not found, taking 75 gigalitres out of the system will devastate the Goulburn irrigation district.

The Goulburn–Murray system is currently at about 70 per cent efficiency, and it is estimated that if all irrigation infrastructure upgrades were achieved, we might get to 85 per cent. Much of that would come from re-metering, and it is estimated that at the moment Deathridge wheels deliver about 10 per cent additional water onto farms. If that 10 per cent comes away from irrigators, it should go back into the irrigators pool and not become savings to be used in Melbourne.

I would encourage Candy Broad and Kaye Darveniza, both members for Northern Victoria Region, to stand up for their communities and tell Premier John Brumby that the people of northern Victoria do not support this plan, it is not good for northern Victoria and it is not the answer for Melbourne.

Murray-Darling Basin Commission: report 2005–06

Mr DRUM (Northern Victoria) — I wish to make a statement on the Murray-Darling Basin Commission

annual report for 2005–06. I do so in light of the government's recent policy concerning putting in place a north–south pipeline from the Goulburn River to Sugarloaf Reservoir with the express aim of taking 75 gigalitres for the homes and toilets of Melbourne.

This Labor government, based in Melbourne, is trying to convince Victorians that they can invest $650 million of their own money and force the water authorities, which are already stressed and are going to be further financially stressed, to invest another $350 million — the money of the people of the north, because the costs will come back and effectively be paid by them — into this project to come up with these savings. This government has refused point blank to have an independent auditor go into the system and see whether these savings are in fact available. The government has refused that because it knows, like everyone else knows, that savings of this magnitude simply do not exist.

In relation to the supply of water to Bendigo through the Goulburn–Campaspe pipeline project — Colbinabbin to Eppalock — I called on the former Minister for Agriculture, Mr Cameron, from the other place to acquire the 20 gigalitres aimed at through that project from savings instead; I called on him not just to go into the market and buy the water but to actually invest in infrastructure to acquire those 20 gigalitres out of savings.

The answer I got back from the Minister for Agriculture was that the savings were not there, that the 20 gigalitres of savings did not exist. Now, less than 12 months later, the Premier is running around and telling us that 225 gigalitres in the first stage are out there, just waiting to be picked up by anyone prepared to fund those infrastructure improvements.

The Murray-Darling Basin Commission 2005–06 annual report talks about the fact that the Living Murray project is still owed over 145 gigalitres, which have been identified in the Murray–Goulburn system and identified also as part of the Living Murray project. So the government still has a debt to pay for its promises to the environment as part of the Living Murray project. That promise has not been fulfilled, and 145 gigalitres still have to be recovered from the Murray–Goulburn system and delivered to Living Murray. So before we even start this infrastructure improvement to send water to Melbourne, if this government has an ounce of credibility or honesty, it will come out and identify exactly how much water is yet to be saved to meet the commitments it has made to Living Murray.

Then we ask how much more water is currently not charged for. The vast majority of the losses the government talks about are operational losses and/or losses in the natural river system. We are not going to be able to pipe Goulburn River water and we are not going to be able to pipe Murray River water, so the losses that are occurring in that system are losses we will have forever and a day.

There is no doubt that the federal government's national water plan, which this state has elected not to participate in, will make available an abundance of finance for investment in infrastructure savings within the Goulburn Valley system, and the savings that are derived from the use of that money will be kept within the Murray–Darling Basin itself. We are not going to have a situation where money invested in infrastructure within the Goulburn Valley and Murray region will go straight to Melbourne, because they have stated in a categorical guarantee to The Nationals that they will not take 1 cent, will not take 1 litre of water derived from infrastructure savings out of the basin. Water that is saved from these infrastructure projects will be kept and shared between the water authorities, and thus the irrigators, and the environment, which is in need of that water.

It is interesting to see what the Murray-Darling Basin Commission has said in its annual report. It is interesting to see that the savings that are being trumpeted by this Brumby Labor government simply do not exist. They have been — —

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

Auditor-General: *Giving Victorian Children the Best Start in Life*

Mr THORNLEY (Southern Metropolitan) — I rise today to speak on the Auditor-General's report entitled *Giving Victorian Children the Best Start in Life*. This report details an examination of three Department of Human Services initiatives and their success in enhancing and ensuring access to early childhood services in this state. Our government has driven these three initiatives to provide extensive funding to early childhood services over the period of its eight years in government thus far. The Bracks government worked hard on reversing some of the negative legislative changes of the Kennett government, which were highlighted in the 1998 Auditor-General's report entitled *Child Care and Kindergartens — Caring about Quality*.

The new Brumby government has just executed one of the boldest moves in this field. It has appointed a new minister with primary responsibility for this area, and it has moved the Office for Children into the Department of Education and Early Childhood Development. I think the new Premier in his first speech as Premier made it clear that early childhood development is one of his passions and one of the key priorities of this government.

Honourable members interjecting.

Mr THORNLEY — I will take up the interjections, President, if I may. There seems to be a good deal of enthusiasm from the other side of the chamber — if members want to hear my response, they can be quiet for a moment — about the moving of the Office for Children into the department of education! I am glad to see that we have bipartisan support for this initiative. I look forward to finding out who the shadow minister will be in this field, and I hope that they will continue to be vigorous.

Mrs Coote interjected.

Mr THORNLEY — My apologies, Mrs Coote. You have knocked me over with your enthusiasm thus far, and I am glad to see we are all in support of this.

Child care has a complex legislative framework which requires the cooperation of both state and federal governments. As Parliamentary Secretary Assisting the Premier on the National Reform Agenda and Innovation it was a great disappointment to me to see that a Prime Minister who had previously signalled and publicly announced his support for a cooperative framework in these matters — in fact he had championed these things in 2006: he had publicly gone on the record and announced them to the waiting public and had sent the Productivity Commission off to make recommendations about how to proceed with the national reform agenda and its focus on early childhood development, literacy and numeracy and type 2 diabetes — suddenly got an attack of the angry pills in 2007 and decided he no longer wished to cooperate with the states, no longer wished to implement something which his own Productivity Commission indicated would have a 9 per cent positive impact on gross domestic product (GDP) over 25 years and no longer wished to work together with the states in a form that everyone from the Business Council of Australia and the Australian Industry Group to every major newspaper in this country had decided was a good idea. Then, at the press conference afterwards when he was asked by Steve Lewis of the *Australian* what happened to the third wave of economic reform, he replied to the effect of, 'Oh, well, we did that with the competition reforms'.

I am a strong supporter of the competition reforms, as was the business community, and I am very proud that we got those things through, but the Prime Minister then went on to say that real economic reform is those kind of structural competition reforms and that the other stuff is not. That statement was in complete contradiction of his own Productivity Commission, which demonstrated that the competition reforms were worth about 2 per cent of GDP but that the human capital investments were worth 9 per cent of GDP. It is a fact that was brought back to the attention of the public yesterday by Paul Kelly in the *Australian*. He made note of the fact that given the Prime Minister's enthusiastic embrace of these important policies, his own government's figures supporting them and the support of the business council and everybody else — it seemed a good thing in 2006 — it was rather odd that when he decided the only political strategy left was to attack the states that that opportunity was squandered.

I cannot finish discussing early childhood without also talking about child care — the critical overlap between the role of kindergartens and the role of child care. Our government has responsibility for kindergartens, and in particular has worked hard to introduce integrated children's centres. We have built 50 of them, and we have another 47 to come. Co-location is a particularly important and practical way of ensuring that these services are most effective, most convenient and helpful to parents and best for kids.

In relation to child care, however, the recently released federal Treasury report implies that there are plenty of child care places available out there, contrary to the experiences of a huge number of people in our community, but parents are simply 'too fussy' to take up places. When you look at the research done by the Australia Institute and released in 2006 you see it found that the corporate chain of child care, which is proliferating throughout Victoria, has generally lower standards of care and that other private providers and community managed facilities have a much higher standard of care.

As I recall from that report, something like 40 per cent, or some significant number, of their own staff said they would not want to send their own children to these facilities, yet the federal government is telling people who are concerned not to take up places in centres they are not confident about.

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

Murray-Darling Basin Commission: report 2005–06

Mrs PETROVICH (Northern Victoria) — I rise to speak today on the Murray-Darling Basin Commission annual report for 2005–06. I would like to start today by referring to page 77 of the report, which refers to important strategies surrounding the national water initiative implemented by the Murray-Darling Basin Commission.

I found it quite interesting to note that extensive works have been done on the Murray–Darling Basin, the national water levels and the National Water Initiative. Interestingly enough, this work may be wasted. On his first day as Premier, John Brumby vowed to maintain former Premier Brack's stance and continue to thwart the Murray–Darling Basin solution proposed by the federal government. In its stead we have now seen trotted out a pipeline which will take water out of the northern Victoria area and turn our food bowl into a dust bowl.

In contrast to the federal plan, which would spend $10 billion on improved water infrastructure and is a well-researched, comprehensive approach to water management Australiawide, here the state government came up with this solution as late as April this year. It has been admitted by David Downie, general manager, office for water, Melbourne Water, at a meeting held in Yea on 24 July that this design-and-construct project is a bit of a rough outline that is not properly costed and the route has not been finalised.

It is interesting that the television commercials have been produced and aired already ahead of community consultation. I have over the last few weeks attended several public meetings called by concerned communities, which are extremely upset about the north–south pipeline, and judging from the response since then it is clear that the group is not representative of the broader community. An initial meeting in Shepparton was attended by 1000 people; of that number, only 150 of a total membership of 800 were members of the Northern Victorian Irrigators, and only 106 voted in favour of this project.

'New water' has been the cry of the men in dark suits. I attended meetings in Yea and Lockington. Both of these meetings, held in the middle of the day, were attended by 400 to 500 people, all of whom run businesses and farms — and run irrigation businesses, I might add. It is very difficult for them to find time away from their farms, but they are passionate about this, and I think some of that passion will be revealed today.

'New water' was the cry of the men in dark suits sent by the Brumby snake oil salesmen to support the crazy pipe, which, by their own admission, was not even conceived until April this year, prompted by the fact that the penny finally dropped that there was a drought and, God forbid, it was affecting Melbourne water supplies. The reason given by Melbourne Water was, 'Gosh, we though it was going to rain'. David Downie and Victor Gilvetis, senior project manager, capital delivery, Melbourne Water, explained that the predicted 75 gigalitres would be sent to Melbourne in a pipe that had the capacity to carry 125 gigalitres. No wonder the communities are worried, anxious and feel they have been duped.

Melbourne would be supplied with water first regardless of whether the required infrastructure were built or the new water savings had actually been achieved. The 400 concerned locals were not buying it. Yesterday we heard the Minister for Planning, talk about the virtues of Melbourne 2030 and say that an estimated additional 1 million people are expected to be residing in Melbourne. That will result in high density living. Where will the water for those people come from? I can tell members about that. It is no wonder rural Victoria smells a rat. What I cannot tell members is where food, fruit, vegetables, milk and meat will come from when there is no water supply to produce the clean and green produce that we are so used to. This is not sustainable water management, this is not sustainable agriculture, and these will not be sustainable communities. People in metropolitan Melbourne have become so caught up in the spin that they will buy it just to flush their loos and grow their lawns.

Melbourne voters who vote for the Greens or Labor will be blissfully unaware of the trauma that this pipe will cause to our economy and our food supply, because, for goodness sake, we have a Labor government which is doing everything to keep people uninformed and blissfully unaware of the problems. Melbourne has not and will not move to stage 4 water restrictions. Stage 3a is as tough as it will get. After all, you have to keep the voters happy. I encourage Candy Broad and Kaye Darveniza to join with their colleagues in the Northern Victoria Region to support the community that is expecting them, as their upper house representatives, to not support this project.

Sunraysia Institute of TAFE: report 2006

Ms BROAD (Northern Victoria) — This morning I wish to make a statement on the Sunraysia Institute of TAFE 2006 annual report. The institute's annual report is an important opportunity to acknowledge the achievements and challenges of 2006 in the Sunraysia,

where the irrigators support the proposal that other members have referred to. I wish to begin by congratulating the chief executive officer, Win Scott, who took on her role in June 2006, as well as the council president, Wendy Thomson, and all of the council members for their contributions not only to the institute but also to the wider community.

As President Wendy Thomson remarks in her report, the institute's council and staff have a responsibility to the wider community to assist and show leadership, including in relation to managing changes to the horticultural and agricultural industries due to the impact of the drought, changes to markets and many other challenges. It is good to see that responsibility being exercised in addition to the institute's educational responsibilities. There are many examples on page 26 of the report. A few of them include the institute's sponsorship support of the Mildura Wentworth Arts Festival; the Sunraysia horticultural field days in Mildura being held on the campus of the institute and the institute delivering an education program for developing biofuels with the Alternative Technology Association. There are many other examples of the institute exercising this wider responsibility.

The institute is the largest provider of vocational education and training services in north-western Victoria. It covers a lot of territory across its four main campuses at Mildura, Ouyen, Robinvale and Swan Hill. It services an area which includes the communities of Murrayville, Sea Lake, Ultima, Manangatang, Werrimull and Kerang and extends well into New South Wales and South Australia. There were plenty of highlights for the institute in 2006. In addition to many individual achievements, the institute can be proud of its achievements in the area of, amongst others, student satisfaction. The overall level of student satisfaction with the institute was 95 per cent in 2006 compared to a benchmark of 90 per cent best-practice organisations. As well as that, the Sunraysia Institute was in the top 3 performing TAFE institutions of the 18 TAFE institutions included in Office of Training and Tertiary Education's *Selected TAFE Institute Measures for the Victorian Training Network 2005*. These are achievements of which the institute can be proud.

The institute is continuing to develop an expert work force as well as extensive facilities and equipment to deliver high-quality services to families and industry in the Sunraysia. I note that in 2007 the institute is developing a master plan for all its campuses in order to make best use of existing facilities as well as to plan for future demand.

There is clearly a need to dramatically increase the number of working-age people who participate in vocational education and training. I am pleased to say that the Bracks government allocated $38 million in the budget to upgrade TAFE infrastructure, bringing total investment in TAFE capital to $359 million since 1999. This allocation means that Victoria will have more skilled workers and better training facilities to help address the skills shortage and drive further job growth, including in country and regional Victoria and, most importantly, in the Sunraysia.

Murray-Darling Basin Commission: report 2005–06

Mr VOGELS (Western Victoria) — I would like to comment on the Murray-Darling Basin Commission annual report for 2005–06. It is very timely to make these comments on the very day communities from the Murray–Darling Basin have come to Melbourne in force to protest at the Brumby government's plan to steal at least 75 billion litres of water out of this region. This is in direct opposition to what the Labor government stated in the lead-up to the November 2006 state election.

Let me quote from page 64 of the *Sustainable Water Strategy Central Region* dated October 2006. It says:

> The government considers that Melbourne must tap the significant potential for conservation, efficiency and reuse and recycling gains within the central region rather than connecting with northern Victoria and buying water from northern Victorian irrigators.
>
> Irrigation in northern Victoria generates significant direct and indirect economic benefits for the state which the government will continue to foster. There is also a critical need to recover water from supply systems in northern Victoria for the environment, most notably as part of the Living Murray initiative, and commitments to restore environmental flows to the Snowy River. Furthermore, irrigators will need to gain further water savings in light of potential climate change impacts.

I could go on with this litany of lies which was told prior to the November 2006 election. I would encourage anybody who is interested to read that report and see for themselves how the people of the Murray–Darling Basin area — especially our Goulburn Valley irrigators — were completely deceived by the then Bracks Labor government.

The Murray-Darling Basin Commission is a partnership between the Australian government and the states of Queensland, New South Wales, Victoria, South Australia and the Australian Capital Territory. According to the report, the six basin governments exist to achieve the best integrated catchment management

outcomes for the shared resources of the basin. In the report the chief executive, Wendy Craik, points out that the last five years have produced the lowest inflows on record into the Murray River, and this has continued to challenge irrigators, communities and the environment.

There is no doubt that the chief executive had no idea at the time that a water thief was lurking south of the divide to make life even more difficult for water users in the Murray–Darling Basin. Neither was she aware that, when the report was written, the federal Howard government was prepared to tip in over $10 billion of federal money to fix up this mess in the basin, which we know is due to over-allocations and failing infrastructure.

The upgrade of the irrigation district is much needed as the Australian Bureau of Statistics records Victoria in its 2004–05 Water Account Australia statistics as being the leakiest state in Australia due to the lack of investment in irrigation infrastructure, unlike other states.

This of course clearly shows that New South Wales and Queensland are the main culprits in breaching what is called the water cap. The water cap promotes the sustainable use of basin water resources. The annual report states on page 26 that this is done by:

> preserving the existing security of supply for irrigators and communities;
>
> helping maintain water quality;
>
> encouraging the efficient use of water, which reduces waterlogging and land salinisation;
>
> preventing further deterioration of the flow regime for the environment.

Bringing Queensland and New South Wales into line under the cap will send more water down the Darling River, which meets the Murray west of Mildura, and will ensure South Australia receives its allocations and leaves more water available in the Murray system east of Mildura.

The Bracks government will always stand condemned for its failure to secure water supply for Melbourne, Geelong and Ballarat. The last water infrastructure was built under the Bolte-Hamer governments, and it received loud opposition from the then Labor Party and the environmentalists. The present plans to rob the source water from north of the Great Dividing Range and the proposed desalination project are, I believe, knee-jerk reactions which will cost billions of dollars and which will no doubt be funded by levies and taxes on consumers.

The next annual report of the Murray-Darling Basin Commission should make interesting reading. Let us hope this winter, which is shaping up to be a return to normal weather patterns, takes some of the heat out of the water debate to allow for open, honest and transparent decision making. All country Victorians are asking for is honesty.

Centre for Adult Education: report 2006

Mr SOMYUREK (South Eastern Metropolitan) — This morning I will talk about the Centre for Adult Education's annual report for 2006. The motto of the CAE is, 'The journey continues', and that is at the heart of the CAE's commitment to redefine and further enhance the continuing pursuit of knowledge, learning and self-pursuit. The motto, in itself, argues against the old axiom that you cannot teach an old dog new tricks. It is never too late for learning and this is certainly believed by the people at the Centre for Adult Education.

Adult education, or lifelong learning, is a developing phenomenon in the world. One of the reasons lifelong learning has become so important is the acceleration of scientific and technological progress. Despite the increased duration of primary, secondary and university education, the knowledge and skills acquired are usually not sufficient for a professional career spanning three or more decades.

Looking at the specifics of this annual report, it has 31 pages and I will highlight a few of those pages now. The Centre for Adult Education is well known for its extensive program of short courses and it delivers government-funded accredited programs focusing on compulsory education such as the Victorian certificate of education, the Victorian certificate of applied learning, preparatory and tertiary pathways, vocational education and training to adults. The CAE, as stated on page 7 of the report, also provides quality assurance services, professional development activities and undertakes contract services in the fields of professional development and training for the state and federal governments.

A summary of achievements for the last financial year appears on page 10. It includes:

> In 2006, CAE performed well in the following areas:
>
> Operating revenue in excess of $21 519 000 —

I will revisit that later in my contribution —

> Equivalent full time staffing average of 169.57.

> Over 35 000 students with over 61 000 subject enrolments.
>
> Delivery of 1 581 685 student contact hours …
>
> Working capital ratio of 1.42 as at 31 December 2006.

As I said, I will go back to those figures shortly.

I will go through the performance targets for 2006 which state:

> … CAE exceeded its contracted training delivery requirements with the state government. The target set for 2006 was the delivery of 804 642 student contact hours with CAE successfully delivering …

The figure is 813 000, which is some 9000 in excess of the targeted delivery.

An interesting statistic on page 17 of the report is the CAE student demographic which is based on gender breakdown. According to this chart only 22.2 per cent of the CAE students were male and 77.8 per cent were of the female gender.

The ACTING PRESIDENT (Mr Vogels) — Order! The member's time has expired.

Murray-Darling Basin Commission: report 2005–06

Mr O'DONOHUE (Eastern Victoria) — I too am pleased to speak on the Murray-Darling Basin Commission annual report for 2005–06. As the house is aware, the Murray-Darling Basin Commission is a partnership of the six governments with an interest in the Murray–Darling Basin. I use that term 'partnership' loosely after the response of the Victorian government.

I will start with the statement by the chief executive, Dr Wendy Craik:

> The last five years have produced the lowest inflow on record into the Murray River and this has continued to challenge irrigators, communities and the environment. We seem to be witnessing a new chapter in dealing with drought in the Murray–Darling Basin.

That really sums up the issues we are facing in the Murray–Darling Basin. I commend the Murray-Darling Basin Commission for the work it does and for its efforts to save water and deal with the reduced inflows. But the nub of the issue is that unless we have significant investment in the Murray Darling, unless we have a coordinated approach, the piecemeal approach that has existed up until now with competing interests from competing governments will mean that the savings required will not be achieved.

Regardless of whether the drought of recent years is a one-off or whether it is a newly established pattern as a result of climate change, the fact remains that Australia's population is growing significantly and that our immigration intake is up because of the sterling performance of the Australian economy as a result of the wonderful economic management of the Howard-Costello government.

That means that even if we return to normal rainfall patterns, which many people do not think will happen, the reality is that there will be more and more demand on our water resources. Therefore it is critical that we manage our water resources as efficiently as possible. It is an absolute disgrace — it is now over six months since the commonwealth plan was announced and after months and months of refusing to commit and months and months of negotiation with Mr Turnbull, the federal Minister for the Environment and Water Resources, and the Prime Minister — that this Labor government has refused to sign up to the agreement, has refused to take a national approach and has refused to recognise the benefits of a coordinated approach to this very, very important issue — the food bowl of the country. This state government's approach is compromising the wonderful initiative announced by the commonwealth.

But perhaps what is even more disturbing is not just the state government's response to the commonwealth plan, but in effect its counter plan: the north–south pipeline. What an absolute disgrace! For over 50 years state governments of all persuasions in Victoria have understood the need to keep water from the north in the north. Water in the north equals jobs in the north. Water in the north equals food on the plates of Melburnians. Water in the north equals vibrant communities. Therefore if there are savings to be made in the north through piping channels and more appropriate use of water, that water should not just be flushed down to Melbourne; it should not be pumped into Melbourne's reservoirs for the expanding Melbourne population. It should stay in the north to be used to grow food to feed the ever-growing population of Melbourne.

There are many other options that the government could have looked at to augment Melbourne's water supply. It is instructive. As a member for Eastern Victoria Region, I have spent quite a lot of time in recent weeks in Gippsland. It is quite amazing that, despite the enormous rainfall that has occurred in Gippsland and the resulting floods — floods that could have filled the Glenmaggie Weir three times over in 24 hours — the Thomson Dam today is 23.4 per cent full. What an absolute indictment. In other words, unless water falls in the Thomson catchment Melbourne will be without water. The government's

answer is to pipe water from the north when there is at this stage no spare water in the north. Melbourne's water storages today are at 36.6 per cent capacity. If we do not get significant rains in the Thomson catchment, stage 4 restrictions are just around the corner. The state government should be condemned for its north–south pipeline and for the way it has managed the water crisis in Victoria.

Murray-Darling Basin Commission: report 2005–06

Ms DARVENIZA (Northern Victoria) — I am very pleased to rise and make a contribution on the report of the Murray-Darling Basin Commission. I congratulate the chief executive officer, Dr Wendy Craik, and the members of the commission on the report. I want particularly to take up some of the things that were raised by the speaker from the opposition just prior to me.

We have already done the hard yards on water management here in Victoria. We have made commitments of many millions of dollars to the infrastructure in irrigation, and more recently, following the last budget, the now Premier announced a $1 billion financial commitment to the infrastructure of the irrigation system in the food bowl area in northern Victoria, bringing about savings of some 225 gigalitres of water — so 225 billion litres of water will be saved in that irrigation system.

We know the savings are there. I know other members have talked about how there is no water there to be saved. I think Mr Drum mentioned that in his contribution when talking about the report. We know there are savings there, and the reason we know that is that every time that irrigation system runs, whether it runs at 10 per cent, 20 per cent, 50 per cent or 100 per cent, 900 gigalitres of unallocated water is put into it. And why is that 900 gigalitres that is not allocated to irrigators put into the system? It is put in because that is the amount of water that is lost through leakage, seepage, evaporation or overrun. It is the amount of water that is lost every time the irrigation system runs, because we are dealing with an irrigation system that is over 100 years old. It is antiquated, and it does not meet the water-savings requirements that we need to be meeting as we face global warming.

The Brumby Labor government is committed to spending $1 billion to save 225 billion litres of water every time the system runs. And what do we intend to do with that water? We are going to share that water equally. It is a three-way split: a third will go to the irrigators, a third will go to preserving our rivers and water systems and a third will be piped to Melbourne. This is a fantastic opportunity. Most people who are involved in that irrigation system or who are involved in industries in that region that rely on that irrigation system actually support it, and the opposition knows that.

In a press statement the chair of the Sunraysia Irrigators Council, Danny Lee, said:

> The proposal to spend $1 billion on irrigation infrastructure … looks to be a win for irrigators, the environment and Melbourne.
>
> The Victorian government is to be congratulated for listening to irrigators about what is the best way forward in water management, and then involving them in overseeing the administration of that project.

So it is welcomed. It is a proposal that was put forward by the Food Bowl Unlimited Group, which is made up not only of irrigators. The food bowl group is made up of people who are members of Northern Victorian Irrigators and also businesses and companies that rely on water and irrigation in the area.

The ACTING PRESIDENT (Mr Vogels) — Order! Ms Darveniza's time has expired.

Auditor-General: annual plan 2007–08

Mrs KRONBERG (Eastern Metropolitan) — I wish to speak to the Victorian Auditor-General's Office annual plan for 2007–08. I feel that section 2.4 of this report — namely, that dealing with performance audits relating to a healthy environment — warrants special attention at this time. The subsection headed 'Renewal and extension of water infrastructure' states that the water infrastructure of this state delivers some 3.5 million megalitres annually to residential, business and agricultural users.

The storage areas, distribution systems, treatment plants, pumping stations and pipes that make up this infrastructure are managed by 20 companies. With forecasts of an extra 1 million Victorians likely to be a reality as soon as 2030, we have to ask this government: what is it doing to provide the extra essential infrastructure whilst renewing existing systems and meeting service standards for reliability and water quality?

For far too long this government has avoided responsibilities regarding reliability. In fact there was no reliability of water supply, and that need not be the case. Thankfully the Auditor-General will examine just how well projects to renew, upgrade and extend water

infrastructure have been managed, and we will be holding our breath in anticipation of that testament.

Whilst the views of the Auditor-General will provide an authoritative source, the people of Victoria can give testament to the parlous state of our water infrastructure. Instead of planning and delivering on the reliability factor in its approach to water management and conservation, this government has delivered seismic shock after seismic shock to communities right across the state as it has lurched from one poor decision to the next poor decision. Not only are Melburnians struggling under the constraints of water restrictions in the metropolitan area, our rural and regional centres are hunkering down for the next surprise attack by this government.

The people of Wonthaggi woke one morning to the impending arrival of a massive desalination plant. They were never consulted. Now this government has the temerity to draw upon the precious water resources of a food-growing district of enormous value to this state in terms of direct and indirect economic benefits to Victoria. Whilst previously recognising and placing on the record the importance and the value of northern Victoria's water resources to the overall economy, the government has now gone back on its undertaking not to deprive irrigators in northern Victoria of their water to supplement Melbourne's water supply.

Whilst Ms Darveniza attempted to put some spin and gloss around the apparent savings to avoid seepage, evaporation, leakage and overrun, we have to say that another backflip is the government's manifest, which is there for us all to see. I refer to *Sustainable Water Strategy Central Region* — and the operative words — *Action to 2055*. Action! Where is the action? I quote verbatim from the report:

> The government considers that Melbourne must tap the significant potential for conservation, efficiency and reuse and recycling gains within the central region rather than connecting with northern Victoria and buying water from northern Victorian irrigators.
>
> …
>
> Due to the magnitude of water required, the significant potential alternate options to meet Melbourne's shortfall and the challenges already facing the irrigation community —

I repeat —

> the challenges already facing the irrigation community, the government does not support Melbourne buying water from irrigators in northern Victoria to meet Melbourne's future consumptive needs.

Mr Thornley — Unbelievable.

Mrs KRONBERG — Yes, it is unbelievable, Mr Thornley. I could not agree with you more, but unfortunately it is the truth. Now we see that this government has broken its promise not to take water across the Great Dividing Range. This government is to be condemned for its plan to pipe 75 billion litres of water annually out of the Goulburn system into our thirsty metropolis via the $750 million Sugarloaf interconnector.

What about revisiting stormwater management, making water recycling happening and the old favourite — a very simple solution — building another dam? In just two weeks the recent devastating floods in Gippsland took out bridges, roads and homes. This deluge has been measured: it equated to more water than Melbourne drinks in a year. We need another dam, and it is manly to change your mind.

The ACTING PRESIDENT (Mr Vogels) — Order! The member's time has expired.

Centre for Adult Education: report 2006

Ms TIERNEY (Western Victoria) — I rise to make a statement on the Centre for Adult Education's annual report for 2006. The Centre for Adult Education (CAE) provides learning opportunities to the Victorian community through an extended range of programs and services. The centre receives state government funding through the adult community and further education (ACFE) division to provide accredited courses designed to help adults complete their secondary education or begin or change their career direction.

It is imperative that an organisation such as the Centre for Adult Education be available and accessible to mature-age students in Victoria. The centre believes, as I do, in the power of learning to transform lives as well as to transform communities.

I congratulate the CAE for another successful year with increased student and course numbers and a positive financial outcome. I also wish to thank and congratulate the council for being a finalist in the innovative service delivery award for 2006. In 2006 over 35 000 students with over 61 subject enrolments attended the CAE, with the delivery of 1.5 million student contact hours.

I would also like to highlight a couple of other areas that are worth noting. The Centre for Adult Education's Wurreker action plan was implemented in 2006 to increase the participation of indigenous students in education and training, and it delivered eight workshops to 45 Koori learners in job-application skills and in how to obtain a drivers licence.

The centre was also at the forefront with its disability action plan, and through its equity and access unit provided 36 students with just under 5000 contact hours. It also had a further 590 Auslan interpreter contact hours, and that allowed a deaf student to achieve success in the second and final year of their yoga teaching qualification at a diploma level. I think we just take for granted all these sorts of things, but it cannot be underestimated how they change the lives of individuals in our community with varying degrees of abilities and indeed racial backgrounds.

The Centre for Adult Education is the largest provider of adult and community education in Victoria. It specialises in workplace learning, corporate lifestyle packages and professional development activities for adult education practitioners. It also attempts to balance — and I would argue it does it quite well — the needs of individuals and the community, as well as keeping an eye on industry trends.

I think many of us have personal stories in respect to the adult education centre from having attended classes ourselves — whether it be on reading, cookery or travel — and the interaction that goes on between the students and the formation of lifelong friendships that are developed cannot be underestimated. In fact when the annual brochure comes out, it is not difficult to sit there, go through it and think, 'What can I do?'. It is a really tough selection, because you have so many gems to contend with and make choices over. Just going through that brochure, I believe, instils a sense of lifelong learning in our community, whether or not you end up enrolling in a course.

I again congratulate the Centre for Adult Education and its board of directors, staff and students on a stellar year and on its continuation of being the premium leader in adult education and a significant contributor to informal learning in Victoria. The centre's main objectives, which are spelt out in the annual report for 2006, were financial stability and to be a leader in adult education. I believe that in all respects these objectives were achieved and indeed surpassed at the conclusion of 2006.

Murray-Darling Basin Commission: report 2005–06

Mr SCHEFFER (Eastern Victoria) — I would also like to make a contribution on the Murray-Darling Basin Commission annual report for 2005–06. This report to some extent presents a rear-vision view of the work of the commission more than 12 months ago, but it was not tabled in the Parliament until December last year, during the first sitting of the 56th Parliament.

Yesterday's introduction of the Howard government's legislation to establish the federal plan for the Murray–Darling also makes it a good time to have a look at the work of the commission as it was set out in the report. The report is divided into four parts, the first three being aligned to the commission's 2005–10 strategic plan. The first covers the management of the Living Murray project and the arrangements for the protection of the water and environmental assets of the basin. The second part deals with the sustainable delivery of Murray–Darling water to households, the economy and the environment. The third part reports on the commission's own practice — on its financial and business management systems, its development of corporate, technical and policy capacity and the alignment of the commission to national jurisdictions. The fourth part deals with the commission's financial statements.

Appendix F of the report very usefully sets out the key performance indicators for the delivery of the strategic plan. There are three objectives: the protection and enhancement of the basin's shared environmental assets and water resources; the efficient and equitable delivery of water for productive and sustainable domestic consumption, environmental benefit and economic use; and the delivery of high-quality advice to council and the achievement of the endorsed priorities, through the strengthened capacity of the commission and the commission's office. Each objective has related key performance indicators, which very usefully and instructively show the type of indicator it is — economic, environmental or social.

The range of issues the Murray-Darling Basin Commission tackles is huge and the report presents the spread of issues in an extremely accessible way. As members would know, the basin covers over 1 million square kilometres, equivalent to 14 per cent of the total area of the continent. It consists of about 75 per cent of New South Wales and more than half of Victoria. The basin includes some 1.9 million hectares of irrigated crops and pastures, and it provides something like 34 per cent of the nation's gross agricultural value. It is an enormous resource for the country.

There has been a succession of Murray–Darling Basin agreements, going back to 1914. The current agreement was signed in 1992 and put into legislation in 1993 in the Murray-Darling Basin Act. The objective of the agreement is to coordinate the planning and management of water in an efficient and sustainable way. The arrangements among the states and the commonwealth have from time to time been placed under considerable stress, and there have been calls for improved management structures.

The Prime Minister's $10 billion plan for national water management was announced in January this year. The plan involves the end of the current Murray–Darling Basin agreement and the commonwealth assuming responsibility for managing water resources with the states and territories handing over control to the commonwealth. Under the plan the commonwealth asked Victoria to hand over the Goulburn River and asked New South Wales to hand over the Murrumbidgee River.

The plan has been controversial to say the least, and Victoria has found it to be unacceptable from the beginning. The Howard government decided to go ahead and has now introduced legislation into the federal Parliament to facilitate the implementation of the plan. The Howard government has been forced to rely on its constitutional powers rather than on the referral of powers from the states as first had been proposed. The commonwealth will not be able to take control of the river system because of Victoria's refusal to refer its powers.

However, yesterday the New South Wales Premier, Morris Iemma, threatened to pull out of the agreement because, he asserted, under the agreement compensation would only be paid to the states if they agreed to the plan. The Prime Minister is desperate to clinch an agreement, and his frustration is obvious. I congratulate Ian Sinclair, president of the commission; Wendy Craik, chief executive officer, and everyone involved with the commission on this very informative report.

LAW REFORM COMMITTEE

Membership

Mr LENDERS (Treasurer) — I move:

That Mr Johan Scheffer be a member of the Law Reform Committee.

This is a replacement for Mr Tee, who has resigned from the committee.

Motion agreed to.

CRIMES (DECRIMINALISATION OF ABORTION) BILL

Second reading

Debate resumed from 19 July; motion of Ms BROAD (Northern Victoria).

Mr P. DAVIS (Eastern Victoria) — I move:

That debate be adjourned for one week.

For the benefit of the house I will explain why I am so moving. It would be apparent to all members of this place that there have been certain events in regard to the other place. Various members of that place have resigned from the Parliament, consequently affecting the government, and that has led to a remarkable diversion from the important legislative work of the Parliament. It would be reasonable to suggest it is imperative that when a bill such as the one we have before us is being considered by this place, it is given the focus it deserves. Irrespective of the views of individual members of this place in regard to the bill, the community would certainly expect that we treat it with a high degree of what I would describe as proper process.

It is fair to observe that many members — and, I suspect, more so on the government side — have had less time to think about this bill than they might have wished. We therefore owe it to the community to ensure that the debate and consideration on this bill occurs in a comprehensive and well-considered fashion.

I further indicate that I understand there may be some proposals to develop amendments to the bill, but that work is incomplete. Again my view is that the consideration of the bill should not be peremptory. We should give it proper consideration at the appropriate time.

In conclusion I do not believe this matter should drag on. I flag that I would not be inclined to support further adjournments to debate on the bill, because I think it needs to be properly dealt with, and dealt with soon. Therefore the effect of the motion before the house is to adjourn debate on the bill to the next sitting week of Parliament. On that basis that would allow the mover and other proposers to reflect on what it is that they might propose in respect to further amendments and to have discussions between interested parliamentarians about the detail of the bill and allow all other members to consider what position they may take when the matter comes back to the house in two weeks.

Motion agreed to and debate adjourned until Thursday, 16 August.

SUPERANNUATION LEGISLATION AMENDMENT (CONTRIBUTION SPLITTING AND OTHER MATTERS) BILL

Second reading

Debate resumed from 19 July; motion of Mr LENDERS (then Minister for Education).

Mr RICH-PHILLIPS (South Eastern Metropolitan) — The Liberal Party will be supporting the Superannuation Legislation Amendment (Contribution Splitting and Other Matters) Bill 2007. The size of the bill belies the fact that a lot of the legislation is quite straightforward and many of the provisions it contains are duplicated across the various acts that the bill seeks to amend, obviously the Emergency Services Superannuation Act 1986 as the principal act and then further amendments to the Government Superannuation Act 1999, the State Employees Retirement Benefits Act 1979, the State Superannuation Act 1988, the Superannuation (Portability) Act 1989 and the Transport Superannuation Act 1988.

I have to say that the second-reading speech also somewhat belies the content of the bill, because I have never before seen as much rhetoric in a Treasury or finance bill as is contained in this particular second-reading speech, putting what appears to be more the Attorney-General's view than I would suspect the view of the Minister for Finance, WorkCover and the Transport Accident Commission on the commonwealth's current position with respect to entitlements under superannuation legislation for same-sex partners.

It is unfortunate that the government has chosen to go down this path with a second-reading speech because in my view it takes away from what this bill actually achieves with respect to members of ESSPLAN under the emergency services superannuation legislation. Clearly there are views within the government and, I have to say, elsewhere in this place on the issue of benefits for same-sex couples, but I do not know that the second-reading speech has contributed anything to that debate, or indeed to this debate, with the page and a half of diatribe that is contained in the second-reading speech.

I would like to turn to the provisions of the bill, and I do not intend to speak on them at any great length. The first couple of provisions are largely administrative changes to the operation of the Emergency Services Superannuation (ESS) Board. Under the current arrangements a number of members of the board are appointed as employer representatives, so they are appointed by the government — by the Minister for Finance, WorkCover and the Transport Accident Commission — and under the current act they are required to have deputy directors or alternate directors to act in the place of the principal director if for some reason the principal director is not able to act due to illness, unavailability et cetera. The current provisions require that the Governor in Council appoint a deputy director to be available to act in the place of each principal director.

This bill will remove the requirement for a deputy director to be paired to each principal director and allow the appointment of a panel or a pool of three deputy directors who can be called upon to act in the place of any principal director if they are unavailable for some reason to attend or discharge their duty as a director of the ESS board. I understand from the departmental briefing that the number of occasions on which this occurs is relatively small — two or three occasions a year — where a director may not be available to attend a board meeting, and therefore a deputy director will be called upon to act in their place. I think it is a fairly sensible provision to have that pool of deputy directors available to act on behalf of the government-appointed directors on those few occasions.

One area where I do have a concern is that the mechanism by which a deputy director is called upon to act will be in the hands of the president of the board to determine. From the point of view of good governance, it is probably better that the selection of a particular deputy director to act in the place of a principal director should be beyond the board, possibly with the Minister for Finance, WorkCover and the Transport Accident Commission or the Secretary of the Department of Treasury and Finance, rather than being up to the board itself to pick which deputy director will act for a principal director in their non-availability. Other than that comment, I would say that the Liberal Party has no objection to the revised arrangements which will make it simpler for deputy directors to be available to act for a principal director in their absence.

The second significant change relates to providing certain discretionary capacity to the ESS board relating to the distribution of benefits. In the case where a personal representative, as defined under the administration and probate legislation, is not available or is not identified, the board will now have the discretion, with paying benefits, to make a payment to an estate or other person that the board deems appropriate. I understand again from the briefing that the insertion of this provision has arisen from the fact that in the past the board has been required to make

what on a reasonable judgement were inappropriate distributions of superannuation benefits to personal representatives.

The example was cited of the beneficiary of a superannuation account dying and the benefit being required to be paid to an ex-spouse — a former wife or a former husband — who may have had no contact with the deceased beneficiary for 10 or 20 years, but under the legislation there being no discretion for the board to pay that benefit to a more appropriate person. The legislation will introduce limited discretion for the ESS board in those types of cases to make a more appropriate distribution of the superannuation benefit to the estate of the deceased beneficiary or to another person as deemed appropriate by the ESS board.

Further to those two locally generated changes, there are also a number of changes to the ESSPLAN scheme arising from commonwealth legislation. Again these are provisions that the Liberal Party welcomes. They are an expansion of the entitlements and flexibility available to members of ESSPLAN. The first, as indicated by the subject title of the bill, relates to contribution splitting by ESSPLAN members. Following the passage of this bill, the ESS board will have the capacity to allow members of ESSPLAN to split contributions with spouses as identified in the commonwealth legislation, through either transferring to accounts that their spouse may have within ESSPLAN or to superannuation funds outside the ESS range of funds. With contributions that have been made from 1 July 2006, if the board agrees to implement this measure, a member will be allowed to make an election to split any contribution that has been made in the previous financial year or the current financial year back to 1 July 2006. We think that is a sensible enhancement of the flexibility of the superannuation scheme and a welcome development for ESSPLAN members.

On a more technical basis, consistent with commonwealth legislation the bill expands the rollover and transfer options for ESSPLAN members by replacing the current relevant definition, which talks of a transfer to complying superannuation funds, with a new definition which talks of rollover or transfer within the superannuation system. I understand from the departmental briefing that the commonwealth definition of the superannuation system is much broader than the current definition of a complying superannuation fund and that this will provide ESSPLAN members with greater scope and flexibility in the management of their superannuation benefits if they wish to transfer them out of the ESSPLAN fund. I should point out that the ESSPLAN fund is the accumulation fund managed under the Emergency Services Superannuation Scheme (ESSS) — it is not a defined benefit fund but an accumulation fund.

The other significant change is that the bill will remove existing restrictions on those fund members who are on unpaid leave, who are currently not entitled to make contributions into the fund. With the passage of this bill that restriction will be removed, and any member of the fund on unpaid leave will be entitled to continue to make employee contributions to the fund. Obviously employer contributions will cease while the person is on unpaid leave, but the person will now be entitled to make employee contributions despite being on unpaid leave.

This bill makes a number of sensible and relatively straightforward changes to the ESSS. The changes enhance the flexibility of fund members in making decisions about their superannuation benefits, provide discretion to the ESSS board in the payment of benefits in respect of deceased members, where in the past not all those distributions may have been appropriate, and streamline the provisions for the ESSS board in the event that directors are not able to act. As I said, we believe these are sensible improvements to the ESSS. The Liberal Party supports the bill and supports these initiatives.

Mr HALL (Eastern Victoria) — I am pleased to report to the house this morning that The Nationals will also be supporting the Superannuation Legislation Amendment (Contribution Splitting and Other Matters) Bill. Essentially the bill will amend the Emergency Services Superannuation Act to facilitate the splitting of superannuation contributions in certain circumstances and will make a series of minor amendments to a number of acts, including the Emergency Services Superannuation Act, the Government Superannuation Act, the State Employees Retirement Benefits Act, the State Superannuation Act, the Superannuation (Portability) Act and the Transport Superannuation Act.

I do not intend to spend long going through each of the provisions of this legislation, but I will mention some very quickly. As I said, the key aspect is to enable the splitting of personal and employer contributions between members in ESSPLAN and their spouses. That excludes same-sex partners, and there is an explanation as to the government's regret at not being able to include same-sex partners because of the limitations imposed upon it by federal legislation. I acknowledge that point made by the minister in the second-reading speech.

There are a number of other amendments, including one which will enable the establishment of a pool of three general deputies to deputise for any of six board members. As I understand it each board member currently has a specific deputy. It would seem very efficient to have a pool of general deputies rather than one for each board member. Another amendment will clarify the interpretation of entitlements accrued by salary sacrifice. The bill will also clarify powers of the board in relation to death benefits, including provision for payment to a member's estate or to a third-party. There is also an amendment that ensures that former State Employees Retirement Benefits Scheme members maintain their right to convert 50 per cent of their lump sum to a pension when they become an exempt officer.

The other amendment I will mention is the one which removes the limits on the period during which members can contribute while on leave without pay. Again, that is in line with commonwealth legislation. That is essentially what this bill does. I am not going to go into the detail of each of the amendments because they are well explained for those who wish to read the explanatory memorandum or the second-reading speech.

However, I do want to make some quick comments on the people who will benefit from this legislation. I refer of course to the members of the various emergency services in Victoria, which, I emphasise, serve this state extremely well indeed. They are the members of Victoria Police; firefighters, both members of the Metropolitan Fire Brigade and members of the Country Fire Authority; ambulance officers with both the metropolitan and rural ambulance services; and full-time employees of the State Emergency Service. I am not sure if there are others from other organisations who also benefit from this scheme, but I think those organisations I have just mentioned are the primary members of this scheme.

Police, firefighters, ambulance officers and State Emergency Service workers probably have the toughest jobs of all in our communities, and I want to acknowledge that. Police at times have to attend incidents involving extreme violence, and they do a fantastic job. Our firefighters, whether they be career firefighters or volunteers, engage in the extremely dangerous work of fighting fires, and we have seen them putting their lives at risk fighting fires every summer in country Victoria and throughout the year in urban areas. Ambulance officers have to deal with life-and-death situations every day of the week. I would not like to be in their shoes, and I admire them greatly for the work they do. State Emergency Service workers play a role at road accident scenes and in natural disaster recovery, and the work they perform in those areas is invaluable.

I pay credit to our emergency services workers in Victoria, because their jobs are amongst the toughest that any man or woman could have to perform, and I think they do their jobs admirably. We have just seen some examples in my electorate throughout Gippsland, when many of the emergency services workers and organisations were involved over the summer period in fires and more recently in flood and storm events. Some significant work was undertaken by those people in combating fire and floods and in assisting greatly in the area's recovery thereafter.

In many regards our emergency services would not be what they are today without the number of volunteers, particularly in the area of firefighting. We need to recognise the approximately 60 000 Country Fire Authority volunteers who supplement Victoria's career firefighters. They are not beneficiaries of this scheme as they are not employed as firefighters, and therefore are not beneficiaries of an emergency services superannuation plan, but it would be remiss of me, when talking about emergency services, not to mention the great contribution volunteers of the CFA, the State Emergency Services and ambulance services make.

Many people do not realise Victoria has volunteer ambulance drivers in many rural communities, who assist paramedics or doctors. We do not have a paramedic attached to each ambulance service in some parts of country Victoria; we rely totally on volunteers, with the support of a local GP who might be based in the area. So we need to acknowledge also the volunteers who serve with the ambulance services. I did not want to let this opportunity pass without giving due credit to the magnificent work undertaken by our emergency service workers throughout Victoria.

I want to mention two pieces of correspondence that I have received in relation to this bill. First of all, The Nationals, as is our usual practice, undertook some consultation about this legislation with the main emergency service organisations. We did have formal acknowledgement from the Police Association, indicating their support for the bill. I might add, though, that they made one qualification:

> The single remaining issue in relation to the draft bill is that it does not contain provisions for a super splitting arrangement for same-sex couples. We understand that this is an impediment imposed by the federal government, with which we do not agree, however it appears that there is little if anything that the Victorian Parliament can do to address this anomaly.

I want to recognise that the Police Association has indicated its support but also expressed its disappointment that the particular provision regarding income splitting between same-sex partners was unable to be achieved because of federal government legislation.

The other piece of correspondence I wish to refer to I received from Mr Steven Joseph Haas of Keilor Lodge, Victoria. He wrote to me — I think in my capacity as Leader of The Nationals of Victoria in the Legislative Council; I am not sure whether he wrote to other members of Parliament — on behalf of his father, who is a long-term member of the ambulance service in Victoria. Attached to his letter were a number of copies of correspondence that he has had back and forth with governments, ombudsmen and so on.

Essentially, as I have read it, his correspondence relates to the fact that his father, being an ambulance officer, is a member of the ESSS (Emergency Services Superannuation Scheme) defined benefit scheme, and as such is not an eligible employee under the superannuation choice of fund legislation. Consequently there is an inability for him to choose to invest his superannuation in anything other than the ESSS fund.

The letter goes to some length to expand on the financial disadvantage of not being able to participate in the choice of fund. Quite frankly I do not know how the issue needs to be resolved. So I intend to ask the minister at the table today, Mr Lenders, to convey this particular correspondence that I have received from Mr Haas to the Minister for Finance, WorkCover and the Transport Accident Commission in the other house and seek some response so that I can get back to Mr Haas and inform him of what the situation is in regard to his concerns. I ask the Treasurer, who is in charge of this legislation, to convey that request to the finance minister.

As I said at the outset, The Nationals have received feedback indicating that there is support for this legislation from people who are participants in the scheme, and we are also happy to give the bill our support.

Mr THORNLEY (Southern Metropolitan) — I rise to support the bill. This is a bill that the government is keen to get through, and it appreciates the support of other parties in this chamber. I will not go through all of the detailed provisions of the bill, because I think that has been capably attended to by my colleagues from the other side — Mr Rich-Phillips in some detail, with his usual thoroughness, and Mr Hall as well.

However, I thought it might be helpful to explain how some of these provisions fit within the wider picture of what our government is seeking to achieve. It is seeking to achieve those things in four ways in particular: by increasing flexibility, by reducing red tape, by encouraging savings, and by removing discrimination. Let me talk to each of those four principles in turn.

The heart of this bill is about enabling flexibility for contributors to these schemes to be able to split their contributions between themselves and their partners, which enables them to arrange their families and their finances in the most effective way to meet their needs, enables them to have the taxation and other benefits that other employees with similar flexibility have, and enables them to plan effectively for their futures. This is I think a universal good that everybody seems to agree is important and valuable and is something that should be supported.

The second principle that is embodied in this legislation is the reduction of red tape. This government has been leading the field and has been recognised by all of the major business peak bodies in this country as leading the effort, both through the national reform agenda and elsewhere, to reduce red tape, to reduce the impact of regulation, and in doing so to improve outcomes for everybody in the economy — for businesses, for individuals and for the economy and the government. The provisions here, such as creating greater flexibility around death payments — which will reduce the administrative burden, hasten the payments and improve the outcomes — again are a good example of simply making a regulatory and administrative environment more efficient.

Nothing bad can come from this. Everybody wins from this sort of thing, and it is good that we are continuing the relentless, not particularly sexy but very important task, of improving, piece of legislation by piece of legislation, the regulatory environment for the benefit of all players.

Similarly there is provision for a deputy pool, which will simply enable the governance of the fund to be more flexible and efficient. Again, that will ensure that things can move more quickly and more flexibly and that the amount of resources required to administer a scheme can be reduced without impairing the prudential importance of the governance of any such scheme.

The third principle that is embodied in this legislation is one of the great Labor principles. One of the great Labor economic policies is to encourage an increase in the savings pool in this country. It has always been

Labor that has led the charge on superannuation. It has always been Labor that has put the work into retirement incomes on behalf of working people, which has obviously been of tremendous benefit to working people in ensuring they have income security in their old age. But it has also had a benefit for the economy and has generated the size of the savings pool that this economy now has to reinvest in its future growth.

Similarly, with this piece of legislation we are enabling that increase and encouraging savings. The rollover options and provisions that remove the limits on the period during which members can contribute while on leave will also enable them to increase their own savings pools as they wish. Similarly, the salary sacrifice mechanisms allow people the opportunity of increasing their own contributions and their own savings, thus increasing the savings pool both for their own benefit in their retirement and for the benefit of the economy from the reinvesting of those savings.

Those three principles — flexibility, reducing red tape and encouraging the continued growth of the savings pool and retirement incomes for working families — are yet again embodied in this piece of legislation, as they are in so many other pieces of legislation introduced by this government. But there is a fourth and final principle that I do not think can go unmentioned in this discussion, although I note that Mr Rich-Phillips felt that remarking on it was somehow a 'diatribe' — that is, the fourth very basic principle of removing elements of discrimination.

I take up the point and the very heartfelt sentiments of Mr Hall in talking about the outstanding work done by the members of these schemes — by our police force, by our city and country firefighters, by our metropolitan and rural ambulance workers and by our State Emergency Service employees. These people do critical work in our community. They make enormous contributions. They make great sacrifices and in many cases expose themselves to both physical trauma and enormous emotional trauma on behalf of their community. They are to be commended and supported in every way we can, and I endorse wholeheartedly Mr Hall's comments in that respect.

It seems odd to me therefore that if any of those people who do that work, make that contribution and put themselves on the line for their communities happen to live in a loving same-sex relationship, they are not afforded the same support, the same flexibility or the same benefits as their counterpart sitting in the chair next to them who happens to be in a heterosexual relationship. It beggars belief that anyone could claim that such a position has any moral foundation whatsoever. It beggars belief that raising this issue could be called a 'diatribe'. I would have thought that all members of this chamber — and Mr Hall exemplifies this — would rightly support the work of those workers and rightly wish to see them gain all the appropriate flexibility and benefits. It beggars belief that anyone would have a problem with the idea that some portion of these people should not be discriminated against.

The idea that when the government raises this issue it could be called a 'diatribe' and said to be not relevant is quite frankly beyond me. It is profoundly relevant to the legislation, because this government has quite rightly put forward the Victorian Charter of Human Rights and Responsibilities as a template against which all legislation should be compared to ensure that all people are treated equally and fairly in our society and this legislation is unable to comply with the principles of that charter because of the federal government's override on the matter. It is absolutely relevant to this legislation to discuss this issue. It is outrageous that we should treat some of our emergency services workers differently from others purely on the basis of whom they happen to love, and it is outrageous that raising such a concern is called a 'diatribe' and 'irrelevant'. I noticed that when Mr Rich-Phillips did that he deftly avoided expressing his own opinion about whether this was a good or bad thing.

Ms Pulford — What is his view?

Mr THORNLEY — What is his view? It is a good question, Ms Pulford. I think it is about time people stood up to be counted on this matter. If you support our emergency services workers and you support the intent of this bill — and everybody who stands up in this chamber says that they do that, and I commend them for it, and I commend the bipartisan spirit in which that support is offered — then I would not have thought it is a big ask to support the idea that none of them should be discriminated against and to express our disappointment that we are unable to give to that principle because of a commonwealth override. For people to stand up and raise the issue and then refuse to declare their position on it is unworthy of them. I commend the bill to the house.

Mr BARBER (Northern Metropolitan) — Members of this fund include members of the police force and employees of the Metropolitan Fire Brigade, the Country Fire Authority, the Metropolitan Ambulance Service, the Rural Ambulance Victoria, the Police Association, certain employees of the Department of Sustainability and Environment and some other employees who are covered. The Greens support the

passage of this bill through the Parliament because overall it is to the benefit of the Emergency Services Superannuation Scheme membership. All the provisions in the bill were submitted by the fund, except for the provisions relating to the pool of deputies, which the fund supports. The Victorian Trades Hall Council's superannuation working group and the three relevant unions — the United Firefighters Union, the Police Association and the Liquor, Hospitality and Miscellaneous Workers Union — have been consulted and support the legislation.

While the Greens support the passage of the bill, we do not support the discriminatory provisions which prevent contribution splitting applying to same-sex couples. Relevant commonwealth legislation for the purposes of contribution splitting restricts the definition of 'spouse' to heterosexual couples who live together on a genuine domestic basis. Same-sex couples are therefore excluded from contribution splitting because of the commonwealth legislation. Due to a heads of government agreement in 1996, state superannuation trustees must comply with federal government laws in order for their funds and their members to receive taxation and other benefits.

At a briefing provided to us by Mr Holding, the Minister for Finance, WorkCover and the Transport Accident Commission in the other place, we were informed that failure to comply with the federal legislative requirement could result in an estimated $4 billion loss to the fund and its members in taxation and other benefits from the federal scheme. So with great regret the Greens consider that this Parliament's hands are tied. If the legislation did not comply with commonwealth requirements, the fund would cease to be a complying superannuation fund. That would lead to substantial financial consequences for the fund and its members. Contribution splitting for same-sex couples would involve dire financial consequences for them, and apparently place a significant administration burden on the fund.

The Greens have been informed that as a result of discussions with the Trades Hall Council the department has gone to considerable lengths to see if there are innovative means by which the discriminatory provisions in this bill can be avoided, particularly at the board level. At the departmental briefing we were told that advice on this issue has been provided by the Department of Treasury and Finance, the Department of Justice and independent legal opinion, and that all of that advice is that the commonwealth's requirement should be complied with in order to avoid the dire financial and other consequences I mentioned. The Greens are aware that the exclusion of same-sex partners is contrary to the Victorian Charter of Human Rights and Responsibilities, but as the Minister for Finance, WorkCover and the Transport Accident Commission pointed out during the lower house debate on this legislation, while the bill does limit the right to equal protection under the law without discrimination, the limitation is 'reasonable and proportionate' within the meaning of section 7(2) of the charter because members — that is, all members including those who are in same-sex relationships — would be significantly worse off in financial terms if the legislation were not compliant.

To the Victorian government's credit, state legislation has previously been amended to include a definition of 'domestic couple' that does not discriminate on the basis of sexual orientation. That applies to the superannuation scheme of parliamentarians. All members who are members of the former scheme have the benefit of being able to leave some of their benefits to their same-sex partners. But today we are not going to give that right to members of our emergency services.

In his second-reading speech the Minister for Finance, WorkCover and the Transport Accident Commission in the other place, Tim Holding, described the Howard government's approach to this issue as 'unfair, discriminatory and typical of the outdated, mean-spirited policies adopted by the Howard government'.

I will give members a bit of background to this issue and talk about the federal legislation. In 1994 Gregory Brown applied for the spouse benefit when his same-sex partner died. When he was denied the benefit, he appealed to the Administrative Appeals Tribunal. In considering whether the definition could include a surviving same-sex partner, the tribunal held that:

> There is no doubt that the applicant and (his same-sex partner) had a close marriage-like relationship and that they conformed to the requirements of section 8A in all respects except for their gender.

This quotation is from chapter 12 of the recent report of the federal Human Rights and Equal Opportunity Commission on superannuation. This report deals specifically with discrimination against gays and lesbians across federal law.

A same-sex partner cannot be a spouse. Potentially some same-sex partners can access these benefits through what is called an interdependency relationship. But it is important to note that although these amendments permit a superannuation trustee to include same-sex couples under the category of

interdependency relationships, the law does not require them to do so. In order to qualify for death benefits the report says:

> two persons … have an interdependency relationship if:
>
> (a) they have a close personal relationship; and
>
> (b) they live together; and
>
> (c) one or each of them provides the other with financial support; and
>
> (d) one or each of them provides the other with domestic support and personal care.

In other words there are four different tests, all of which would need to be achieved in order to prove that particular case. If it were the case that they were simply trying to prove that someone was a person's spouse, then apart from a marriage licence the trustee might look at things such as:

> (a) the duration of the relationship;
>
> (b) the nature and extent of the common residence;
>
> (c) whether or not a sexual relationship existed;
>
> (d) the degree of financial interdependence, and any arrangements for support, between or by the parties;
>
> (e) the ownership, acquisition and use of property;
>
> (f) the procreation of children;
>
> (g) the performance of household duties;
>
> (h) the degree of mutual commitment and support; and
>
> (i) the reputation and 'public' aspects of the relationship.

Any one of those tests might provide the necessary proof, but simply put, it is nowhere near as easy for a gay couple to prove an interdependency relationship as it is for a straight couple to simply demonstrate that under law they are a couple. I want to know why this is the situation. Quite simply this could be fixed at the stroke of a pen by a federal government which amended the Marriage Act to include 'spouse' as referring to same-sex couples. It is the mean-spirited Howard government, backed by Kevin Rudd, that have point-blank refused to do that. The ALP and the coalition parties discriminate against gay couples because both parties refuse to recognise the basic human right of a couple to have their marriage recognised under law. It is not enough to simply just come into this chamber and say, 'Yes, we will fix this through superannuation because we do not believe in discrimination'. Those parties do not believe in discrimination on the basis of all of the rights leading up to marriage, but they then discriminate on the basis of marriage.

Mark Davis in the *Sydney Morning Herald* of 28 April 2007 reported that the then recent ALP national conference voted to allow same-sex couples to register their relationship and secure legal recognition of their relationship in areas such as property rights and superannuation benefits in Victoria that was apparently modelled on Tasmanian legislation.

But the shadow Attorney-General, Senator Joe Ludwig, insisted that the human rights chapter of Labor's platform did not amount to endorsing gay marriage. The article quotes him as saying, 'The amendment specifically says no to gay marriage'. The article further states that the New South Wales Attorney-General told the conference that the New South Wales state government would not introduce such a scheme and would await the outcome of a Law Reform Commission inquiry into discrimination against same-sex couples before developing any such policies.

An article in the *Age* by Katharine Murphy written prior to the ALP conference states that the former Premier, Steve Bracks, asked former federal Labor leader Kim Beazley not to announce a proposed new federal policy on same-sex relationships prior to last year's Victorian election campaign. The Greens ask: why not? The answer is that federal and state Labor fear an electoral backlash if they end discrimination against gay marriage. This problem could be solved by one simple legislative action.

Minister Holding feels empowered to wax lyrical about the discrimination practised by the Howard government, but the ALP national conference states in reference to gay marriage that it would not create schemes which mimic marriage or undermine existing laws which define marriage as being between a man and a woman. What is the difference between this discriminatory position and the Prime Minister's sentiments on this issue? The Greens support no discrimination full stop.

I cannot believe for 1 minute that the reason Mr Rich-Phillips got into the Liberal Party was to find some small segment of society and take away its rights in a punitive action. That is the sort of thing that a bully does; a bully would cross the street to hit someone just because they can and knowing full well the other person cannot hit back. I have to believe that members to my right on this side have much bigger priorities for their legislative agenda than picking on a small segment of society and saying, 'You are less than us'.

It is fortunate for all members here that members of these emergency services in their daily work do not discriminate in the way spineless legislators do. It is fortunate for Mr Koch that an ambulance officer who happens to be a lesbian does not make decisions about who she is going to assist based on their age or their political views. I am sure Mr Pakula is extremely comforted by the fact that if his house were ever on fire and the fire brigade were to turn up to rescue his children they would not make inquiries about the ethnic or religious background of those children before they rushed in to save them. I can be guaranteed that no-one here would ask whether the fireman coming through the window to rescue them was gay or straight. If Mr Dalla-Riva were here, I do not think he would be recommending the taking away of any particular protection or benefit from any police officer he once served with in the normal course of duty because of who that police officer went home and slept with at the end of the day.

We have had nearly a generation of wedge politics — let us call it what it is: the politics of hate — here in Australia. It is about to come to an end. Some Liberals present here really are stuck in that position only because they are chained to the rotting carcass of the Prime Minister, propped up there like Brezhnev with a sickness through him that is called homophobia. Unfortunately throughout that decade Labor has been too frequently willing to go quiet and go along with some proportion of the bullying that we as a community have suffered. If people out there in the community saw you standing up to a bully — protecting somebody who could not protect themselves — they would know they could rely on you to stand up for them, because they understand at some level that if this is how the government treats the weakest members of society, then that is how it would treat them if it could get away with it. I am talking about not just our gay and lesbian constituents, I am talking about workers, refugees and the people of non-Anglo races and various religions who are increasingly represented in our society.

Unfortunately in this place Labor showed the same attitude when the Greens brought up amendments to the Equal Opportunity Act. Those amendments were voted down. Labor voted for Kennett's original Equal Opportunity Act and for the right of small businesses in Victoria to discriminate on the basis of race, gender, sexuality and breastfeeding — literally for the ability to put up a sign in a milk bar saying, 'We are not going to hire any black people to work here, so do not ask'. I am really looking forward to the end of the Howard government for two reasons — not just because it will be the end of John Howard but also because it will be the end of Labor making excuses for not standing up to him.

The Greens call on the government to write to the Prime Minister objecting to his government's policy, which discriminates against Victorian same-sex couples who wish to access contribution splitting and other benefits, and to give to this Parliament a firm commitment that the new Rudd government, following the soon-to-be-announced federal election, will urgently purge all discriminatory clauses from commonwealth legislation up to and including the Marriage Act itself, and that following these anti-discrimination reforms the state government will not delay in complying with the amended legislation to immediately enable contribution splitting and the sharing of other benefits between same-sex couples, and that the Victorian government legislate to recognise gay marriage.

On a related matter, in researching the issues associated with this bill it has come to the attention of the Greens that the commonwealth government's Superannuation Complaints Tribunal — an independent tribunal that deals with complaints about superannuation funds and similar sorts of accounts — does not collect data on complaints alleging discrimination. This means that articulated allegations of injustice and discrimination felt by same-sex couples or others and their families are not even recorded or analysed for research and policy changes. That in itself is another layer of discrimination against our gay brothers and sisters, mothers and fathers, uncles and aunties, friends, co-workers, children and so forth. The Greens call upon the Brumby government to write to the respective federal ministers requesting the relevant collection of data by the Superannuation Complaints Tribunal on these matters.

Mr LEANE (Eastern Metropolitan) — This bill has the important objective of enabling members of the ESSPLAN scheme to have access to benefits enjoyed by members of other complying funds. The majority of the bill deals with superannuation contribution splitting that provides a contribution facility for emergency service super plan members in line with the commonwealth government's legislation. This is an important superannuation scheme because it provides superannuation benefits for very important employees in Victoria — the police and employees of the Metropolitan Fire Brigade, the Country Fire Authority and the metropolitan and rural ambulance services, amongst other critical professionals in this state.

I have spoken to a few of my union mates who work in this area, including Mr Peter Marshall, who is the national and state secretary of the United Firefighters

Union, and I am pleased to say that they are supportive of the amendments in this bill that will apply to almost all their members. The principal amendment in the bill, which provides for the splitting of personal and employer contributions into spouses' respective superannuation funds is a real step forward for our society. Members will be able to request that some of their superannuation go into their spouse's fund so that if one of the partners stays at home to look after their children there is some acknowledgement of that work. It is a very important and is a great move for us as a society. As to this facility not being available to same-sex partners of members of the fund, I have to agree with Mr Thornley's sentiments and with some but not all of Mr Barber's sentiments.

An important amendment in this bill clarifies the existing powers of the ESSS board in relation to the payment of death benefits. The changes will provide fair outcomes and expedient payments and will reduce the administration burden of the ESSS. Having been a board member of an industry severance fund for a period of time that had as part of its services a death benefit, I know that for the loved ones of deceased members it is important that there be no added stress for them by their being mucked around when applying for this benefit.

As far as superannuation is concerned, I believe it has come a long way. We have got to the point where it has evolved to include contribution splitting, which is a fantastic thing. Only a little over 20 years ago universal and compulsory superannuation was not a right for everyone, and it would not exist if it had not been for campaigns fought by the union members in the 1960s, 1970s and 1980s. In 1985 only 39 per cent of the workforce had superannuation, and it really depended on which industry you worked in, what your age was and what sex you were. At the time only 24 per cent of women had access to superannuation and around 50 per cent of men, and they were mainly high-income white-collar and private sector employees. Blue-collar workers were the least likely to have superannuation of workers from different industries.

At the time most of the funds were defined benefit funds, which disadvantaged people who change jobs regularly. To those in industries that involve moving and changing on a daily basis, such as the construction industry, that type of superannuation was of no benefit at all. Back in the 1960s and 1970s unions began a campaign for superannuation. The waterfront union secured a superannuation scheme for its members in the 1960s and was at the forefront of the fight. It has now become the Maritime Union of Australia, which uses the slogan 'The mighty MUA is here to stay'. The first industry funds were pioneered and established in the 1980s. These funds were established by workers in unions who took pay cuts and had to forgo pay rises in order to establish their superannuation funds. Superannuation rights were achieved through struggle in a lot of areas. In some areas members actually went on strike to have the right to have universal — —

Ms Pulford interjected.

Mr LEANE — I am getting to that. The first of these funds that were pioneered were begun by the storemen and packers union, which established LUCRF, or the Labor Union Cooperative Retirement Fund, and the building workers union, which established BUS, or Building Unions Superannuation. The meat workers union also established its own fund.

For the record, superannuation has not always been universally available; it has been fought for, it has evolved and it is getting better all the time with the sorts of benefits provided for in this bill. I refer to one date which reinforces that people had to forgo pay rises to establish their own superannuation funds. In 1986 an ACTU (Australian Council of Trade Unions) claim resulted in 3 per cent being put into superannuation in respect of all awards instead of a pay rise. That was something that was fought for by all union members and became a benefit for everyone in society. I think we really have to make note of that in this debate.

Mr PAKULA (Western Metropolitan) — Some of the ground that I plan to cover has been covered, so I will deal with it briefly. As other speakers have identified, the Superannuation Legislation Amendment (Contribution Splitting and Other Matters) Bill 2007 is indeed an unexceptional bill on a number of levels. As has been detailed by other speakers, it amends a number of bills: the Emergency Services Superannuation Act, the State Superannuation Act, the State Employees Retirement Benefits Act, the Superannuation (Portability) Act and the Transport Superannuation Act. It primarily provides a contribution splitting facility for ESSPLAN members in line with commonwealth superannuation legislation.

As is set out in the second-reading speech, there are some administrative and technical amendments as well. I do not propose to go into them in any detail. The principal amendment in the bill provides that members of ESSPLAN will be able to split employer and personal contributions made since 1 July 2006. As has been indicated by Mr Thornley in his contribution, the Victorian government is prevented by commonwealth legislation from extending that facility to same-sex couples. In the second-reading speech, the Minister for

Finance, WorkCover and the Transport Accident Commission in the other place, Mr Holding, made it clear that if the state government could have provided that facility, it would have, but that commonwealth legislation limits the definition of 'spouse' to heterosexual couples.

As Mr Thornley indicated, that aspect of this bill is contrary to state government policy and contrary to the Victorian Charter of Human Rights and Responsibilities. However, as has been indicated by a number of speakers, Victoria's hands are tied in this matter. There are two principal impediments which are created by the commonwealth's approach. The first is that if Victorian superannuation legislation is introduced which does not mirror the commonwealth retirement incomes policy, then the commonwealth may remove the exempt public superannuation status of the ESSS.

Mr Rich-Phillips — The member is just quoting from the second-reading speech.

Mr PAKULA — I inform Mr Rich-Phillips that I am not quoting from the second-reading speech.

If exempt status were removed it would automatically render the Emergency Services Superannuation Scheme (ESSS) a non-complying fund. I have been a trustee of a superannuation fund, and I have been through an Australian Prudential Regulation Authority licensing process. As part of that process I became intimately aware of the consequences for both a fund and the members of a fund of its losing complying fund status, which would have been the fate of a number of funds which either failed to proceed or chose not to proceed with their licence applications. The financial consequences for a fund and the taxation consequences for its members would have been utterly diabolical.

Secondly, under the commonwealth legislation as it stands same-sex contribution splitting becomes entirely ineffective for tax purposes. Mr Barber went to many of those elements in his contribution, and I agreed with large parts of Mr Barber's contribution until about halfway through it, when he went off the reservation as he indulged in his arrogant fantasy that the only moral force in politics is the Greens political party. I sat and listened to Mr Barber's contribution with a rising tide of disillusionment. I, and I am sure many other members of the government, and perhaps of the opposition as well, have news for Mr Barber.

There have been politicians, members of political parties, political parties themselves and individual people in the community more generally that have been standing up for the rights of the environment, standing up for the rights of working people, standing up for the rights of minorities, standing up for the rights of the elderly, standing up for the rights of the infirm, standing up for the rights of Jews and standing up for the rights of homosexuals for generations — long before the Greens political party existed or was even thought of, long before the emergence of Greg Barber, or even of Bob Brown, to provide us all with a moral compass or political backbone. I have to say that for myself, for members of established political parties and for people who have been either social activists or union activists for years, the idea that the Greens are the only moral force in politics is not just ridiculous but it is offensive.

It is true that this situation that we find ourselves in could be alleviated by amendments to the commonwealth Marriage Act, but it could equally be fixed by the implementation of federal Labor's policy to extend property rights and superannuation entitlements to same-sex couples. That fact renders Mr Barber's performance as just so much posturing, just so much indulgence. I thought I should just put that on the record given the contribution made by Mr Barber today.

It is also true that elements of the Liberal Party are urging the Prime Minister to soften the stance of the Liberal Party. It may indeed be the case that members of the Liberal Party in this place hold that view, and I say to those members of the Liberal Party more strength to their arm. The Prime Minister is thrashing about at the moment politically, writing $10 billion water plans on the back of parliamentary serviettes, backsliding on little bits of WorkChoices here and there and selectively nationalising hospitals based on their electorate's margin. Perhaps in that environment he may rethink what is the commonwealth's outdated and discriminatory position. I certainly hope he does. I would say to those Liberal Party members who agree with the Labor Party that the commonwealth's position on this is outdated that this might be their time to strike. Until then this bill provides genuine benefits for most members of ESSPLAN, not all — and that is unfortunate — but most. On that basis I commend the bill to the house.

Ms PULFORD (Western Victoria) — I have in my hands a copy of the Charter of Human Rights and Responsibilities Act 2006. Section 8 states in part:

> (1) Every person has the right to recognition as a person before the law.
>
> (2) Every person has the right to enjoy his or her human rights without discrimination.

(3) Every person is equal before the law and is entitled to the equal protection of the law without discrimination and has the right to equal and effective protection against discrimination.

The act refers anyone reading it to the definition of 'discrimination' taken from the Equal Opportunity Act. We know that act lists some attributes, including sexual orientation. The Victorian government had worked hard on developing, introducing and implementing this legislation and bringing to Victoria a situation where all the legislation that we consider in this place must be done in the context of this act and the Charter of Human Rights and Responsibilities. So it is with a slightly heavy heart that we support this bill because of its inherently discriminatory nature.

The charter does identify in what circumstances human rights may be limited. Whilst it is very much the purpose of the charter to not limit human rights, it does require that we consider the nature and extent of the limitation, the relationship between the limitation and its purpose and any restrictive means reasonably available to achieve the purpose that the limitation seeks to achieve. So it is that part of the human rights charter, sadly, that we have to look at most when we are considering this bill. I absolutely want to place on the record my agreement with and endorsement of comments made by other speakers in this debate about the wonderful job that emergency services workers do. Certainly I could not agree more with Mr Barber's earlier comments about emergency services workers in this state not discriminating against people that they are assisting.

Superannuation is an incredibly important thing for all working people, and it was the Labor Party — and, Acting Speaker, you also touched on this in your contribution — and the union movement that made superannuation something that was accessible to all workers, not just to a small number. The compulsory superannuation legislation that was championed during the Hawke and Keating governments is the basis for great amounts of national savings that we would not have otherwise been able to imagine. If it were not for the election of the Howard government I think we could have some confidence that the plan to extend compulsory superannuation from 9 per cent to 15 per cent, as was planned, would certainly have a far greater number of people in a much more confident, comfortable and relaxed position about their retirement incomes.

It is the Labor Party that has always made superannuation a priority. As all members of the house now know it is a critical part of people's planning for their future as they grow older. So it is important that we responsibly legislate to ensure that superannuation funds are compliant with all of the regulations and, as earlier speakers have indicated, that is why all the parties in this Parliament are supporting this bill.

There is, however, a definitional difference between the state government and the federal government. In Victoria we have a notion of domestic partner, where there is no distinction made about the sexual orientation within people's most private relationships. The federal government, in its mean and nasty way, perhaps in its special and insidious way of going about things, changed the Marriage Act just to make sure that everybody was crystal clear that it did not think it was okay for people to be in same-sex relationships. So now the definition of 'spouse' in the Marriage Act excludes same-sex relationships. 'Spouse' is defined as including 'in relation to a person … another person who, although not legally married to the person, lives with the person on a genuine domestic basis as the husband or wife of the person' — making it pretty clear that there are two different classes of de facto relationships, those for a heterosexual couple and those for a same-sex couple.

It is critically important that we do what we need to do to make the legislation in Victoria consistent with the federal legislation and that the superannuation benefits and the retirement incomes are protected for our very much loved and valued emergency services workers and that the benefits of income splitting can be enjoyed by a great many members of that fund and our emergency services workers. It is disappointing that a group of those workers will be disadvantaged because of the federal government's out-of-touch and out-of-time view of domestic relationships. I commend the bill to the house.

Mr SOMYUREK (South Eastern Metropolitan) — I rise today to speak in support of the Superannuation Legislation Amendment (Contribution Splitting and Other Matters) Bill 2007. The objective of the bill is to provide for the introduction of contribution splitting in the accumulation section of the Emergency Services Superannuation Scheme known as ESSPLAN and to make a range of other miscellaneous and technical superannuation amendments. Before I go on I would just like to state that this is a highly technical bill and it is actually a pretty significant bill. However, I do not propose to go through all the amendments in the bill. Needless to say I will spend a bit of time discussing the contribution splitting component of the bill.

The bill seeks to amend the Emergency Services Superannuation Act 1986, the State Superannuation Act 1988, the State Employees Retirement Benefits Act 1979, the Superannuation (Portability) Act 1989, the

Transport Superannuation Act 1988 and the Government Superannuation Act 1999. The bill proposes to do this in the following ways: to insert a note to clarify the interpretation of the existing legislation so that for the purpose of calculating the benefit entitlements the member contributions are taken to be the member contribution that would have been payable if no election for salary sacrifice had been made; to provide for the appointment of three deputies to act in a pooled arrangement as deputies to ministerially appointed directors on the board; and to clarify the board's powers with respect to the payment of death benefits.

The bill also seeks to delete redundant references to performance pay; to allow former State Employees Retirement Benefits Scheme members who have a right to convert 50 per cent of their state superannuation fund lump sum to a pension upon retirement to maintain that right if they choose to remain in the workforce by exempting out after attaining age 65; to allow the Emergency Services Superannuation Board to transfer present-day lump sums to funds or entities within the superannuation system as defined by the commonwealth superannuation regulations so as to ensure consistency with the range of entities permitted under commonwealth law to receive eligible termination payments; and finally, to remove redundant restrictions on contributions while on leave.

The principal amendment in the bill provides for a contribution splitting facility for ESSPLAN members in line with the commonwealth superannuation legislation. The splitting of personal and employer superannuation contributions between a member of ESSPLAN and their spouse at the request of the member is consistent with the commonwealth government's contribution splitting legislation which took effect from 1 January 2006.

Members of ESSPLAN will be able to split personal and employer contributions with their spouse in respect of contributions made since 1 July 2006. Members may split contributions to an account held by their spouse either within the scheme or within a different superannuation system. This will enable the spouse to share superannuation benefits, and it will improve the taxation position of some couples. The amendments in this bill will assist the government's objective of sound financial management and will ensure consistency with commonwealth superannuation legislation. With that, I commend the bill to the house.

Motion agreed to.

Read second time.

Third reading

Hon. J. M. MADDEN (Minister for Planning) — By leave, I move:

That the bill be now read a third time.

In doing so, I wish to thank respective members of the chamber for their contributions.

Motion agreed to.

Read third time.

ENERGY LEGISLATION AMENDMENT BILL

Second reading

Debate resumed from 19 July; motion of Hon. T. C. THEOPHANOUS (then Minister for Industry and State Development).

Mr VOGELS (Western Victoria) — The purpose of this bill is to amend the Electricity Industry Act 2000 to provide for fair and reasonable prices, terms and conditions for electricity generated by small renewable-energy-generation facilities and purchased by certain electricity retailers. The bill also amends the Gas Industry Act 2001 to clarify the subject matters that the market and system operation rules may deal with.

I will refer to the bill's main provisions. It will require retailers with more than 5000 customers to publish terms and conditions on which they are willing to buy power from small-scale renewable generators, who are generators with a capacity of less than 100 kilowatts. The bill will also apply these provisions to hydro, biomass, wind and solar generators. It will allow the minister to refer the retailer's terms and conditions to the Essential Services Commission. The ESC will then recommend alternative terms and conditions to the minister if it assesses that the retailer's terms and conditions are not reasonable, allowing the minister to declare that the ESC-recommended terms and conditions will apply to the retailer. The bill also redrafts the provisions authorising the market and system operation rules, particularly in relation to dispute resolution processes, and specifies VENCorp as the body on which the rules may confer functions and power.

The opposition does not oppose this bill. However, we do have some areas of concern. First of all, as with all Labor governments, this legislation smacks of Big Brother's control and regulation. With the federal Howard government providing an $8000 incentive for

people to install solar roof panels to help conserve energy, with many customers turning to small wind energy systems, and with some — like my former parliamentary colleague Graham Stoney — being powered by hydro, we are seeing many alternative energy supplies coming on stream. In typical Labor fashion, however, the government says, 'We might win some brownie points by rushing in this legislation. Let's legislate to force medium and large electricity retailers to purchase this energy at a price we think is fair and reasonable'. It seems that this state government believes that a fair and reasonable price for a small generator of power wanting to off-load surplus power into the grid is the price at which the retailer will sell the power to that generator's owner. This completely ignores the overheads and the transmission and distribution costs included in the retail price.

We see the same logic applying with wind generators, which are marching across our landscape at a very fast rate, to allow multinational companies to make a fortune at the expense of the consumer. We all understand that wind energy is produced at approximately two and a half times the cost of our present energy, yet our retailers have to purchase this energy as first cab off the rank when the wind turbines are turning. No wonder union super funds are falling over themselves to build these monstrosities in country Victoria — it is sure-fire gilt-edged income propped up by government subsidies — in the full knowledge that they have the full support of the Brumby government with ever-increasing electricity prices.

There is no doubt there are a range of concerns out there on how best to reduce greenhouse gas emissions. There is also no doubt that the national emissions trading scheme (NETS) would be the best way forward for Australia. The opposition received a comprehensive response from the Energy Users Association of Australia (EUAA) on this bill. It put to us that it has been concerned that over the past few years there have been a number of greenhouse, renewable and energy efficiency schemes emerging, many being state specific, inconsistent and imposing layers of costs and regulatory burdens on business. It outlined the fact that in Australia we have mandatory renewable targets — the federal government's 2 per cent MRET (mandatory renewable energy target) scheme. We also have the Victorian version, at 10 per cent, and the recently announced New South Wales target. South Australia and Western Australia have also announced renewable energy targets.

The EUAA argues that renewable energy sources are high cost and that encouragement of small-scale generation by this legislation will involve cross-subsidisation, even if it reduces the severity of peaks. It is imperative that the prices paid must be economically efficient; otherwise we as consumers will be forced to cross-subsidise small generators.

I think most members would have seen an article by Mike Edmonds in the *Herald Sun* of 30 July. It had the headline 'Family overpowered by a legal loophole'. I would like to quote from the article.

Mr Barber — You can quote me if you like. I'm in it.

Mr VOGELS — Okay. I quote from the article:

> A Victorian family is being forced to give away enough electricity to power 34 homes a day.
>
> Grant and Sue Taresch spent $300 000 setting up a wind turbine at the Elgo Estate vineyard and winery in Strathbogie.
>
> …
>
> Mr Taresch said the power companies were taking advantage of a loophole in the law.
>
> 'The act says the power companies have to deal with small producers who generate up to 100 kw of electricity …
>
> Because we have a 150 kw turbine they don't have to deal with us the same way they have to deal with other small producers.
>
> They only want to deal with the really big suppliers, but are happy enough to take our power for nothing and onsell it'.

The turbine has:

> … an estimated life of 30 years and Mr Taresch said he hoped it would pay for itself in power bill savings in 10 years.
>
> 'It definitely would if we were getting some sort of rebate for the excess power we're producing' …

On face value this seems like a rational argument. If the power company is on-selling the power generated by the vineyard and winery to other customers, a share of the profit should be going to the people providing the excess energy. That makes sense. However, I ask: why build a wind generator costing two or three times as much to deliver 150 kilowatt hours if you only needed 75 kilowatt hours in the first place? Why is the vineyard connected to the main grid at all unless it relies on the energy for the baseload when there is no wind? Should the retailer have to pay more for this unreliable resource that supplies power intermittently into the grid, or should it only have to pay the same price it pays to the generating company that supplies power 24 hours a day, 7 days a week, 365 days a year?

I would have thought that before spending $300 000 to set up a wind turbine you would test the marketplace, as

you would with any other commercial decision, to see if there is a buyer for your excess power and at what price. There would be a wide range of views on what is a fair and reasonable price. Is this a new connection to the power grid? If it were, you might say to the energy company, 'You provide the infrastructure — that is, transmission lines, poles and a transformer — to my property free of charge, and I will supply any surplus energy that I generate free of charge for you to onsell'. I would have thought this would be a win-win.

For members who have never paid connection fees to a power source, in rural Victoria it can cost anything from $100 000 to $500 000 — an enormous amount of money. If the power infrastructure was already there, if you want to do your bit to reduce greenhouse emissions and if you want to have two bob each way, then a fair and reasonable price needs to be set. I understand why you would need an Essential Services Commission example to make sure that it is a fair and reasonable price.

It is interesting that at the briefing given to the opposition by the department it was its view that by and large the fair and reasonable price for retailers to pay for the purchase of power from small-scale generation is roughly the price that they charge for the supply of electricity to the facility concerned. As I said earlier, if that is the case, then there will be millions of dollars of cross-subsidisation by consumers to those with small-scale generating capacity.

With the usual spin and rhetoric the then Minister for Energy Industries, Mr Theophanous, put out a media release dated 16 July 2004 and headed 'More power to consumers with interval meter rollout'. The minister said in the media release:

> Victorians will soon have access to new interval smart meter technology that will allow them to save money on their electricity bills and help protect the environment …

But here we are three years later, and nobody has sighted one yet. If they had been available as promised, consumers would have been able to make much better decisions regarding the way they use power on a day-to-day basis.

Victoria's energy needs are predicted to grow by over one-third in the next 20 years. Presently we are using around 5000 megawatt hours and up to 8200 megawatt hours on any given day. That varies according to the temperatures et cetera, as we all know. To meet the 35 per cent increase by 2030, we will need an increase of around 2000 megawatts in base capacity and 1000 megawatts in peak capacity. That is another Loy Yang, Victoria's biggest power station, which presently produces around 2000 megawatts or one-third of Victoria's energy needs.

We all understand that our baseload power supply is coming from the cheapest resource — coal-fired power stations — with much work being done right around the world to see if we can clean up this dirty coal-fired power we now rely on. At Nirranda in my electorate there is a trial of geosequestration — that is, pumping carbon back underground to clean up emissions — to see if that is a possibility. Peak loads come from hydropower. That could be in trouble at the moment because of a lack of water. Then we have gas, then the dearest power sources — renewable energy sources such as wind and solar.

I am not a scientist, but I believe that in the long run tidal power is probably the most interesting one and the one we should be spending the most money on. There has been a trial at Portland for a few years, working with tidal power to see if it will be the best source of renewable energy. I listened to Professor Bellamy one day. He was very much in favour of tidal power. He said if we could harness the tide at Portland, we could supply Australia's entire energy supply with an area of around 100 acres under water, which we would not even see. That is still a long way off, but they are the things we need to be looking at.

In conclusion, the opposition is not opposing the bill; however, until we have smart meters so that consumers and retailers can clearly understand at what time of the day power is being used and transferred, I believe this legislation is merely window-dressing.

Mr HALL (Eastern Victoria) — I am pleased to have the opportunity today to speak on the Energy Legislation Amendment Bill. This bill goes to the issue of renewable energy. I want firstly to make some general comments about renewable energy, because I think many would have The Nationals portrayed as being anti-renewable energy, mainly because of the views we have expressed from time to time on wind turbines. I want to dispel that myth because it is far from the actual case. The reality is that we in The Nationals are strong supporters of renewable energy technologies and we have consistently encouraged their development and use, in not just one form but in many forms.

Probably, though, where we differ from the government is the reality check we apply to the use of renewable technologies and, while the government in its insistence would like to suggest that wind generation should be undertaken in commercial quantities in Victoria, we say that is a fairly hard outcome to achieve.

You can do some of the other renewable energies — hydro, for example — successfully on a commercial scale, and we have been doing it for many years in this country; we have an icon hydro plant with the Snowy hydro facility which shares electricity between New South Wales and Victoria.

Geothermal is another renewable energy which has a lot of potential in countries around the world. Iceland is one of the leaders. Sixty per cent of Iceland's energy needs are met through geothermal techniques. In Australia geothermal is a largely undeveloped technique. I know there are exploration permits being issued by various governments around the country to enable some exploration for geothermal potential, but as yet it is a largely untapped resource in Australia.

I think the jury is still out in respect to whether biomass technologies can produce electricity in commercial quantities. Certainly it can be done on a small scale. That has been demonstrated and proved. Whether it can be done in commercial quantities is yet to be known.

Solar is probably the renewable energy with the most potential to be developed in future years. As yet we do not use solar energy to produce electricity on a commercial scale. It is mainly used on a very small local source basis. Most frequently it has been used to replace non-renewable electricity use — for example, in heating and also for heating water. It has always been used to this point of time as an energy replacement rather than an energy producer itself.

From time to time The Nationals have made extensive comment on wind power. We have grave doubts about the balance of the different competing environmental values if you try to use wind as a commercial electricity generator. I make the point that currently the turbines we have in Victoria usually have a maximum nominal capacity of 1.5 megawatts each, and, on the government's own record, the best efficiency you can get out of those is about a 30 per cent return on their 1.5 megawatt nominal capacity, so you are only getting about half a megawatt of electricity out of each of those at best. Indeed there is research in other countries around the world that suggests the output from those is more like 15 per cent than 30 per cent. I have seen it at 15, 12 and as low as 8 in some reports.

To produce electricity on a commercial scale using wind power, you are going to need quite a number of wind turbines, and consequently each of those 120-metre turbines has an impact on landscape values, so you need to balance the competing environmental interests — greenhouse gas replacement as opposed to impact on landscape values — when you consider using a lot of wind energy generation in the state. In many respects I think the Victorian government has put most of its renewable energy eggs into the wind energy basket, and I do not think that has been sound policy.

The Nationals view is that the development, encouragement and use of renewable energy can best be achieved in small scales at a local level. We are absolutely 100 per cent supportive of schemes to encourage local generation for local use. To give an illustration of exactly what I mean, I always make reference to one of my constituents, Mr Russell Smith of Bundurah Valley, which is about 40 kilometres north of Omeo. Mr Smith would be one of the most prolific emailers to me as a member of Parliament. There is no mains powers connected to an isolated place like his. He has a small hydro plant on a tiny trickle of a creek which goes through his property and he has a solar panel or photovoltaic panel which rotates, tracks and follows the sun in the middle of a paddock on his property throughout the course of the day.

As the sun moves across the horizon, so does the photovoltaic panel follow and, yes, he does have a backup diesel generator. Predominantly 95 per cent of his electricity is generated by a renewable source where that particular person does not have any access to mains power. That, we say, is the real future of most renewable energy use in Australia. We can all do something at a local level in our own homes to supplement, at least, if not generate in excess of our electricity needs.

When we talk about how to encourage people to take up opportunities to generate their own electricity, that is where this particular piece of legislation fits into the whole scheme of this bill, because the Energy Legislation Amendment Bill legislates to require electricity retailers to purchase power from small scale renewable generators at a fair price. Some of those terms will need some explanation.

What do we mean by 'small renewable generators'? It is defined in this particular piece of legislation as those which generate less than 100 kilowatts of power, and when you consider that the photovoltaic panels on the roof of a typical suburban house would generate about 1.5 kilowatts of power, we are looking at reasonable sized facilities when this can apply to anything up to 100 kilowatts of power, so the equivalent of something like 60 to 70 houses collective power generation would make up about 100 kilowatts of power.

Looking at some of the other terminology here, what do we mean by 'retailers'? Again the bill defines the retailers to be bound by this legislation as retailers with

over 5000 customers. I understand from the briefing supplied by the department that that is about half of the licensed retailers in Victoria. They will be required to do the things required of them by this particular piece of legislation — that is, in essence to publish on their website a feed-in price for renewable generation of less than 100 kilowatts of electricity per hour. When we talk about publishing on the website a feed-in price, it is a price set such that those particular retailers are required to buy the electricity from those offering to sell it. There is no option there. If somebody wishes to sell electricity to a retailer at the published price, the retailer will be required to take the power at that price.

The bill also says that the price must be deemed fair and reasonable, and I will come back to that terminology in a minute. The person who decides that the price offered is fair and reasonable is the minister, and if he does not believe it is fair and reasonable, the terms of this legislation will require the minister to refer that matter to the Essential Services Commission (ESC), which will make the decision as to whether the published price by the retailer is indeed a fair and reasonable one.

The bill does not actually define 'fair and reasonable', and one needs to consider how 'fair and reasonable' fits in with actual markets and the spot price of electricity as well. I will make a quick comment about that in a minute. That is essentially what this bill does. It puts in place that scheme whereby small renewable generators of less than 100 kilowatts of power will be able to sell the excess energy they produce to a retailer of over 5000 customers at a price set by the retailer and published on their website.

The important issue I want to canvass for a couple of minutes is the guaranteeing of a market for small-scale generators. They will be able to sell a product at a guaranteed price, and that guaranteed price is almost certainly going to be in excess of the normal retail price that a customer would pay for their electricity. In one respect one would ask why Parliament would be supporting a situation where a retailer of electricity is required by law to buy a product at a price higher than they can onsell it for. That is not a principle we would generally say is a sound, market-based principal. However, there are arguments for and against it.

That principle generated a fair bit of public debate. It was started in the *Age* on Tuesday, 10 July, by Alan Moran, the director of the Institute of Public Affairs deregulation unit, who commented on the bill and the provisions within it. In part he said:

> Photovoltaic cells are supported by government subsidies even more intensely than other exotic renewables. Already they receive the subsidy from the commonwealth or state government, which forces consumers to pay double the price for the electricity they generate. There is also a commonwealth installation subsidy of up to $8000.

While that is true, the other side of the debate was given by way of responses to that article in the *Age* of the following day. There was a letter from Brad Shone, the energy policy manager of the Alternative Technology Association, and another letter from Michael Dean, from the Australian Conservation Foundation. Brad Shone made a couple of good points. In part his letter says:

> Peak demand typically occurs during hot summer afternoons, at the very times when solar photovoltaic systems are producing their maximum output. Hence, solar power is worth significantly more to the network …

It also makes this point:

> Further, by being generated close to the point of consumption, rather than a power station, rooftop solar avoids the need for more poles and wires.

That is true as well. So there are a couple of competing arguments about that principle of having a guaranteed market. Invariably I think that having a guaranteed market will mean that the price retailers will have to purchase energy at from small retailers will be greater than the price they can onsell it for. At the end of the day all electricity consumers will pay for that cross-subsidisation, as one might call it.

As I said before, there needs to be balance in all of these issues. We are balancing electricity needs with environmental needs. At the end of the day we are talking about small renewable energy generators, and I think we should be trying to encourage the principle of people taking responsibility for generating their own energy. That is why on balance we are prepared to support this legislation and this principle, and I think most reasonable people will also do so. We may return to the issue at a later point in time and consider it in the light of the experience of more people who will have hopefully engaged in generating their own energy. We may have to revisit the issue and see how the measures are operating and whether they are distorting market prices to any significant degree.

I cannot give up the opportunity in this debate on renewable energy to refer to the large rally out on the steps of Parliament House this morning concerned with water issues. How I relate that rally to energy is that one of the speakers out there was opposing the desalination plant proposed by the government for Wonthaggi. A reading of the government's own document reveals that that desalination plant will require 90 megawatts of electricity to power it, and the

government has come out and said that those 90 megawatts will be renewable energy. I am still wondering how a spare 90 megawatts of renewable energy will be found in this state.

As I said before, each of the wind turbines currently operating in South Gippsland and other parts of Victoria at best generate about half a megawatt of electricity each. At the very best, on the government's own figures, the desalination plant would require another 180 turbines, and if we were to achieve the maximum output from those, they would have to be located close to the desalination plant. The prospect of having another 180 turbines beyond the 6 already at Wonthaggi has also set the alarm bells ringing for many in the South Gippsland community who do not want to see their landscape devalued by the presence of 120-metre-high wind turbines scattered along the coastline. This is a significant issue.

Hon. T. C. Theophanous — It is set off. You know it is set off. You just buy that amount of green power.

Mr HALL — Where is the green power coming from? Mr Theophanous interjects, but I would love him or others from the government to tell me as part of the debate exactly how the 90 megawatts of renewable green electricity is going to be purchased.

Hon. T. C. Theophanous interjected.

Mr HALL — I will be interested as to what form of renewable energy the government is proposing to find, because Victoria has not got that much renewable energy generation capacity at the moment, yet here we are looking for another 90 megawatts to supposedly drive this desalination plant. I would welcome a response on that issue from government members during the course of this debate today.

I want to move on from that point. I want to thank the department for the briefing it provided on this bill. It was much appreciated. One of the questions I asked at the briefing was what the reporting mechanism was going to be for referrals the minister may make to the Essential Services Commission regarding what is a fair and reasonable price. I was told by way of response to that — and I thank the government for its response — that when the minister refers the offer to the Essential Services Commission for assessment, the commission must publish the referral in the *Government Gazette*, a daily Victorian newspaper and on the Essential Services Commission website.

Another part of that response was:

> … where the ESC determines that referred prices, terms and conditions are fair and reasonable, the ESC must publish a notice in the *Government Gazette* and on its internet site.

I think it will be interesting to see over a period of time how many such referrals are made to the ESC. I will monitor that website to see how frequently that ministerial power needs to be applied.

I want to come back to the issue of what is a fair and reasonable price. The question that I asked of the minister subsequent to the briefing was, 'What is the criteria that the government is going to use to establish a fair and reasonable price?'. Certainly in the consultation that I undertook with a few electricity retailers in this state that was the issue of most concern to them. Again I thank the minister for a very prompt response to my letter — I think it arrived within 24 hours. He said:

> The criteria that will be used to determine 'a fair and reasonable price' are currently being developed in consultation with energy retailers.
>
> Once the consultation process has been completed and a final set of criteria developed, the criteria will be placed on the Department of Primary Industries internet site. As requested, this will occur prior to the commencement of the act on 1 January 2008.

That response from the minister gives us some degree of comfort that the retailers will be consulted in the development of the criteria, and I welcome that and hope that that consultation is productive.

I want to make a couple of comments on amendments which I think are going to be moved by the Greens — they gave me the courtesy of showing me those amendments — but without pre-empting Mr Barber's rightful role of explaining and elaborating on those amendments.

As I understand it, the effect of the first couple of amendments Mr Barber intends to move would limit the ability to utilise some waste wood product. It has been a strong view of The Nationals that we should be utilising to its fullest capacity every little skerrick of wood product that is harvested in Victoria. Of course the timber industry should be saw log driven — I have no argument with that whatsoever; it is very clear cut from my point of view. But there are by-products of a saw log driven timber industry. Some of those are the by-products that occur in a sawmill, for example, where after a saw log's quality is taken out of a piece, then there are residue timbers — some in the form of sawdust, some in the form of offcuts, side cuts, of logs

of timber — and I am well aware that many sawmills utilise all of that residue material.

Some of the offcuts may be turned into woodchips and used in paper manufacturing. I think that is fair and reasonable. We are certainly creating a high-value end product if we are turning waste timber into paper. The same is true of sawdust, which is a residue material. I am well aware that many timber mills use sawdust for the generation of composting material, which is an excellent use for that. That is great. I am also aware that some timber mills burn it to generate electricity or heat water or use it for some other worthwhile function.

Mr Barber might like to clarify something for me — and I am sure he will tell me if I am incorrect. It is my impression that that amendment would prohibit the use of a product like residue timber material from a sawmill from actually being used by cogeneration electricity producers. I think there are some of those, and I would be disappointed if we passed legislation that would not allow them to actually do that and make the best use of a waste timber product.

The other amendment, as I understand it, seeks to extend the definition of a small renewable generator to one producing 30 megawatts of electricity, as opposed to the 100 kilowatts in this piece of legislation. I am not inclined to support that amendment, if it is in that form, simply because I think there is potential for the market to be significantly distorted if we are talking about generators up to a capacity of 30 megawatts.

A producer of 30 megawatts is hardly a small renewable generator; 30 megawatts of electricity is a significant amount, and I do not think that we should be looking towards applying the cross-subsidy guaranteed price principle to generators of such a magnitude. As I said, I think up to 100 kilowatts — the equivalent of about 60 or 70 houses with photovoltaic panels on them — is probably more the scope of a generator we should be applying it to. I think 30 megawatts is too high; I think the 100 kilowatts limit set in this bill is probably an appropriate limit. As I said before, I think it is an issue that we may wish to come back to and review some time in the future.

I reiterate that The Nationals are strong supporters of encouraging the development of renewable energies. This bill does that in a small and appropriate way, and that is why The Nationals will not be opposing it.

Mr BARBER (Northern Metropolitan) — If we are going to debate this bill, we should debate it in the context that climate change is a national emergency; in fact it is a global crisis. This bill, as a response, is weak — and that is me being polite! The reason it is weak is that all it really does is empower the minister to do certain things if he feels like doing certain things. It does not make anybody do anything, and it certainly does not see Parliament setting up a forward-looking plan for solving this national emergency or this global crisis.

Obviously I pay fairly close attention to this sort of debate, and I have been trying to work out the difference between the Labor and Liberal parties' policies on climate change. Both of them want to throw a huge bomb of money at coal to try to help it clean up its act — they are in a bidding war over who can throw the most money at coal; I think Labor is actually winning at the moment — and both of them put enormous faith into a market-driven emissions trading system to do all the heavy lifting of this particular task. The difference between the policies of the Labor and Liberal parties, as far as I can work out, is that Labor will sign up to Kyoto and Labor has a long-term target.

Labor does not have a short-term target, it does not have a medium-term target. But if you sign on to Kyoto, you have to have a short-term target — that is a fact, is it not? The first commitment period of Kyoto is 2008–12. By December this year, if the Rudd government is elected in November, which I think it will be — —

Hon. T. C. Theophanous — I hope so.

Mr BARBER — I hope so too. Then they will be straight into negotiations over that next commitment period — that is, from 2012. Labor will have to go to those negotiations with some sort of plan as to what its target is going to be. It will not lay out a medium or short-term target now, but it will sign Kyoto — total cognitive dissonance.

Victorian Labor proposes a 60 per cent reduction by 2050 based on 2000 levels. Everyone else sets their targets based on 1990; Kyoto is based on 1990. Labor decided to introduce the fudge factor and said, 'We will say 60 per cent', but it is 60 per cent of 2000 levels. Most people would read that as 60 per cent compared to every other target. If you bring the 60 per cent target back to 1990, which is what everybody else does, you can see that that is a 53 per cent reduction goal by 2050. The 2002 feelgood climate change strategy of Labor has delivered little; it has delivered increasing greenhouse gas emissions.

Between 2002 and 2005 our emissions from the energy sector rose from 98 million tonnes to 103 million tonnes, an increase of 5 million tonnes. The transport

sector rose from 19 million tonnes to 20.5 million tonnes, an increase of 1.5 million. That is just between 2002 and 2005, the years for which we have some hard data. In both cases those two sectors, which are the biggest growth sectors and which have the biggest proportion of overall emissions, have grown by around 27 per cent to 28 per cent since the base year. That is how much they have grown since 1990. We all know now that we have to get our emissions turned around very quickly and start moving towards deep cuts. Some people say it is 60 per cent on a global level, some people say 80 per cent. If we are going to allow for other countries to increase their standard of living, then we are going to have to reduce our consumption of electricity even further. Let us just call it what it is — we have to go to zero emissions and we have to do it somewhere around 2050.

The reason we have to do it is this: we do not want the world's temperature to increase by more than 2 degrees Celsius. There is a real chance that we will overshoot that. If we are getting up around a 5-degree increase in global emissions, you can just forget about it. We have to hold our global temperature increase down to no more than 2 degrees, and there is already a very good chance that we will overshoot that. Even if we go to zero emissions of course the climate will not start to repair itself on the day that we go to zero emissions worldwide. Those parts per million of CO_2 are in the atmosphere. It is our new climate; that is the climate we have to live with. Getting CO_2 back out of the atmosphere is another problem, but it is not a problem for our grandchildren. It is not even a problem for our children. It is actually a problem for us right here, right now. We are the ones who expect to be here at that time.

When Mr Rudd is Prime Minister and has to go off to Bali and start negotiating in December this year for the next commitment period, he will have to come up with a number. I imagine he will ring up all his state premiers and say, 'We need a collective number, so we need each state to give differential targets'. He is going to come here and talk to the Treasurer and the environment minister, who are now members of this house. He is going to go to the climate change top guns over there in the corner, Goose and Maverick — they can decide between them which nickname they want to have. He is going to say, 'What is Victoria's share of Australia's target going to be?'. So we might as well start talking about that right here, right now. At least Mr Theophanous and I agree on that. We have to decide right now what our targets are going to be and how we are going to achieve them.

Hon. T. C. Theophanous — I said it would be part of the emissions trading scheme.

Mr BARBER — Okay, so let us talk about the emissions trading scheme (ETS). If Mr Theophanous wants to talk about an ETS, let us talk about that right now. We would be lucky if it covered 40 per cent of emissions. That is the first thing. Then by the time you have finished with all the carve-outs, the grandfathering and the special deals for carbon holidays for those who fund your political party and keep you in business, it will probably be even less. So for the rest of the emissions we are going to need other measures, and they are going to be regulatory measures. There is no way the emissions trading scheme could do its job if it were required to do all the heavy lifting without other sectors also contributing. Clearly an ETS is going to be a small part of the overall task and will not work without other regulatory responses. Let us face it, regulation is much more efficient than the market. Regulation is the way to go. We like regulation.

For a market to work efficiently — I am sure David Davis will agree — you need — —

Honourable members interjecting.

Mr BARBER — Yes, well, let us talk about the efficient markets hypothesis. It requires three things: perfect information, zero transaction costs and theoretically unlimited access to capital at an equal interest rate whether as a borrower or a lender. That works quite well in certain markets.

An honourable member interjected.

Mr BARBER — It is included in transaction costs. In certain markets they can work pretty efficiently — for example, currency markets. But the market for electricity, the market for dishwashers and for all those sorts of things is going to have to be addressed through regulation. Regulation is efficient. It is very clear. Everybody knows what they need to comply with; they do not need to start trading credits all over the place. They just look up the book and say, 'Righto, this is what I have to do'. They do not need a consultant. They just comply with the building code or the land-clearing regulations or the appliance standards or whatever it is.

The other thing the Labor government puts enormous faith in is clean coal. So far the clean coal experiment produces brown coal that is only about as dirty as black coal. That is what the government means when it says clean coal. Nevertheless it is throwing an enormous amount of money at it. It is in a bidding war with the Liberal Party over this.

Hon. T. C. Theophanous — What about geosequestration? Bring it down to zero?

Mr BARBER — But this comes back to the point of not having any short-term targets. The government puts all its faith in geosequestration, clean coal and other technologies, but they have not been proven yet. We do not even know what the costs or technical issues are. As a result the government will not commit to any short-term targets, because it is waiting for the geosequestration to ride over the horizon and save it.

Hon. T. C. Theophanous — How are you going to produce electricity?

Mr BARBER — Be assured, Mr Theophanous, we are going to get there, but not before the lunch break.

The Greens plan creates jobs of course. In particular the Greens plan creates jobs for members of the Electrical Trades Union, Mr Leane's old union. That is why the ETU is backing the Greens at this election, not just for our industrial relations policy but also for our job creation policy. That is why Mr Leane's membership dues are in the Greens campaign fund. I thank Mr Leane very much for that donation from the ETU. I gather that when Labor decided it did not want to hang around with the ETU anymore and it returned its donation, Dean Mighell might have just turned the cheque over and endorsed it straight over to the Greens. We thank Mr Leane very much. The ETU understands that the Greens plan creates jobs.

Anyway, that is the background. Let us go back to the bill. The bill simply amends the act.

Hon. T. C. Theophanous — Hang on! You were going to tell us how you are going to produce power.

Mr BARBER — We are going to get there. The bill strengthens the current provision for feed-in tariffs paid to small generators and requires electricity retailers to publish the prices, terms and conditions for the purchase of electricity.

So the proposed aim provides clarity and transparency to small generating units — that is good. In terms of that question regarding the perfect information in markets, that will be beneficial. The minister can refer those prices to the ESC (Essential Services Commission) if he wants to, but he does not have to. Then they will be assessed as to whether they are fair and reasonable, but there is no criteria for what is fair and reasonable.

If the ESC considers that the prices are not fair and reasonable; it can make a recommendation. The minister can then declare those prices, terms and conditions and then apply them to the licensee named in the declaration — this is a good thing. The minister is giving himself price control. This is certainly the sort of regulation for the electricity industry that I would support.

If the licensee does not publish relevant prices, terms and conditions, the minister is empowered to request the ESC to determine fair and reasonable prices. The minister can then declare that those prices are to apply to the licensee. Then the bill repeals a spent provision relating to the Snowy Hydro, which we do not need to worry about. The bill also does some things to the Gas Industry Act, which amendments we support; I am not going to discuss those particular issues at this time.

The Greens support the bill insofar as it goes. We do not have details about what will be a fair price. We do not really have an understanding of how the minister will consult over these issues; we have been told he will consult the retailers. I do not know whom he consults when consulting small generators because there are so few of them.

Here is a classic example: nobody is prepared to stick up for an industry that does not yet exist. If it were the sort of industry that the Greens would like to see, then that industry would have a voice and it would have the ear of the Minister for Energy and Resources, in the other place. The Greens also have a couple of concerns which we intend to raise through our proposed amendments. One relates to the size of the cut-off when the provisions of this bill will kick in.

Sitting suspended 1.00 p.m. until 2.02 p.m.

Business interrupted pursuant to standing orders.

QUESTIONS WITHOUT NOTICE

Water: Victorian plan

Mr ATKINSON (Eastern Metropolitan) — My question is to the Minister for Environment and Climate Change. I refer the minister to the government's promised desalination plant and the plans to build a water pipe from the Goulburn Valley, and I ask: can the minister inform the house whether he has recommended to the Minister for Planning that an environment effects statement should be prepared for these projects?

Mr JENNINGS (Minister for Environment and Climate Change) — I thank Mr Atkinson for perhaps a more direct form of the question asked by Mr Hall

yesterday, but a question that is actually very consistent in terms of my substantive answer to the question that was raised yesterday about the various environmental effects that may occur subsequent to some major water infrastructure investment in the state of Victoria — the desalination plant that he has mentioned or the interconnect pipe from the Goulburn Valley to Sugarloaf proposal.

I am particularly mindful of my responsibilities in terms of making an assessment about the likelihood of environmental impacts upon those projects, and I am very mindful of the real and the potential or perceived range of issues of environmental concern that may be associated with this development.

The reason I outlined that to the house is that at the moment I have not been advised of nor have I considered the whole set of environmental issues and made a determination about whether I will be making such a recommendation to the Minister for Planning. Indeed the government will consider that matter; I will consider that matter, take advice on the subject and — —

Mr Guy interjected.

The PRESIDENT — Order! The minister, to continue.

Mr JENNINGS — Thank you, President. I was happy to actually answer any supplementary question that might come my way in relation to this matter. I take my responsibilities seriously. I will address them seriously and I will form a view. When that view has been formed I will let my colleague know and in various ways I will let members of this chamber and the community know.

Supplementary question

Mr ATKINSON (Eastern Metropolitan) — I appreciate that the minister has not been in his role very long — I congratulate him on becoming minister in this area — and no doubt there are quite a number of issues that he needs to acquaint himself with. However, given that the government's guidelines on major projects do require an EES (environment effects statement) for this type of project, and given the fact that both of these projects will obviously have a major environmental impact — and he has conceded that there are certainly likely to be some environmental impacts — when might the minister expect to form a view on these projects and request an environmental assessment process based on the government's own policy and his responsibilities as environment minister?

Mr JENNINGS (Minister for Environment and Climate Change) — Again, I thank Mr Atkinson. I am not being defensive about this. He appreciates that I have been — —

Mr Atkinson interjected.

Mr JENNINGS — I quite often do this. In fact I used to adopt an air around this chamber as if I was drinking when I am not a drinker, so in fact on various occasions my body language has been reflected on during my life in this chamber, and I thank you for further reflections on it today.

Can I actually say, in the spirit of openness, that I am relatively relaxed with the question and the degree — —

Honourable members interjecting.

Mr JENNINGS — Have no doubt about it, I was going to stop there! I am fully aware that this is as good as it gets; I have no doubt about that, President, and members of the chamber.

I indicate that I am mindful of my obligations and responsibility to reflect on these matters appropriately. I will seek advice, and in the appropriate time it will be conveyed through the government the way in which we will determine these matters.

Honourable members interjecting.

Mr JENNINGS — I want to have conversations with my colleague the Minister for Planning and other parts of government. I want to seek advice from my department.

Honourable members interjecting.

Mr JENNINGS — Of course I could. I think you are all a bit hopeful that I am going to set a timetable in place, as we speak in the chamber today. As I might prefer to do it, and as the house might prefer for me to do it, I am not going to do it in a fashion that is actually ahead of the government processes.

Employment: growth

Mr SOMYUREK (South Eastern Metropolitan) — My question is to the Treasurer. Can the minister update the house on the state of the Victorian workforce and any new statistics that have been released by the Australian Bureau of Statistics?

Mr LENDERS (Treasurer) — I thank Mr Somyurek for his question. I am delighted to inform him and the house that the July labour force figures that

are out today are good news for Victoria. Victoria now has the lowest unemployment rate since January 1990. Let us just think of that!

What happened between January 1990 and September 1999? The seven years of the Kennett government! These are the lowest unemployment figures since January 1990. The number of jobs increased in Victoria by 13 400. This is half a percent increase in employment, far above the national average of one-fifth of a percent, and this builds on the thousand jobs a week on average created in Victoria since the election of this Labor government.

Mr P. Davis interjected.

Mr LENDERS — I take up Philip Davis's interjection about the federal government. Surprise, surprise! Victoria has 24 per cent of the nation's population and 60 per cent of the jobs that have been created. More than that, the number of jobs created in Victoria is more than in any other state in Australia, including, for Mr Guy's benefit, the resource states of Queensland and Western Australia. What we are seeing out of this is that since the start of 2007 the number of jobs created in this state has been 53 900 more than in any other state, and what is also significant is that 80 per cent of these jobs are full-time jobs.

These figures do bounce around — they are monthly figures — but what we are seeing is a trend that under Labor in Victoria, jobs are growing. As I said to this house yesterday, the underpinning of a good Labor government is jobs, jobs, and more jobs.

We are seeing this happening; we are seeing workforce participation going up. Looking at *Business Outlook* from Access Economics for June 2007, it states that there are two key tests for the recent performance of a state. The first is: has the participation rate lifted? The second is: is business investing strongly enough to reinvigorate physical capital for workers to use? Access Economics says Victoria has done impressively on both fronts.

These labour figures reflect the strength of the Victorian economy. That economy is not strong by coincidence; it is reflecting a strength by government that has invested in infrastructure, invested in jobs, kept the budget in the black and reduced taxes to encourage people to invest in this state. It is about jobs, jobs and jobs — and what we are seeing in this state are actions by a government that make Victoria an even better place to live, work and raise a family.

However, life is good under a government in Victoria. I was looking at an email that came across my desk the other day from a gentleman called Paul.Price@opposition.gov.au, which said, 'Baillieu: life will be harder under a Liberal government'. So what I would say is that life is good under this government. There is a lot more to be done, and we are working to make Victoria a better place to live, work and raise a family.

Exports: government targets

Mr D. DAVIS (Southern Metropolitan) — My question is to the Minister for Industry and Trade. The Opening Doors to Export Plan committed the government to doubling the number of Victorian companies exporting by 2010 from a base of 12 250 exporters in 2001–02. Why did the government abandon this target?

Hon. T. C. THEOPHANOUS (Minister for Industry and Trade) — What I can tell the member opposite is that exports from Victoria are in fact on the rise. Victoria's exports continue to increase. Recently in the house I informed Mr Davis and other members about how well we were doing in terms of goods exports. You might recall, President, that for a number of months Mr Davis kept coming into the house, seeking to talk down Victoria once again, carrying on or talking about how we were doing on the amount of goods being exported out of Victoria.

Mr Davis did this while completely disregarding the figures in relation to the services industry or the export of services out of Victoria, which have increased significantly. Moreover, Mr Davis completely disregarded one other important figure — that is, the value of goods exports as opposed to the quantum of goods exports, which he again disregarded. When you look at it, the value of goods exported out of Victoria has increased.

We on this side of the house are pleased to be able to put an increased emphasis on exports. One of the reasons the Premier decided to make me responsible directly as minister for trade and for exports — and put that into my title — was because of a renewed emphasis on export and trade throughout the rest of the world. This is very important because we employ an enormous number of Victorians in the export and trades sectors.

To give members an example, in the last financial year Victoria's total exports were $29.1 billion, which was an increase of 4.6 per cent on the 2004–05 figure. Goods exports were valued at more than $18.9 billion while services exports were valued at $10.1 billion. This represents an increase, in relation to the latter, of

24 per cent overall from when the current government took office in 1999. That 24 per cent increase in exports since 1999 is reflected in some of our top exports. The exporting into the Middle East of road vehicles is a huge success story for us.

Mr Drum — It was 24 per cent over eight or nine years. Is that great?

Hon. T. C. THEOPHANOUS — The member opposite is not happy with 24 per cent, but I remind him that this has been achieved in the context of an increasingly globalised and competitive environment. It has also been achieved by going into and building those new markets: in motor vehicles, for example, $183 million in 2007; in non-ferrous metals, $159 million; in dairy products, $133 million — and so the list goes on and on of the exports that have been achieved.

Many of these exports have been achieved through the work of our overseas offices. Exports in fact is a success story, and it is reflected — —

Mr D. Davis interjected.

Hon. T. C. THEOPHANOUS — I am happy to be judged. As I have told Mr Davis before, the way to judge a government is on real figures. It is on the number of employed people, and the Treasurer has just talked about jobs. It is on jobs created, it is on economic growth and it is on exports. On all those figures Victoria is doing better than it was — much better, not just a little better — doing in 1999 under the previous Liberal government.

Supplementary question

Mr D. DAVIS (Southern Metropolitan) — I note that the minister completely failed to engage with the question and simply did not answer why the government had abandoned its target. At the 2006–07 estimates hearings the then minister advised that the aim to double the number of Victorian companies that were exporting by 2010 had been changed to increasing the number of exporters, after it had been pointed out that the number of exporters had actually fallen from the 2001–02 level. What is the present number of Victorian companies exporting, and since the minister's new time frame is 2015, what is his new target for 2015?

Hon. T. C. THEOPHANOUS (Minister for Industry and Trade) — I am happy to provide to the member opposite figures that are available to me in relation to the number of exporters. To give an example, yes, the number of Victorian exporters did increase. In 2002, as the member has indicated, a target was set. Let me just indicate that by 2005–06 there were 12 899 exporters in Victoria, and this was an increase of 2357 from the 2003–04 number. On the figures that I have available to me at the moment, between 2003–04 and 2005–06 there was an increase of 2357.

Mr D. Davis — To 12 899.

Hon. T. C. THEOPHANOUS — There were 12 899 in 2005–06. There have been increases in the number of exporters, but I again caution the member about the interpretation of these figures, because he should not take one simple part of an equation and look at that on its own. You can get one exporter that might export billions of dollars worth of exports and you might get another one that exports $50 000. The fact is that the number of exporters alone is not enough to get the full picture. To get the full picture you can only really look at it in terms of the value of exports. As I indicated to the house yesterday, the value of exports has gone up by 5.6 per cent for goods exports, and it has gone up exponentially in terms of the services industry over a number of years. There is a good news story for exports out of Victoria. Again, I urge the opposition for heaven's sake to start talking up Victoria instead of talking it down.

Government: initiatives

Ms PULFORD (Western Victoria) — My question is to the Treasurer. We have often heard that Labor stands for governing for all Victorians. With that in mind, can the Treasurer update the house on this government's proud record in making every region and every town a better place to live, work and raise a family?

Mr LENDERS (Treasurer) — I thank Ms Pulford for her question — a tough but fair question! — and the sentiment behind the question of what a government can do to govern for all Victorians. Quite clearly in 1999 the Victorian people spoke. They wanted a government that governed for the whole state, not for the beating heart of Melbourne and for the toenails — and the expression 'for the toenails' reflects what the Kennett government's attitude was. This government has delivered every budget to govern for the whole state. In response to Ms Pulford's question, there are a number of specific things that this government is focusing on. A number of them are quite interesting.

Ms Lovell interjected.

Mr LENDERS — It is quite interesting, because Ms Lovell interjected and asked, 'What?'. I say to her, firstly, that there is $134 million to buy back the regional rail tracks from Pacific National. Everybody on this side of the house will remember how in a botched privatisation the Kennett government sold off the whole rail stock. It not only sold it off but it sold it off with a flawed contract, which this government had to actually buy back in order to deliver services back to rural Victoria.

Honourable members interjecting.

Mr LENDERS — We also find that this government — I take up Mr Guy's interjection — is investing $30 million to boost bus services in regional Victoria and $91 million to upgrade regional roads. While we are talking of trains, given that that is what the interjections are about, I remind the house that this government has invested in the regional fast rail.

Honourable members interjecting.

Mr LENDERS — The most predictable thing from those opposite is that they do not like regional rail services. They are more predictable than Pavlov's dog. What this government has done is actually invest in rail services, and what Philip Davis might not realise is that his constituents in Traralgon do actually enjoy a more rapid and safer rail service to Melbourne than the one that was there before it. I am sure people in Ms Pulford's electorate and in her home town of Ballarat appreciate a regular service that has been upgraded and is safe, as do people in Mr Drum's town of Bendigo and as do people in Geelong. This government invests in rail services in regional communities; it does not flog them off. Those opposite who do not think rural communities care about this should just look at what happened in Mildura when the Kennett government sold off the *Vinelander* and what happened to the member for Mildura at that time.

The government has also invested money in the work of a ministerial bushfire recovery task force. We have put money into protecting Victorian farms and the natural environment from the threats posed by pests and weeds. We have also seen a massive investment in a whole range of areas. We have also put money into skilled employment et cetera. What is significant though in all of this is that this government governs for the whole state, and the projects are integrated.

Honourable members interjecting.

Mr LENDERS — Mr Drum says, 'You say that'. I know it makes the Leader of the Opposition very excited, but whether it be even the $7.5 million that we have spent on cattle underpasses — in Victoria we now have 365 cattle underpasses that have been built to assist farmers to get their cattle safely across roads to take the pressure off the farmers and the motorists — this government has acted in a range of areas. There are 24 of them I would like to mention but in the interests of brevity I will not. We continue to deliver to the whole of the state. We believe all of Victoria, no matter which part it is, is important to this government. We do not believe in beating hearts and toenails. We believe in delivering resources to the whole state because that is critical, as Ms Pulford alluded to, to making Victoria an even better place to live, work and raise a family regardless of where you live and regardless of your postcode.

Australian Labor Party: election promises

Mr RICH-PHILLIPS (South Eastern Metropolitan) — My question is to the Treasurer. I refer to the now Premier's press release of 31 October 2006, which in relation to Labor election promises stated 'Our policies are funded without a single additional dollar of debt'. I ask the Treasurer: has the government adhered to this election commitment of the former Treasurer, now Premier?

Mr LENDERS (Treasurer) — Yes.

Supplementary question

Mr RICH-PHILLIPS (South Eastern Metropolitan) — I thank the Treasurer for his unequivocal answer. I ask the Treasurer: will he assure the house that not a single dollar of the additional $3 billion added to public debt in the latest budget in the forward estimates period will be used to finance Labor election promises?

Mr LENDERS (Treasurer) — I found in my draw a card headed 'Labor's promises'. Its has a picture on the front of John Brumby, Leader of the Labor Party in early 1999. The first of Labor's early commitments for Victoria as stated on the card is 'Provide a budget surplus every year, overseen by an independent Auditor-General with new constitutional powers'.

Honourable members interjecting.

Mr LENDERS — I take up Ms Mikakos's interjection. She asked 'Who's it authorised by?'. It was authorised by a J. Lenders of 23 Drummond Street, South Carlton!

But I will say this to Mr Rich-Phillips: he pretends he does not understand budgets but I know he really does, and what he is attempting to do here is the oldest trick

in the book — trying to mix up recurrent and capital expenditure. What Mr Rich-Phillips is alluding to from the statement of my predecessor as Treasurer is obviously that this government, as it has pledged, will not borrow money for recurrent expenditure. We will operate the budget in the black, as we have committed to do.

What this government has also said with absolute transparency in its budget papers is what its levels of borrowings will be for the general government sector. As I have alluded to in the house on all three sitting days so far this week, when we got into government we had borrowings at 3.1 per cent of gross state product and at the end of the forward estimates they will be 2.9 per cent of gross state product. Yet midpoint in the Kennett years borrowings were 15.5 per cent of gross state product and midpoint in the Bolte years they were 50 per cent of gross state product.

We will fund budgets in the black. I uphold every single statement made by my predecessor as Treasurer and his predecessor as Treasurer. I totally endorse what they have said. They were gifted Treasurers who led this state to the strong economy I alluded to with the labour force figures. I am absolutely delighted to endorse every policy commitment made by my predecessor as Treasurer, because they were the building blocks and ingredients that have made Victoria an even better place to live, to work and to raise a family — in a state that is in the black.

Information and communications technology: investment

Ms TIERNEY (Western Victoria) — My question is to the Minister for Information and Communication Technology. The minister previously noted that information and communications technology (ICT) is an important sector that impacts on the rest of the economy. Can he inform the house of Victoria's recent record in attracting new investments in the ICT sector, particularly in regional Victoria?

Hon. T. C. THEOPHANOUS (Minister for Information and Communication Technology) — I thank the member for her question, because, as I have told the house, I am very excited about being the Minister for Information and Communication Technology. I think this particular sector of the economy is going to be crucial in relation to how we structure the rest of our industries and the rest of our economy, particularly in the manufacturing sector. The Premier, in attaching information and communications technology (ICT) to the industry portfolio, has signalled that this is an area where he wants us to use ICT in order to increase the overall competitiveness of Victorian industry.

As I told the house yesterday, in this sector we have now employed 83 900 Victorians, so the industry is a very large part of our economy. That represents 34 per cent of the nation's ICT workforce, so we are doing better than other states in relation to this information and communications area. It bodes well for us being able to use that capacity to build our industries.

In fact since June 2002 this sector has grown by more than 21 000 jobs — or 33.4 per cent — so there has been an increase of one-third since 2002. A lot of those jobs have been in regional Victoria, and we are waiting to get a better broadband outcome for regional Victoria. We want to see this happen, and we want to see it happen quickly, because that has been the only thing that has been holding up additional development of the ICT industry in Victoria — access to high-speed broadband. We need to get this done very quickly.

Since coming to office the government has attracted and facilitated more than $1.5 billion of investment and created more than 10 000 jobs in the ICT sector. It is where we have attracted investment, where we have created jobs and where we are going forward. Let me give one example in regional Victoria. The Ballarat Technology Park is going from strength to strength and becoming a multimillion-dollar focal point for that city. Under our government this park has grown to be a major regional employer. Ballarat Technology Park alone is responsible for creating 1700 jobs. Just imagine what would happen to the Ballarat economy if you removed 1700 jobs from the Ballarat region. This facility alone contributes up to $273 million to that regional economy annually. It is another example of how we can use our capacities in the ICT sector and put them into regional centres to generate jobs out of those centres. It is part of what this government has focused upon, but it is not the only thing.

I will just flag some of the other things that we are doing in relation to pursuing new investment opportunities, including the National ICT Australia Victoria research laboratory, which will provide 80 new research jobs and PhD positions, and $107 million of investment; the IR Gurus game development studio, with 150 jobs; the Telstra Integration Laboratory, with $50 million of investment; and the Hewlett Packard corporate headquarters, with $40 million of investment.

The list goes on and on in relation to how we are not only attracting into this state many, many companies in this ICT sector and creating jobs as a result but, more importantly, we are gearing off the ICT sector more

generally to be able to assist industry to become more competitive and for us therefore to create even more jobs for regional Victoria.

Rural Finance Corporation: interest rates

Mr P. DAVIS (Eastern Victoria) — I direct a question to the Treasurer. I refer to the Treasurer's mock indignation about the interest rate rise announced by the Reserve Bank of Australia yesterday, and I refer also to the Treasurer's power under the Rural Finance Act to direct the Rural Finance Corporation as to its financial policies and practices. Will the Treasurer direct the Rural Finance Corporation to withhold or delay the interest rate rise on RFC loans to Victorian farmers who have suffered through drought, bushfire and floods this year?

Honourable members interjecting.

The PRESIDENT — Order! Mr Leane and Ms Pulford should not have cross-party discussions during question time. If they want to have a conversation, they can go outside.

Mr LENDERS (Treasurer) — I thank Philip Davis for his question. Firstly, for the record, there was nothing mock about my indignation about the federal government's raising interest rates yesterday. All sides of politics accept the fact that there is an independent Reserve Bank that sets interest rates. If Mr Davis is suggesting that political parties and ministers should start setting interest rates and having a controlled economy, I would suggest he needs to be very thoughtful about and reflect on what he would be committing the Liberal Party to with controlled economies. If he is saying what I think he is saying, my comments about Julie Bishop and Constantine Chernenko are mild compared with what I would say about a central control commission doing these things.

I will pass on that observation because I do not want to put words into the mouth of the Leader of the Opposition, but I am alluding to the fact that if he is talking about a central command economy, then that is something new in Australian politics and something that has probably not been in place since the Communist Party member for the Queensland seat of Bowen lost his seat back in the 1940s.

Leaving that aside, Mr Davis raised some issues about mock indignation. If you have an independent Reserve Bank that is setting interest rates, it bases them on the economic conditions, which are fundamentally in the hands of the national government. There are obviously other factors as well, but fundamentally the economic conditions are in the hands of the national government.

My indignation was over the fact that the national government went to the Australian people in 2004 and said that under its stewardship interest rates were less likely to go up, and yet they have gone up nine times in a row — and five times since that election. My anger is about what that does to average Victorian families who are finding that their repayments on a $200 000 home loan have gone up by $32 a month and on a $300 000 loan have they gone up by $50 a month. On the average loan, the repayments over the 25-year term have gone up by $65 000! That is what my anger is about, and I think anyone who understands what that is doing to ordinary citizens in this state ought to be angered.

What I would say to Philip Davis about the issue he raised about the Rural Finance Corporation is that this government will always, in a measured fashion, look at issues like bushfire recovery, drought relief and those types of issues. We will deal with them through a measured response. I certainly do not think the vehicle for responding to those issues is a Huey Long-style address on interest rates from the opposition.

I will reflect on what Mr Davis said in the context of the bushfire recovery task force, but this government has, more than its predecessor, delivered for the whole state. We are not into toenails; we are into delivering for all Victoria. We have seen good growth in regional Victoria, with 24 initiatives, as I said before. I look forward to being in this job to make Victoria an even better place to live, work and raise a family in a non-central control commission sense.

Supplementary question

Mr P. DAVIS (Eastern Victoria) — I thank the Treasurer for his answer. I follow up by asking: if the Treasurer's concern about interest rates is genuine, why will he not intervene when he clearly has the power — —

Honourable members interjecting.

Questions interrupted.

SUSPENSION OF MEMBER

The PRESIDENT — Order! I am sorry to interrupt Mr Davis's contribution. I have warned Mr Leane, but he has continued to have conversations with his colleagues to the extent that I can hear them from here. I do not want to hear them any more, so he should take the next 30 minutes to reflect on that.

Mr Leane withdrew from chamber.

Questions resumed.

Mr P. DAVIS (Eastern Victoria) — I will repeat the question. If the Treasurer's concern about interest rates is genuine, why will he not intervene when he clearly has the power under the Rural Finance Act to do so?

Mr LENDERS (Treasurer) — I answered Mr Davis's question in my substantive answer.

Planning: Sale golf course development

Mr SCHEFFER (Eastern Victoria) — My question is to the Minister for Planning. The new Department of Planning and Community Development has a strong focus not only on the suburbs of Melbourne but also on our rural and regional communities. I ask the minister to inform the house what recent action has been taken by the Brumby government to provide regional Victoria with a new land supply for residential development as Victoria's population continues to grow.

Hon. J. M. MADDEN (Minister for Planning) — I welcome Mr Scheffer's question, and I welcome his interest in this area, particularly as the answer relates to his neck of the woods. I know how enthusiastic he is about this announcement.

President, you would appreciate, as would members in the chamber, that the Brumby government is strongly committed to the development of rural and regional Victoria. In fact our government believes that vibrant and healthy regional communities right across Victoria are critical to the economic success of the state. It is a stark contrast, which I will not relay or relate but want to emphasise, to what others might do.

Consistent with the Brumby government's policy in *Moving Forward — Making Provincial Victoria the Best Place to Live Work and Invest*, I am pleased to announce today the approval of a rezoning proposal — —

Mr P. Davis — Why are you doing this in question time?

Hon. J. M. MADDEN — You will be interested in this, Mr Davis, because this is in your neck of the woods. If you pause for a moment, you might notice that it will have an impact on your neck of the woods.

I am pleased to announce today the approval of a rezoning proposal at Longford, 8 kilometres south of Sale. This proposal makes way for a new housing estate, tourist accommodation and golf course redevelopment. Building on the strong growth of provincial Victoria, this amendment, amendment C32 to the Wellington planning scheme, rezones the land of the existing Sale Golf Club — I am not sure if Mr Davis is a member, but I am sure he knows it well — and land to the west of the golf course from a rural zone to a comprehensive development zone. This will drive further economic development and attract more people, jobs and investment to the region.

Gippsland has always been an attractive area for people wanting a rural lifestyle. This development comprises 291 new houses and 20 tourist apartments to be built around the Longford golf course, giving more people an opportunity to live within a 10-minute drive from Sale and all its shops and services.

With the full support of the Sale Golf Club, the 18-hole golf course will be redeveloped, I understand, into a championship level golf course that will also attract more people, jobs and investment. Mr Hall might even have a round of golf there with Mr Drum. The existing golf clubhouse and lawn bowls facilities — maybe that is more to Mr Drum's taste — have been designed to take in the views of the surrounding wetlands and adjacent farming land. People moving into the area, tourists, keen golfers and the whole community will no doubt benefit from the revitalisation of the golf course precinct.

This project is consistent with our strong commitment to sustainable development, to securing long-term economic growth and to making sure our natural resources and assets are managed carefully and responsibly. It also takes into account the environmental issues like water quality, biodiversity and retaining native vegetation — and I note that the Minister for Environment and Climate Change is particularly enthusiastic about that. There will be an environmental management plan to take into account all those matters.

I commend the Wellington Shire Council for identifying an area that will allow the new residential estate to extend from an existing development that is within the town's boundary. The development fits into the state government's vision for well-planned and sustainable communities right across the state that are built by choice, rather than by chance. This is an excellent example of the Brumby government working with local councils — again, collaboratively — to deliver real benefits for Victoria, to make communities right across the state, and regional communities in particular, even better places to live, work and raise a family.

The PRESIDENT — I am tempted to suggest on behalf of all golfers and Victorians that it is a great day when we hear of a new golf course being developed, but I will not.

Hazardous waste: Burnley property

Ms HARTLAND (Western Metropolitan) — My question today is to the new Minister for Environment and Climate Change, Mr Jennings. I congratulate him on his appointment, and I am sure we will have a great deal of fun asking him many, many questions in the future.

Over the past six months I have been working with Paul Edwards, the Construction, Forestry, Mining and Energy Union's health and safety officer at the new Metropolitan Fire Brigade (MFB) training college site at Burnley. The work that Paul has done clearly shows that this site has a long and well-documented history of contamination, but for reasons beyond my understanding it was not on the Environment Protection Authority's priority contaminated sites register. My question for the minister is: as this to my understanding was Crown land, why was no environmental audit done on this site before its transfer to the MFB?

Mr JENNINGS (Minister for Environment and Climate Change) — I appreciate Ms Hartland's congratulations to me. I hope she has some fun and also gains some satisfaction from asking me questions and getting answers in this place, so I have higher aspirations than she might have. From my vantage point I have received some advice about this matter, because as she and other members of the community are aware, there has been some contamination in the area in which the redevelopment of the fire brigade facility has taken place, and I believe there is ongoing assessment of the land adjacent to this site in question to determine what level of treatment or rehabilitation may be required for that abutting land.

In terms of the substantive answer in relation to the assessment that was undertaken previously, I have been advised there was a degree of confidence ascertained in the assessments prior to the redevelopment and that it was not considered a different level of intervention was required before the appropriate planning approvals were given. That is how I have been advised. I am also advised that there are ongoing issues within the general vicinity of that development and that ongoing monitoring is taking place within and about the general area on which the facility has been constructed.

Supplementary question

Ms HARTLAND (Western Metropolitan) — It is my understanding that the cost so far is $11 million for cleaning up and that that could go as high as $30 million. Could the minister explain how the finding was made that there was no need for an audit to be done?

Mr JENNINGS (Minister for Environment and Climate Change) — As I say, the assessments that were appropriate to be undertaken were undertaken, and I am advised there was a level of satisfaction that the assessments were sufficient to warrant the development occurring, whilst recognising that ongoing work is required within the general area on the land abutting this development site. That is as I have been advised. I am happy to continue to seek further advice on this issue and to be well informed about the ongoing rehabilitation of this precinct. I would expect the Environment Protection Authority to undertake its responsibilities, just as I anticipate that it has already satisfied its obligations to the present time. I am very happy to make sure that it continues to be vigilant in that regard.

Health: magnetic resonance imaging

Ms DARVENIZA (Northern Victoria) — My question is for the Minister for Innovation, Mr Jennings. Could the minister please inform the house how the Brumby government is assisting to position Victoria as a world leader in the vital field of medical imaging?

Mr JENNINGS (Minister for Innovation) — I thank Ms Darveniza for her question and her concern about the important area of innovation, particularly as it crosses over into an area of her concern and long-established interest in health care and, in particular, technological developments that assist in research and the capacity to respond to the health care needs of members of our community.

I start by saying that there may be a number of members of the chamber who are well and truly familiar with MRI (magnetic resonance imaging) machines. If they watch *House* every week, they will know that for every diagnostic requirement MRI is the implement of choice in that program. But some people may not have seen *House*, because *House* is on television and some members of the opposition are probably still listening to their crystal sets on Wednesday nights. They are probably listening to Phil and Bruce, so they are not quite aware of TV, let alone

House, let alone MRIs. But MRIs are very important pieces of technology that assist — —

Hon. T. C. Theophanous — What about *Grey's Anatomy*?

Mr JENNINGS — They may be on *Grey's Anatomy*, but I am not a channel switcher.

Mr Finn interjected.

Mr JENNINGS — Exactly. Radio National listeners are well informed about MRIs, there is no doubt about that. Mr Scheffer is well informed about MRIs, I have no doubt about that.

Very recently the Bracks government was pleased to open a new MRI machine at the Brain Research Institute at the Austin Hospital. It is one of the best pieces of equipment in the world. It is a new Siemens Tim Trio MRI machine — and for those members who are well versed in the technology, it is a 3-tesla capacity machine. Ms Darveniza would say that normally 1.5 is the standard tesla degree of definition, but this is a 3-tesla machine. It is a world-leading machine, and the people who undertake this work at the Brain Research Institute at the Austin are world leaders.

We have recruited a number of specialists from the United Kingdom to be part of the team that is undertaking this work. It is very important work in looking at conditions of the brain such as epilepsy, mental health, stroke and dementia. It forms part of a great collaborative effort on work that is undertaken in partnership by the Brain Research Institute and the Australian Centre for Neuroscience and Mental Health Research, which received significant support from the Bracks government and is now receiving support from the Brumby government. An amount of $53 million that has been invested to support their important developmental work at two nodes of activity, one in Parkville and one at the Austin. We will be leading in terms of this technological advancement and capacity not only in Victoria but in Australia and globally.

We are at the cutting edge of the development of this sector in the important work that practitioners in neuroscience and other areas of regenerative medicine do to support members of our community who have received neurological trauma. A degree of collaborative effort has been supported by our government as part of our commitment to innovation. We have made significant investments which will make a lasting difference to the quality of life of thousands of Victorians and thousands of Australians. We are providing opportunities for further research and development and for great collaborative effort between tertiary institutions, the scientific community and the Victorian government. Together we will make a significant difference to the wellbeing of members of our community and the technological development of this great state.

ENERGY LEGISLATION AMENDMENT BILL

Second reading

Debate resumed.

Mr BARBER (Northern Metropolitan) — Before lunch, by way of background I was describing how the majority of the policy levers in the area of climate change have been in the hands of state governments for the last 10 years, and of course they have been Labor governments. I am talking about issues such as land clearing, which is still the cause of about 2.5 per cent of our emissions in Victoria and far from a net sink of CO_2; the control of transport; the actual ownership of resources such as gas, coal and water; the buying power of those state governments and the ability for them to set standards for the rest of the community in terms of how they use electricity — they regulate the electricity market jointly, and that is what we are talking about here today; the building and planning codes; and land use planning itself, which in many ways builds our emissions profile.

In the minister's media release this bill is said to be the first part of a two-part plan. The second part of that plan is to build in a legislated feed-in tariff. We certainly hope that that second part comes along to complement this exercise. There is a strong rationale for a feed-in tariff as is envisaged by the provisions of this bill. The market fails to take into account the true value and many benefits to the electricity network of embedded renewable energy technologies distributed across the grid. The feed-in tariff would appropriately reward microgeneration for its true value to the electricity market and wider society, and it would provide the financial incentives for the adoption of the technology and support additional renewable energy industry growth.

These direct economic values include things such as the fact that peak hour for electricity corresponds to periods of peak demand — and peak demand has been the biggest problem Victoria has had in recent years. At 4 o'clock on a few afternoons in the hottest part of summer when people come home to a very hot house and switch on their air conditioners, we get a huge load on the grid. Solar panels in significant quantities

embedded in the grid would of course be producing their power right at that moment, and we would thereby avoid having to make investments in baseload and other more polluting forms of generation. It is that avoided cost and those avoided emissions that are a strong part of the case.

It is calculated that Australian network service providers — that is, those who run the poles and wires — are going to have to spend about $24 billion over the next five years on upgrades to the network to meet this growing peak demand. A feed-in tariff would reward those who provide electricity from their own roofs and thereby allow the distributors to avoid having to make enhancements to the network for some period. Of course you decrease your own demand on the grid of your own home if you have solar panels generating at such times, and you also avoid the transmission and distribution losses which are part of your electricity charges now.

Supplier diversification itself has a benefit. It will avoid price spikes where the wholesale price of power goes up a thousandfold over a short period. Retailers have been squeezed most by that particular problem, because they are buying their power at a variable price whereas those further down the line are getting it at a fixed price. Supplier diversification will provide security of supply, with prudent investment in what are in fact low-risk technologies which inevitably provide a regular supply of power.

Renewable energy generation will create a lot of jobs. As I said earlier, BP Solar has estimated that solar PV (photovoltaic) generates about 40 jobs per megawatt installed, and that is significantly higher than in the fossil fuel industry. This is a high-growth industry capable of sustaining high-wage employment, not just employment in making the panels themselves, which I referred to earlier, but employment in the specialist installation workforce that will be required and will require new forms of vocational training. That will help us develop a high-tech solar industry here in Victoria. Much of that technology originated in Australia but it has now gone to other countries such as Japan and Germany, which have adopted aggressive targets for renewable power. They are just about to be surpassed in production of solar cells by China.

Last but not least there is the avoidance of environmental costs. If we are talking about a fair price to be paid for solar or smaller renewable energy generators, surely that fair cost would include the cost to the atmosphere that other generators should be paying to emit carbon dioxide into the atmosphere versus the renewable alternative, which does not create that cost.

As I foreshadowed earlier, I am happy for the Greens amendments to be circulated now.

Greens amendments circulated by Mr BARBER (Northern Metropolitan) pursuant to standing orders.

Mr BARBER — The Greens have a couple of concerns with the bill which we have put into the form of amendments. The first of these relates to the issue of what is eligible to be regarded as renewable electricity. In the run-up to the 2002 elections the state government made a promise that native forest wood would not be burnt for electricity in Victoria. The government did not merely say that it would not be eligible to be counted as renewable power; it actually said there would be no burning of native forest wood specifically.

Unfortunately, there is no definition of biomass in this bill showing that native forest wood would be excluded. There is an extremely good reason why we would not want to be burning our native forests for electricity. Native forests are a carbon sink. When we log those forests the vast majority of the carbon locked up in them will be released within fairly short order. Even the logging industry's studies and attempts to demonstrate otherwise have failed in this respect. When a forest is logged typically about 70 per cent of the logs leaving that coupe are headed for the woodchip mill and the other 30 per cent are headed for a sawmill. In the sawmill about a 40 per cent recovery rate is achieved when a round log is cut into square pieces. The rest of that — the other 60 per cent of that 30 per cent — is also converted into woodchips or waste. It is no secret that in some logging operations up to 90 per cent of the wood taken from a coupe will end up as woodchips or waste. So that there can be absolutely no question in anyone's mind about our having a sawlog-driven industry in Victoria: woodchips now provide about 50 per cent of the revenue of VicForests and are at least 70 per cent of the volume sold by that government-owned company.

Also, the market for native forest woodchips in Australia is in rapid decline. Just a bit of history: Australia used to provide around 80 per cent of Asia Pacific's demand for woodchips back in the 1970s. Japan is responsible for the majority of that demand. The Japanese got smart and realised it was not good to have so much wood coming from one particular supplier. They also saw the rising environmental awareness in Australia, so they diversified their sources

to the point where Australia now provides only around one-third of the demand.

By the late 1980s the Japanese pulp and paper companies could also see that there was a rising environmental awareness in Australia, so they started making their own investments in plantations. Initially they grew them on their own land but by the mid-1990s private money was going into growing woodchip plantations for consumption in that Asia-Pacific market. So much wood was planted throughout the 1990s — with a 13-year rotation until those forests can be harvested — that we know that over the coming 5 to 10 years there will be a massive volume of plantation wood coming onto the market.

Last year the buyers of Australian native forest woodchips bought about 1 million tonnes less than the year before and substituted that with another million tonnes which became available from plantations. So there really is no need for conflict over this issue. Plantations can already provide the majority of our sawn timber needs. Increasingly even here in Australia we will have much more wood than we need, the majority of it going to export.

With this reality, the business case for logging native forests is collapsing. For that reason the native forest industry — and it is working on various state and federal governments for this — is trying to find a new raison d'être for woodchipping our native forests, and that has come to be burning them for electricity. They have tried to make out it is greenhouse friendly, that it is carbon neutral, but of course it cannot be. All they can do is pay back what they have taken from the carbon bank after a logging and burning operation. They have tried in various ways to fudge the numbers.

There is no doubt — and it is contained in *Australia's State of the Forests Report 2003* — that emissions from commercial logging operations across Australia are up around 30 million tonnes. The Victorian component of that has been estimated to be about 10 million tonnes, which is a significant volume relative to our overall emission mass of approximately 120 million tonnes. If we ceased logging in Victoria over a fairly short period, which we could, then not only would we save a significant chunk right there in emissions — 10 million tonnes immediately, which is 10 times the government's renewable energy target — but those regrowth forests that are already there and that have been there from the 1960s would continue to suck up carbon and for the next few centuries would be absorbers of carbon. There is no doubt whatsoever that the single biggest thing we could do to make a short-term and deep cut to our emissions would be to stop native forest logging.

At various times the industry has produced various bits of pseudo-science based on thinning pine plantations that purports to show something different, but we now have the results of detailed and high-quality research that looked at ecosystems at the landscape scale — which are much more complex than a wood lot or a pine plantation — that indicates quite clearly that logging native forests is a net source of emissions and will continue to be that over many rotations. The research I am referring to is a paper entitled 'Growth modelling of *Eucalyptus regnans* for carbon accounting at the landscape scale' by Roxburgh and Mackey, in a publication called *Modelling Forest Systems*, published in 2003.

For the first time really they have studied empirically the carbon balance in natural ecosystems, looking at all the different sources of carbon in those — not just the tree trunks but the leaves, the fungus in the soil, the soil carbon, the roots — and modelled that in a set of charts that indicate that with successive logging operations the amount of carbon stored goes down steadily and cannot recover unless those forests are left to grow back to their old-growth state over many centuries.

For that reason we think burning woodchips for electricity is an absolute loser. In 2002 certainly the state government agreed with us, but ever since then there have been various pressures to unwind that policy, particularly with Mr Martin Ferguson, the sometime federal spokesperson on resource issues, who recently noted that:

> About 5 million cubic metres of timber residues are generated from commercial forest harvest operations each year, very little of which is burnt for power generation. If an extra 4 million cubic metres of that waste was used, 30 per cent of the MRET would be met overnight.

He was speaking in direct contradiction of state Labor policy there. He was actually urging them to put more woodchip power into the mandatory renewable energy target, whereas state government policy was to lobby the federal government not to do so. Someone really needs to pull him up and tell him to get back to what was originally Labor's promise in this area. That is the rationale for our first amendment.

The second amendment goes to the question: at what level should we set the kilowatt production level which will decide who will benefit from this legislation? At the moment it is set at 100 kilowatts, and that is certainly quite a low nameplate capacity for a small generator. It is certainly true that rooftop PVs

(photovoltaic panels) generate only around 1 or 2 kilowatts. The solar installation on the roof of the Queen Victoria Market is over this threshold — it is about 150 kilowatts.

We also have the example from the *Herald Sun* of 30 July 2007 of an individual named Grant Taresch, who runs a winery up in Euroa and who has approached the Greens with particular problems that he has had in going green. He set up a medium-sized turbine on his property. He sourced it himself, achieved planning approvals, bought it from overseas, got it up and running, got it generating power, but had enormous difficulties in getting both the retailers and particularly the distributors to take his power. For months at a time they would not return his calls or letters. They made him do all sorts of onerous tests to demonstrate his impact on the grid. Despite the fact that the turbine itself complied with Australian standards they made him do more tests, and generally speaking they just did not want to know him.

You cannot blame them because under the current legislative settings there is no real benefit to them. It is unfortunate because a user of power puts similar sorts of demands onto the grid in terms of the balancing of that grid. If someone came along with a large facility that had a big electromagnetic motor in it, which is effectively what a wind turbine is in reverse, they would say, 'Fantastic, set up your factory in our area, we will connect you to the grid. Pay us your connection fee, then we are in business. We are quite happy to sell you power'. But when an individual wants to put power back into the grid there is no real incentive for distributors or retailers to take that power.

The Greens certainly think, and the industry groups which represent renewable energy generators have suggested to us, that whether it 100, 150 or whatever, the number should be the biggest number possible. The Greens are proposing that, rather than having a figure of 100 kilowatts for the purposes of eligible generators under this bill, it should go up to 30 megawatts. The reason we have put this forward is that under the National Electricity Market Management rules — that is, the federal body that manages the grid — any generator below 30 megawatts is not eligible to put their power directly into the grid. They must use a retailer in order to get into the grid.

Given this bill is about setting up a fair trading regime between retailers and generators, we think it should cover all people who cannot become a generator of power straight into the grid. Otherwise what we are going to get is a gap somewhere in the middle where people will be in Never-Never Land. If the government thinks our number is the wrong number, it should come up with another number. It should come up with an effective number so that people like Grant Taresch, who used his own money and his own gumption to get into the business of generating power — using some of it on his own facility and providing the rest of it to the grid — do not have to go through those sorts of problems.

As I said upfront, we are talking about a global crisis. We cannot afford to fiddle around and hope for something by just setting a level playing field-type environment. We need to be very clear about what it is that we are trying to achieve from this mechanism. Clearly this bill, in and of itself, will not lead to a major increase in the amount of renewable generation.

The Minister for Industry and Trade referred to the Victorian renewable energy target (VRET). However, the quantum of the VRET is now virtually subscribed such as there are no additional generators coming on stream because they will get no benefit from VRET. The Greens' position would be to double VRET; we would welcome that sort of measure. The minister, who was asking about the Greens' response, can read about it in a document called *Re-energising Australia*, recently released by Greens Senator Christine Milne, in which we describe seven strategies. These are the things we have been talking about for 20 years, and I can guarantee the house that in another 20 years they will have become mainstream. For the moment at least it is a policy that differentiates the Greens from every party on this issue.

Firstly, we must set targets for the reduction of total greenhouse gases, because that is how you get an efficient regulation and an efficient market. People can have some certainty around what they are investing in and what they can expect to happen. It is the lack of certainty around targets that is holding back investment across the energy sector at the moment.

We would introduce a target of reducing Australia's greenhouse gas emissions to 30 per cent below 1990 levels by 2020, and to 80 per cent below by 2050 through a rolling national five-year greenhouse gas emissions budget. We would ratify Kyoto and negotiate that post the 2012 commitment period, which inevitably an incoming Labor government will have to do despite the fact it does not want to admit that now.

We would also reform institutions to support a low-carbon economy. We would establish a new federal climate change and energy ministry, which would oversee all the frameworks I am describing.

Our item 3 would be to create economic incentives to move from high to low CO_2 energy sources — at the widest possible gambit — through a cap-and-trade emissions system for stationary energy in some industrial processes. We would mandate energy efficiency standards to reduce total energy use. This is really what does the heavy lifting. No amount of renewable power is going to keep up with the spiralling growth in energy demand. Without addressing energy efficiency you just will not get there. Any building, any facility, any government-owned premises, any household or any commercial premises can make deep cuts to their CO_2 emissions through their energy use.

Hon. T. C. Theophanous — We are already doing that.

Mr BARBER — People are already doing it, but in the absence of a target, as I said, there are not the incentives for it to be rolled out across the entire economy. For example, in response to the minister, he promised in 2002 that 5-star energy ratings would apply to renovated as well as new dwellings. That is a promise from his 2002 policy that just slipped off in the intervening period.

We know from the information received that Minister Madden has had the Wilkenfeld report on some options about how to do this on his desk since June last year. The minister has simply sat on that report, and he still does not have a plan of how he will roll out energy efficiency through existing dwellings. There is no point just loading it all onto those 40 000 or so new houses every year when the vast majority of Melbourne's houses is still achieving something around a 1½ to 2-star energy rating. At the moment he has no plan to make any deep inroads into that sector.

It would be quite easy. It would be a job creation scheme to train people up and allow them to go house to house, starting with the homes of poor people in poor-quality rental housing and insulate the lot. At $1200 a pop it would save a tonne of greenhouse gases every year in those houses that do not currently have insulation.

Hon. T. C. Theophanous — There is already a program.

Mr BARBER — Yes, but it is not rolling out, that is my point. There is a little feelgood program where we do a bit here and a bit there, but how is the government going to get through a million households at that rate? We do not have time to stuff around. It is a social justice issue as much as anything because poor people in the coldest, draughtiest, poorest quality houses pay the highest energy bills.

Our option 5 is to convert the energy supply mix to low or zero CO_2 sources. We certainly have to do that through an expanded federal mandatory renewable energy target. We need to bump it up to 15 per cent of national electricity demand by 2012 and 25 per cent by 2020. We also need to introduce feed-in laws — here in our plan is the issue I just described — and an agriculture land-use change in forestry. We need to implement a national plan to enhance carbon sinks by preserving and protecting old growth forests. Loading some 10 million tonnes into the government's CO_2 budget every year could stop it at the stroke of pen.

Retaining, restoring and expanding native vegetation cover is the aim of the government's policy but it is not what the government's policy achieves. Land clearing in Victoria, the most ecologically damaged state with the highest proportion of its ecosystem cleared, is still occurring; it is still the equivalent of 2.5 per cent of our emissions here in Victoria. We should just stop it like that.

Our point 7 is to encourage the new Australian economy by using the extra revenue raised from carbon taxes and carbon trading to reduce payroll taxes and bring us towards the smart country that everybody wants us to be. We need to create a real future fund along the lines of Norway's petroleum fund to get us out of this high-carbon economy and down to a zero-emissions economy. Along the way let us introduce broad measures of genuine economic progress. My favourite is to abolish all university and TAFE student fees so that a smart economy gets a real boost.

Mr VINEY (Eastern Victoria) — It is interesting that the Greens joined with the opposition yesterday to abolish time limits; but at the first opportunity, Mr Barber did not use his remaining 41 minutes to speak on what is a fairly straightforward piece of legislation.

I have to say that the approach of the Greens to legislation since coming into this house has been opportunistic populism. In the previous address members heard another demonstration of opportunistic populism from the Greens political party. It is so easy to come into this chamber when you are never going to be a part of a government and to rattle off a string of ideas that you think are going to fix the problem about the greenhouse effect overnight. This always seems to be done on the assumption that no-one else is interested

in the environment; this always seems to be done with the view that other people have not been here before.

Having been in this chamber during the four years that Mr Theophanous was Minister for Energy Industries and having heard him in speech after speech and at question time after question time dealing with issues about greenhouse gas emissions, modernising Victoria's energy production systems, and introducing schemes and programs to encourage low-income people to reduce their energy needs; having seen him working with the then Minister for Innovation, who is now the Premier, on programs to improve the greenhouse effect outcomes of the use of coal in our electricity production in the Latrobe Valley; having seen him arguing strenuously for four years for a national renewable energy target scheme and going ahead with a scheme for Victoria, the VRET (Victorian renewable energy target), I can say that this is a record of which this government can be quite proud.

Do we need to do more? We absolutely need to do more. We need to keep dealing with the issue of greenhouse gases. That in a small way is what this legislation is about; it is about ensuring that the market will continue to encourage renewable energy in Victoria. When the principal act was established it was expected that providing for feed-in tariffs for electricity generated by small renewable generators could occur in the marketplace. But what became clear was that people who produced quite small levels of renewable energy and wanted to feed it into the grid clearly did not have the market power to negotiate with electricity retailers.

In essence this legislation is about introducing some regulation to make the market work better and more efficiently and to protect and provide for the capacity of people like householders, who might put solar panels in their roofs or install small wind turbines, to negotiate with retailers. A person generating less than 100 kilowatts can feed into the grid and be paid for the energy they provide.

The Greens have circulated a number of proposed amendments which the government will not support; we will not in essence support the first two proposed amendments of the Greens. This is where I refer to the populism of the Greens political party approach, because these proposed amendments are in the context of a lead up to some by-elections and a federal election. They are merely an attempt to get issues about native forest into an energy bill. In fact those issues do not belong in this legislation. The whole protection of our native forest sits within the context of the Conservation, Forests and Lands Act 1987 and the Sustainable Forests (Timber) Act 2004. If the Greens want to take the initiative in relation to native forest, those acts cover that issue; this legislation does not.

The third proposed amendment is an attempt to extend the generating capacity of small generators from less than 100 kilowatts and turn it into less than 30 megawatts. This would dramatically change the intent of this legislation because the cost of a 30 megawatt facility, at about $2 million per megawatt, becomes a $60 million project. You cannot say that someone investing in a $60 million project does not have the market capacity to sell to a retailer; I think there are about 15 or 16 retailers in the market. A person can negotiate with those retailers, but there is of course the VRET scheme, under which where those retailers need to buy renewable energy. They have the capacity to sell into the market. This is about protecting very small-scale people who want to sell into the grid; therefore setting the limit at 100 kilowatts is about protecting those people who generate electricity on a small scale.

Mr Barber raised an example that appeared in the *Herald Sun* of 30 July, and I also have a copy of the article. Here we have yet more Greens political party populism, because the article extensively quotes the Greens Senate candidate, Richard Di Natale, as saying things like:

> Retailers should be forced through regulation to purchase the power back off someone who takes this sort of leadership.

Then Mr Di Natale goes on to say:

> In Victoria there's no incentive for these guys.
>
> They're giving their excess power away.

There is an incentive in Victoria for these people; it is called VRET (the Victorian renewable energy target). As I understand it, the people referred to in the article took the initiative — and good on them! — to do this themselves on their own initiative, without having already sorted through some of the issues with the retailers. But when the department talked to them, they were not even aware of the VRET scheme; they have been encouraged to get involved and get a VRET certificate. Given they have now contacted two or three retailers — they have now been given the full list — that will give them the opportunity to sell into the grid.

Essentially the program that the government has put in place is being enhanced by some further regulation of the market through this legislation. It has become necessary because the changing nature of this sector has resulted in a significant increase in the number of people at the smaller end. The government is keen to

continue to encourage that — we think it great that people are doing this and are wanting to take that initiative themselves — and we want to encourage that and do it through improvement in the legislation.

It is not appropriate to extend it out to 30 megawatt capacity power generation facilities, because to do so is actually going to increase the price of these people selling into the grid. Part of it is about making renewable energy more efficient, making them be market sensitive as they get to those sorts of sizes and encouraging them to operate in the marketplace. It does not need that level of regulation required by the sector that operates under the 100 kilowatt capacity.

By way of example, there is a wind turbine in Hastings at the Kings Creek Hotel, which produces, I think, 60 kilowatts. Unlike the people in the *Herald Sun* article, who apparently are likely to produce about 150 kilowatts, at less than half — at 60 kilowatts — that organisation in Hastings has been able to sell into the feed-in grid at 100 kilowatts. It is possible to do it. We think the initiative of the people at the winery at Strathbogie is fantastic and should be commended, and that is why the department and the government are helping, but we do not need to extend this out to 30 megawatts, which is way above the level that they are operating at anyway. It would distort the market in ways that would not be helpful to achieving these objectives.

The government is serious about meeting its targets to reduce the effects of greenhouse gas emissions. We have been talking about it for a long time. There were debates in this chamber a long time before the Greens were in here. At one time there were pretty strong debates against members of the opposition who were sceptics on climate change. It seems that they have made some movement, and that is fantastic to see, but I remind the Greens that this is something that the government has been working on for a very long time. The issue of climate change and greenhouse gas emissions is not owned by the Greens political party.

Mr D. DAVIS (Southern Metropolitan) — I am pleased to make a contribution to the Energy Legislation Amendment Bill 2007, and in doing so I indicate that the opposition is not opposing the bill. I note that the debate to date has been a very interesting one, with members putting on the record a number of very valuable points.

The essence of the bill is the facilitation of the capacity to sell back into the grid and is something that makes a good deal of sense. For that reason the opposition does not oppose it. My colleague Robert Clark, the shadow Minister for Energy and Resources and member for Box Hill in another place, has put on record in that chamber a number of concerns we have, and I think there are concerns about the way this would be administered and about whether it will achieve the laudable aims that are its essence.

There has been discussion about the ability to put energy back into the grid in this way and about at what level small-scale renewable generators should be able to put energy back into the grid. I think there is a need to ensure that energy distributors and the larger retailers have obligations to take some power back from smaller generators. The point is that there is a strong case for facilitating some sensible arrangement that allows the small-scale renewable generators — and I understand that this will be defined as less than 100 kilowatts — to be able to put power back into the grid. The listed ones are hydro, biomass, wind and solar generators, and the capacity is there by regulation to add other renewable sources as well; I think that that is important.

Many Australians legitimately share the aim of reducing greenhouse gas emissions and contributing in a positive way themselves, and this legislation will facilitate that desire which is very strong in the community. It is important that there be some opportunity for people to contribute in a practical way beyond their own personal generation and to have the capacity to contribute more broadly.

There is a legitimate question about whether the precise level of 100 kilowatts is the correct one, and I guess that in reality, over time, we will discover the result; this should be regarded as a trial. I believe the opposition made a number of points prior to the election that would be facilitated by aspects of this bill. We talked in our policy on sustainability about the need for distributed power generation and the options that that would provide. We talked at length about some of the opportunities that were available for Victoria and set aside significant funds that we would have expended had we been in government. As it was, that is not the case, we are in opposition, and the government has brought forward a bill of this nature.

I will be interested to see how ‘fair and reasonable’ is defined by the Essential Services Commission. I know there is that intuitive idea that selling back at the precise prices that consumers purchase at is a ‘reasonable’ price. It is not clear that that is necessarily the case. I think there is a great deal more complexity in setting the concept of what is a fair and reasonable price for electricity that is sold back into the grid.

There are also a number of other aspects that I should contribute to make sure that there is a sensible approach to this idea of fair and reasonable. In a sense, where distributed power is generated and put back into the grid, that saves the need for great capital spending elsewhere in the system so that the price of power should, in my view, be defined not only as the marginal cost, as it were, of generating the power but should also include a significant capital component not only for generating equipment, so in a sense the distributed generation through small generators selling into the grid will obviate the need for new capital plant being produced at a central level. That is, in a sense, a capital contribution to the grid.

Equally it will save on transmission requirements in terms of transmission lines and so forth, and that is actually the capital cost of building and maintaining, in the longer term, transmission facilities which will be reduced by the greater distributed power generation that we all hope this bill will facilitate.

I for one hope that the Essential Services Commission in setting price levels takes into account the capital contribution that these distributed power generators in effect are making to the whole system. They should in theory, if set up correctly — and I do not deny that there are technical challenges in this, but these are technical challenges that I think we need to confront and overcome — through having a greater number of distributor generators also add to the security of the system and the stability of the system. These are actually important side benefits that perhaps are not being examined with a more distributed power system.

There are a number of options for Victoria in this regard. We have a number of natural advantages. We obviously have our brown coal, but there are significant challenges for coal in the future to meet what will be the generally accepted greenhouse challenges that are facing the world. We have other advantages, though, including our gas resources. I would be very much of a mind that given the extensive gas distribution system that we have in Victoria, in the long term there may be options for gas-powered generation of electricity in the distributed mode.

That generation could be down to quite a small scale — down to individual homes or businesses — or it could be at the level of small clusters, perhaps the states and other sizes of that nature, and would again offer, because we have the gas distribution system in place, an option to generate power at a local level. This would add to the stability and security of the system, but also save on energy transmission costs and greenhouse gas emissions that are generated by the greater energy that actually needs to be generated in the process of distributing over large distances.

There are a number of aspects to this. I was listening closely to Mr Barber's contribution before lunch, and he made a number of very valuable points about the achievements — or the 'non-achievements' perhaps would be a better way of putting it — of this government in terms of greenhouse gas reductions. It is clear that greenhouse gas output in Victoria has increased over the last seven-and-a-half to nearly eight years, and it has increased in almost every category. The reality is that we could have done better. Mr Barber made that very important point that — —

Hon. T. C. Theophanous — Economic growth.

Mr D. DAVIS — Economic growth is what the minister says and economic growth is of course welcomed, but the task of managing greenhouse gas output is to increase growth without increasing the output of greenhouse gases. That means we have to find new and better ways to do it, and new and better ways to generate energy efficiently. I will come back to that word 'efficiently' in a short while.

This government has not found those new ways, it has not put the hard, intellectual work and leadership into actually finding those solutions. As Mr Barber said before lunch, the government has within its powers the levers to reduce greenhouse gas emissions, it controls the Environment Protection Authority. Mr Barber made the point very strongly and correctly that the government has not used those state-based levers to achieve the reductions in greenhouse gas output that it could have done. That is disappointing, but it is a central point.

This government talks a lot about reducing greenhouse gas, about setting targets and about the various programs it has in place, but the fact is that the programs have not been effective in reducing greenhouse gas emissions, which have increased significantly; as the minister will understand very well, Victoria has one of the highest greenhouse gas outputs per head in the world.

Hon. T. C. Theophanous — It is called 'brown coal'.

Mr D. DAVIS — I accept that it has much to do with coal, although it is not entirely due to coal; and that is a challenge for all Victorians, including this government.

Hon. T. C. Theophanous — Does the member want us to shut them down? Do you want to go nuclear, too?

Mr D. DAVIS — I think the minister and the government have not understood that is a challenge that they could have done much more with. It is the challenge that they could have faced over the last eight years. The fact is that there is more greenhouse gas produced and put out now than there was in 1999 when this government came to power. It has talked consistently through that period about lowering greenhouse gas output, about reducing — —

Mr Thornley — Which is not what you guys said you would do.

Mr D. DAVIS — I say to Mr Thornley that I have talked about it. Members of this house would agree that I have consistently talked about it throughout that period. But I make the point that — —

Hon. T. C. Theophanous — It's a bit like interest rates: 'They will always be lower under us'.

Mr D. DAVIS — I actually think that if we had been elected to government in 1999 or sometime thereafter we would have done better on some of these measures. These are challenges that are faced by the whole community, and we as a community need to deal with them. That is where this government has failed in many respects. I have to compliment the shadow minister on the work he has done on this bill. He has certainly made a great contribution to the understanding of many of our people.

Hon. T. C. Theophanous — Who's the shadow minister? Does anyone know who he is?

Mr D. DAVIS — Robert Clark, the member for Box Hill in the other place. I think people understand and know him well — and they know of the work he did in energy throughout the 1990s. The minister knows very well that Robert Clark is very knowledgeable in these areas.

Hon. T. C. Theophanous — I thought he was still doing Treasury.

Mr D. DAVIS — I am not going to respond to that, Acting President. But I do want to place on record that the opposition will not oppose this bill. We regard this as a trial. There are some challenges in setting the right levels for the Essential Services Commission, and in effect we will see how this trial operates over the next period.

Mr SCHEFFER (Eastern Victoria) — It is a pleasure to rise and speak on the Energy Legislation Amendment Bill. During the November 2006 elections the Victorian government committed to ensuring that households and small businesses which generated their own power through wind energy or other renewable methods could feed any excess power back into the grid and receive a fair price. The Energy Legislation Amendment Bill delivers on that election promise and furthers the government's focus on increasing the availability of renewable energy and reducing gas emissions.

The bill amends the Electricity Industry Act 2000 so that electricity retailers will be required to publish the prices, terms and conditions for buying electricity from small generators such as householders and small businesses that produce 100 kilowatts or less of renewable energy. This will help make sure that those generators get a fair deal. The bill also amends the Gas Industry Act 2001 so that dispute-resolution processes can be included in the market system and operating rules that regulate the operations of the gas market in Victoria.

Tackling climate change is one of Victoria's biggest challenges. Our policy involves two broad objectives: to reduce greenhouse emissions and to boost renewable power. Access to energy is critical to both economic and social development, and the challenge is to work out how we can produce and use energy in a sustainable way over the long term. It is now generally recognised that the ways in which we have been producing and using energy are unsustainable and that reliance on fossil fuels as we use them today is the major cause of the massive level of destructive greenhouse gas emissions.

Compared with Italy, Norway, the United Kingdom and the United States, Australia has a poor track record when it comes to using energy efficiently. More than three-quarters of Australia's electricity is generated from black and brown coal, and the rest is made up of gas, with a small contribution from renewable sources such as hydro-electricity, and wind, solar and geothermal power. Electricity generation is a big contributor to Australia's greenhouse emissions. In Victoria electricity is affordable because of the abundance of brown coal in the Latrobe Valley that provides over 90 per cent of the supply. Renewable energy sources still make up only a small proportion of Victoria's supply, and Victoria produces nearly 25 per cent of this country's greenhouse emissions.

The big challenge is to reverse these trends. Energy has to be supplied so that minimum environmental

pollution is created and released. Energy has to be used more efficiently and in ways that minimise the production of polluting gases. It is critically important that investments are made in technologies that improve the energy efficiency of fossil fuels and that reduce the amount and impact of releases into the environment. As well, new technologies need to be developed that will enable renewable energy sources to be harnessed and used efficiently. Using improved technology, with the resulting economies of scale, is the only way to bring down the current high costs involved.

In Victoria there is a particular challenge in working out ways to use fossil fuels in environmentally responsible ways. This is a big ask and its possibilities have been vigorously contested, but research is underway in the Latrobe Valley through the clean coal research grants. The technologies might include converting coal to diesel, carbon capture and geosequestration. If workable technologies can be developed the benefits will be huge for Victoria and Australia and also for our trading partners — China and India in particular — because these new technologies will themselves be export earners.

But the government has not focused only on fossil fuels. Under the energy technology innovation strategy $50 million has been allocated to develop a large-scale photovoltaic power plant in northern Victoria. Currently photovoltaic energy production is very expensive, and it will not be competitive until a new kind of technology is available. The government has also invested some $6 million into the organic solar consortium to research the next generation of non-silicon, large, flexible and cheap organic solar cells.

During the November 2006 election the government committed to legislate for a long-term target to reduce greenhouse emissions by 60 per cent by 2050 compared with 2000 levels as an objective and to work in the short term to achieve a target of 20 per cent low-emissions energy generation by 2020. The government also committed to establishing a clean coal authority to encourage the development of cleaner coal technology in the Latrobe Valley and to aim for 10 per cent renewable energy in Victoria by 2016. As well, the government promised to continue the Victorian renewable energy target scheme that promotes investment in wind, hydro and solar energy in Victoria.

These are all important commitments, and they will be implemented over the next three and a half years. The Energy Legislation Amendment Bill advances the government's climate change strategy. Specifically the bill requires electricity retailers that have more than 5000 customers to publish the offers of prices, terms and conditions on which they will buy electricity from wind generators with 100 kilowatts or less capacity. This change will give small renewable energy generators a better understanding of what is on offer, and if they accept an offer, they will be in a position to negotiate a fair price with the retailer. This will get the market going in a new area of renewable energy generation. Retailers will be required to advise the minister of their offers seven days after publishing them, and the offers will be assessed by the emergency services commissioner, who will assess the fairness of the offer. The ESC will have the power to revise the terms of the offer if it is not fair or reasonable.

It is too late to prevent climate change. There is probably nothing we can do now to stop the temperature of our cities rising by 3.4 degrees by 2070. There is probably nothing that we can do to prevent rising sea levels and increasing storm surges and more severe coastal damage. There is nothing we can do now at this late stage to prevent super-heated bushfires becoming more frequent and causing irreparable damage. What we can do is stop it being worse than it already is. The Victorian government has worked hard on the environment and climate change. The work has been made much more difficult because of the scandalous irresponsibility of the Howard government throughout its time in office. The Energy Legislation Amendment Bill makes further changes that will encourage the growth of the renewable energy industry, and I commend it to the house.

Mrs KRONBERG (Eastern Metropolitan) — I am very pleased to be speaking on the Energy Legislation Amendment Bill. I see many qualities in this legislation. I understand the purpose of the bill, according to the government, is to promote the generation of electricity from small renewable energy sources by amending both the Electricity Industry Act 2000 and the Gas Industry Act 2001. In speaking to this bill I wish to state that for me the operative word here is 'promote' — and this government does put a lot of energy into promotion. Fundamentally it is designed to require medium and large electricity retailers to purchase electricity generated by small renewable energy generators at fair and reasonable prices and to redraft the powers to make gas market and system operation rules.

The bill requires retailers with more than 5000 customers to publish the terms and conditions on which they are willing to buy power from small-scale renewable energy generators, such generators being those with a generating capacity of less than 100 kilowatts. The provisions are also to be applied to

hydro, biomass, wind and solar — that is, those using photovoltaic cells — generators. Furthermore, the bill gives the minister the authority to refer the terms and conditions that such electricity retailers arrive at to the Essential Services Commission. In turn it empowers the ESC to make recommendations to the minister if it deems that the terms and conditions the retailers are relying on are unfair and unreasonable.

The concept of a robust market for renewable energy sources has the potential for far-reaching environmental initiatives and innovation. These basic planks need to be encouraged and must be encouraged, and, while doing this, one must pay close attention to the need to address the impact that such new innovations may have on pricing regimes in the future.

Feed-in tariffs — or the premiums paid for electricity that is fed into an existing electricity grid from a renewable energy source — have been a major instrument in countries such as Denmark, Germany and Spain for over a decade now, so one has to ponder the question that I have put to the government in this debate in this house often: what took it so long to get around to this?

If this mechanism has been recognised by the environmentally committed and advanced economies in the Northern Hemisphere — where government delegation after government delegation has scurried and wintered — which we so often look to for their innovation, we have to ask the Victorian government: where has it been on this issue?

Whilst the government espouses a full-bodied commitment to a fair and reasonable pricing regime, experience in other markets with strategic intentions to stimulate the supply and the demand for electricity derived from renewable sources has been worrying. The actual result has been damaging to this noble ideal in that it has been costly, inefficient and most likely to distort competitive pricing. An opportunity for a true paradigm shift has been lost, because these fundamentals have been fatally skewed and are totally incompatible with the creation of a single liberalised electricity market. A liberalised market would provide a viable platform for renewable energy to actually and sustainably deliver a major share in total power production.

Unfortunately this bill introduces yet another burden — another regulatory regime in a layer cake of costs and deterrents. Frankly this legislation is more likely to frighten off potential co-generators. New entrants to this market will be looking for profits and returns over a longer horizon rather than the expediency of a parliamentary term. Mercifully this dilemma for potential small co-generators has been ameliorated by the federal government's initiative in providing a subsidy of $8000 for photovoltaic cells for solar power generation.

It is possible that competitive distortions will occur with one renewable energy source such as wind generation dominating other renewable energy sources, namely solar-power generation or gas derived from biomass, which are the domain of the small investor. Furthermore, this government seems to have ignored the fact that the state, territory and commonwealth emissions trading models actually oppose technology-specific or industry-specific schemes.

In arriving at a so-called fair price model wherein pricing would equate to the price at which the retailer will sell power to the generator's owner, we realise with dismay that such pricing regimes — specifically those arrived at by bureaucrats — fail to take into account the transmission and distribution costs that are already embedded in the retailers' pricing regime. The consequences, unintended or otherwise, of such a regime will mean other consumers will cross-subsidise small generators. Furthermore, after much delay the government needs to provide an accelerated rollout of smart meters to allow retailers to offer generators incentives for supply during peak-load periods.

The descriptors that best summarise the strategic intent of this legislation are worth emphasising. They are its costly nature, its inefficiencies and its inconsistency with the nation's comprehensive emissions trading regime. When one stands back from the hyperbole, one finds that this legislation is really tokenistic. However, it does have a redeeming quality in that in the short term, through promotion of a concept, it will encourage small-scale renewable energy commitments, and that is why we will not oppose the bill.

Mr THORNLEY (Southern Metropolitan) — I rise to support the bill. I think the previous speaker was supporting the bill too, although one could have been confused into thinking she was opposing it.

I find it intriguing that the members opposite are complaining that the government 'shoulda, coulda, woulda' done things quicker. These are the self-same people who went to the last election with a leader who said he was not really sure whether carbon emissions were causing global warming or not — he could not quite figure that out — and who promised to tear up the renewable energy targets. The self-same people then get up and say, 'You should have done stuff for the last

eight years', for seven and a half of which they did not even believe there was a problem!

The road-to-Damascus conversion is encouraging, but the hypocrisy that flows from that when they then start criticising people who have been working on this for some time is truly breathtaking. Then, to add insult to injury, we get the people who brought you the Enron scandal and the people who tell you that there is this thing called the free market — this mythical creation which does not exist — saying that markets do not have rules, they are not designed by anyone and they just come down from heaven. In this mythical free market which has no rules, no design and no structure, you have people from organisations like Enron who go and do all sorts of terrible things because no-one is regulating to ensure that they cannot abuse their market power.

The purpose of this bill is to ensure that we increase the available generating capacity into the network so that when people do build new generating capacity, particularly from renewable sources, that electricity is available to the network and to whomever might need it, thus being able to displace less environmentally attractive sources. One would have thought that that was a simple enough proposition that deserved support. It is certainly a proposition that people have not actually opposed, although they have stood up and tried to grandstand as if they were opposing it.

The point about this is that we have an electricity system that was designed decades ago. I am not holding those involved in that time responsible, as none of them had access to the science that we have all had for the last 10 or 15 years, but we have had a generation system that has basically worked on the premise of free carbon and free water, and that has led to a highly centralised generation system. But, like most network businesses, there is no necessary reason why centralisation and consolidation is the most efficient or effective system.

What this legislation does is allow a greater level of network generation, and that will have benefits both for reduced emissions and for increased energy security, to enable peak-load sales into the market and to generate extra revenue for those who are willing to make these capital investments, particularly those who may be willing to make those investments with assistance from the government's energy technology innovation strategy, which is making $50 million available for precisely that sort of capital investment.

This is a valuable piece of legislation. It is one that, thankfully, is supported by all parties, though with curious forms of support, and it is one that recognises that one of the central roles of government is in market design — that is, in making sure that you design markets that work efficiently and effectively and that deliver on the outcomes that are required of them. This bill will do that, and I commend it to the house.

Mr SOMYUREK (South Eastern Metropolitan) — I promise I will be brief, President. I will only make a few comments as the bill has been comprehensively covered in a very articulate and eloquent way by the preceding speakers.

Support for renewable energy is central to the Labor government's climate change policy. Climate change is the most serious environmental problem we face. The steps needed to prepare our economy for a carbon-constrained future require all sectors — government, business and household — to reduce the greenhouse gas emissions that are contributing to climate change.

There is no single solution to climate change; an effective response must be comprehensive. Victoria is implementing a suite of initiatives to improve the sustainability of our energy production and use, including clean coal technologies, increased uptake of renewable energy, energy efficiency improvements and support for a national emissions trading scheme.

Support for renewable energy is central to the government's climate change policy. The renewable energy industry is at an early stage of development. Government assistance is needed for the industry to improve technologies, become commercially competitive and deliver long-term benefits to the community. With that, I conclude my contribution to debate on the bill.

Hon. T. C. THEOPHANOUS (Minister for Industry and Trade) — I will make a few brief comments in reply to some of the comments made on the bill, particularly by members of the Greens and by the opposition.

The bill is an important one. It adds to the armoury of initiatives that this government has undertaken to address the issues of renewable energy and climate change. I am a bit disappointed in the attitude that has been taken by the Greens. They know full well that many of this government's initiatives have contributed, and continue to contribute, towards positioning Victoria in a way that allows us to address this important issue.

Let me go through a few of these initiatives. Following the emasculation or the effective abandonment of the mandatory renewable energy target scheme by the

commonwealth government, Victoria decided to develop its own Victorian renewable energy target. It is one of the things that I am most especially proud of, having been involved in it as energy minister. It will deliver a significant amount of additional renewable energy to the state in the form of wind energy, solar power and other forms of renewable energy, and it will do so on a large scale.

The Greens say, 'We would have done a bit more than you did', but the fact is there was no such scheme anywhere else in the country. We developed the scheme, put it together, did the analysis and got it through — even with the support of a large part of the industry. I think the government should be congratulated for that initiative.

We also knew that we needed to address the question of clean coal. It amuses me that the Greens political party does not really have a policy around clean coal. Clean coal is a way of reducing emissions in this state. We have developed initiatives under ETIS — the energy technology innovation strategy — which will result in a substantial reduction in emissions from our power stations. It is a very important initiative.

Let me talk about two initiatives. One is the HRL project, which will deliver power with between 30 and 40 per cent less emissions than comparable brown coal power stations. It is not 100 per cent, but it is moving us in the direction we need to go. Incidentally, at the insistence of a number of people, it will also be ready for geosequestration.

Geosequestration has the capacity to deliver zero emissions out of brown coal power stations. Maybe it will take 5, 10, or 15 years to get geosequestration — I do not know how long it will take — but it is the thing on the horizon that offers the best hope of significantly reducing emissions. The Greens do not want to know about coal, even if it is clean, very clean or zero-emissions clean — they still do not want to know about it. We are not in that boat. The problem is we currently produce maybe 500 megawatts of renewable energy in this state, and we consume — and our capacity is — in the order of 12 000 megawatts of electricity. No-one could believe that you can get the other 11 000 megawatts of power from renewable energy.

The only way you could potentially get some of that is with nuclear power, and I note that the Greens have not ruled out nuclear power. If you get them into a corner, they might well say, 'We would rather have nuclear power than have emissions'. That is the bottom line. They should be honest enough to come out and say, 'The bottom line is if it is a choice between nuclear power and emissions, we will take nuclear power', because that is where the Greens party head is at.

The solar systems proposal is a 180-megawatt solar system facility up in Mildura that is being supported by this government. It will be the largest solar system facility in the world — 180 megawatts of solar power. But 180 megawatts is not 12 000 megawatts. We are talking about the largest facility in the world, and it is 180 megawatts.

The Greens political party is in need of a reality check. At the very minimum, it should stop misleading the community by saying that somehow it has solutions to a fundamental problem, which ignores the fact that you have to produce energy in this state. The government's initiatives have included the energy efficiency initiatives, the smart meter initiatives and so forth, but the most important one — and I take great exception to what the Greens have said about this — is the fact that in Victoria we developed the first emissions trading scheme model. We put that up. We fought for it nationally and we forced, I believe, the federal government to develop its own emissions trading scheme. That was driven out of Victoria.

What does an emissions trading scheme do? It is simply the most efficient way to achieve targets of reductions in greenhouse gases. You cannot do this through regulation, because with regulation you simply meet your regulatory requirement but you do not reach a target. The target for the state or for the country can only be achieved by saying, 'This is the target and this is the emissions trading scheme attached to this target. There are only going to be this many certificates and no more, so you must reach that target'. We can argue about whether the target should be X, Y or Z, but let us not get into a false argument about how you can do this better through regulation rather than emissions trading.

The fact is you need some level of regulation in some areas, particularly 5-star appliances and a range of those sorts of things, but you do not need to go to the point of regulating everything. You do need a very good emissions trading scheme. What the Greens political party should be doing is focusing on having an input into what will be Australia's emissions trading scheme. It is the biggest debate being had in the energy sector. It is not about feed-in tariffs; it is not about these peripheral issues, which are important but not central. What is central is the emissions trading scheme and the targets that will be attached to that emissions trading scheme.

The Victorian government supports an emissions trading scheme. It supports targets being developed in consultation with the industry and with the federal opposition — hopefully the federal government after the election. Specific targets need to be set which will have to be achieved through an emissions trading scheme. We are just adding to the array of important and ongoing initiatives that are taking place. The Victorian government can be extraordinarily proud of bringing together and trying to minimise the impact of emissions in this state and keeping them to the lowest possible level. There is significantly more that needs to be done — we all accept that — but we believe that the best way to achieve that is with real and sustainable initiatives such as the one that is currently before the house.

Motion agreed to.

Read second time.

Committed.

Committee

Clauses 1 and 2 agreed to.

Clause 3

The DEPUTY PRESIDENT — Order!
Mr Barber's amendment 1 is a test for his amendment 2 and relates to the definition of biomass energy.
Mr Barber, in canvassing amendment 1, can also foreshadow the related amendment. I ask Mr Barber to formally move the amendment and then speak to it.

Mr BARBER (Northern Metropolitan) — I move:

1. Clause 3, line 15, after "biomass" insert "(other than biomass material from a native forest)".

As I said earlier, the purpose of this amendment is to ensure that, in line with the ALP's 2002 policy, native forest wood is not available to be burnt for electricity in Victoria. I have canvassed that argument in some detail, but people need to be aware that that was the ALP's policy. This amendment would certainly ensure that will happen, but without the amendment, we cannot be sure. It is entirely possible that native forest wood would be burnt for electricity and be assisted by the measures in this bill.

We need to also remember that Labor introduced woodchipping into Victoria under former environment minister, Steve Crabb, who came immediately after minister Kay Setches, to whom the current environment minister was an adviser. I am giving members my personal history now. But at the time it was introduced into Victoria, it was not called woodchipping; we had another name for it. It was called residual sawlogs. We had to have a sawlog-driven industry in Victoria, so 1 million tonnes of residual sawlogs, which were meant to be sawn up, were offered. But within very short order the market determined there was no market for that wood, and, as is always the case, the sawmills just started chipping them and selling them as chips. The distinction between a sawlog and a woodchip log is non-existent. It was a matter of market forces at that time.

The entire purpose of this push to start burning native forest wood for electricity is that woodchippers are losing their markets. They want to create a new market. It is against the ALP's policy and certainly against the Greens policy to allow that. As is so often the case, the Greens are not here implementing the Greens policy; we are here trying to get the ALP to implement its policy. That is what this amendment does.

Hon. T. C. THEOPHANOUS (Minister for Industry and Trade) — This is an example of what I was talking about during the address-in-reply debate where the Greens political party just loses the plot. First of all, I am not sure how much waste would go into a power station from the production of woodchips. I do not believe there is much waste at all that comes out of woodchips, but there is probably quite a bit of waste as a result of sawmilling. There are two options. You could burn it and get rid of it that way. You might be able to spread the waste around on the forest floor, or something like that — I suppose you could do that, although I am told that compost increases greenhouse gases as well. You would need to be careful that you did not create any compost heaps because they would produce a bit of greenhouse gas emission as well. You could do all of that, or you could say to somebody who was producing this little bit of waste, 'You can go and use it to produce energy in a little power station; you can feed that energy back into the grid and we will give you some credits for that as a renewable energy project of some sort'. You could do that instead, and that is what this legislation allows us to do.

It has absolutely nothing to do with forestry policy, the amount of logs that will be chopped down, or whether we disagree about where we should or should not be logging. This is simply saying that where this activity occurs and you have this waste, it could be used by somebody to produce a little bit of power, and that might help us environmentally.

So here is an environmental initiative to produce power from a source which is accepted in every country, in every jurisdiction around the world, and under the

Kyoto protocols, as being a form of green power — everywhere it is accepted as green power — except by the Victorian Greens political party, who want to put this amendment up.

You can understand, Deputy President, from my comments that the government will not be accepting this proposed amendment from the Greens political party.

Mr HALL (Eastern Victoria) — I just wanted to reiterate a couple of comments I made in the second-reading speech in regard to The Nationals' view on this amendment. We will not be supporting it. We would have the denial of the use of a by-product of what is a constructive and essential timber industry here in Victoria. The only way in which a wood product would be used for the production of electricity on the scale we could imagine it is as a by-product of a sawmilling operation.

Let us face the fact: nobody is going to go out there to deliberately cut timber from a native forest plantation or otherwise purely to fuel a power generation unit. It is only going to come as a by-product of sawmilling. There are several uses for by-products of sawmilling; those by-products do not have to be used in a co-generation facility, but they may be. Chips, as I said in my second-reading speech, may be used to make paper — I would have thought a legitimate use for a by-product. Some of the sawdust is used for fertiliser and composting — again, a legitimate use. However, there are sawmills that actually burn the by-products to produce electricity, and I think, again, that third use is a legitimate use of those by-products.

As I understand it, this amendment would prevent not the activity itself but access to the scheme proposed by this bill. I do not think this scheme should be singled out and people denied the opportunity to access it.

The DEPUTY PRESIDENT — Order! The question on the passage of this amendment will be a test for Mr Barber's amendment 2**.**

Committee divided on amendment:

Ayes, 3

Barber, Mr
Hartland, Ms (*Teller*)
Pennicuik, Ms (*Teller*)

Noes, 36

Atkinson, Mr
Broad, Ms
Coote, Mrs
Dalla-Riva, Mr
Darveniza, Ms
Davis, Mr D.
Davis, Mr P.
Eideh, Mr
Elasmar, Mr
Finn, Mr
Guy, Mr
Hall, Mr
Jennings, Mr
Kavanagh, Mr
Koch, Mr
Kronberg, Mrs
Leane, Mr
Lenders, Mr
Lovell, Ms
Madden, Mr
Mikakos, Ms
O'Donohue, Mr
Pakula, Mr
Petrovich, Mrs
Peulich, Mrs
Pulford, Ms
Rich-Phillips, Mr
Scheffer, Mr
Smith, Mr
Somyurek, Mr
Tee, Mr (*Teller*)
Theophanous, Mr
Thornley, Mr (*Teller*)
Tierney, Ms
Viney, Mr
Vogels, Mr

Amendment negatived.

Mr BARBER (Northern Metropolitan) — I move:

3. Clause 3, page 4, line 30, omit "100 kilowatts" and insert "30 megawatts".

I believe the government has set the bar a little bit low in terms of those renewable energy generators that it might cover. The government of course has argued that I am setting it a bit high. Anybody who wants to split the difference can move their own amendment. That is all I have to say on this one.

Hon. T. C. THEOPHANOUS (Minister for Industry and Trade) — The government does not accept the amendment moved by the Greens political party. We understand the sentiments surrounding the amendment. We understand that the Greens political party would like to see a higher number in relation to this. The Greens have essentially plucked out this number of 30 megawatts, which is — —

Mr Barber interjected.

Hon. T. C. THEOPHANOUS — I will come to the NEMMCO (National Electricity Market Management Company) rules. Maybe I will give the member a bit of an understanding of how the electricity system works, and that might help him to understand why we chose this particular thing. In the first instance this initiative is designed to give a significantly higher level of payment back to small feed-in tariff generators — a significantly higher level than is in fact provided under VRET (Victorian renewable energy target) or other such initiatives. Imagine a wind farm like the one at Wonthaggi, which currently of course produces less than 30 megawatts, suddenly having this massive increase in its revenue beyond what it had budgeted for, because the feed-in tariff would give it a windfall of an enormous amount compared to what it has been doing in relation to other wind farms. It would create an impossible situation, where you would get a whole lot of wind farms that would deliberately structure themselves as less than 30 megawatts — just slightly smaller. Even if they were not less than 30 megawatts,

they would split the number of turbines they had so that they had different businesses, even if they were in the same region, so that they could get this higher amount. It would result in absolute chaos in the electricity industry.

Beyond that, the 30 megawatts referred to by the honourable member is a number which is used by NEMMCO in the following way. NEMMCO registers a power station if it produces more than 30 megawatts. That registration allows the power station to sell its power through the NEMMCO market. It gets registered in the market, and it can sell its power at the spot market price. The first problem with that is that most power stations do not use the spot market anyway. The vast majority of their sales — probably 95 per cent of sales — occur outside the spot market and are direct sales, either to distributors or large corporations that use a lot of power, under long-term contractual arrangements that mean there is certainty.

For any renewable energy facility, such as a wind farm — whether it has a capacity of 30 megawatts, 50 megawatts, 100 megawatts or more; it does not matter what the size is — to work and be profitable it needs to get what is called a power purchase agreement. That is needed because you cannot make a wind facility or a renewable energy facility profitable by simply selling into the spot market. It just does not work. It does not provide the certainty that is required. So the first problem with the Greens taking this 30 megawatt signal point is that what happens in practice is that power purchase agreements are made, whether the facility has a capacity of 30 megawatts, 10 megawatts or 100 megawatts. The size of the facility does not count; what counts is having the power purchase agreement.

The second issue, which is also important, is that there is a separate market for the certificates themselves. The renewable certificates, which are provided in the case of the Victorian renewable energy target by the Essential Services Commission and in the case of the mandatory renewable energy target by a federal body, are tradeable. It does not matter whether you have a power station which is less than 30 megawatts or one which is more than 30 megawatts, you still get the certificates, which you can then trade and sell on the market and therefore be able to get an appropriate renewable energy level return on those certificates. If somebody wants to establish a 20-megawatt power station that is a renewable energy facility, they will get 20 megawatts of certificates from the Essential Services Commission and be able to sell those certificates on the market or enter into an agreement with a distributor or anyone else to sell that renewable power into the market.

The situation is that this furphy, which the Greens have found in some logbook somewhere — that is, that 30-megawatt and above generators get registered by the National Electricity Market Management Company but ones under that do not get registered by NEMMCO and that this must mean something — is absolutely ridiculous. The Greens want to put forward an amendment to try to do something about it, which is again absolutely ridiculous. It once again shows that the Greens political party does not do its research. It does not really understand — —

The DEPUTY PRESIDENT — Order! I advise the minister that we do not need reflections, particularly in the committee stage. I think the minister has given a really good and thorough answer. I do not think he needs to reflect.

Hon. T. C. THEOPHANOUS — I thank the Deputy President for his indulgence in allowing me to give a thorough answer, because I think it is important for members to understand how this system will work. This will be a very important initiative, because it will allow all those little generators to feed power back into the grid at a very good price and be compensated for that. It is a very good initiative, and it should be supported by all members of the house.

Mr KAVANAGH (Western Victoria) — I just want to explain why I will support this amendment. Despite the fact that 30 megawatts seems to be quite excessive and far higher than it should be, it does seem to me that 100 kilowatts is rather lower than it should be. I hope supporting the Greens political party on this amendment might encourage the government to lift that low threshold.

Committee divided on amendment:

Ayes, 4

Barber, Mr (*Teller*)	Kavanagh, Mr (*Teller*)
Hartland, Ms	Pennicuik, Ms

Noes, 35

Atkinson, Mr	Madden, Mr
Broad, Ms	Mikakos, Ms
Coote, Mrs	O'Donohue, Mr
Dalla-Riva, Mr	Pakula, Mr
Darveniza, Ms	Petrovich, Mrs
Davis, Mr D.	Peulich, Mrs
Davis, Mr P.	Pulford, Ms
Eideh, Mr	Rich-Phillips, Mr
Elasmar, Mr	Scheffer, Mr
Finn, Mr	Smith, Mr
Guy, Mr	Somyurek, Mr
Hall, Mr	Tee, Mr

Jennings, Mr
Koch, Mr
Kronberg, Mrs
Leane, Mr
Lenders, Mr
Lovell, Ms
Theophanous, Mr
Thornley, Mr
Tierney, Ms (*Teller*)
Viney, Mr
Vogels, Mr (*Teller*)

Amendment negatived.

Clause agreed to; clauses 4 to 9 agreed to.

Reported to house without amendment.

Report adopted.

Third reading

Hon. T. C. THEOPHANOUS (Minister for Industry and Trade) — I move that:

The bill be read a third time.

In doing so I thank all members for their contributions.

Motion agreed to.

Read third time.

LEGAL PROFESSION AMENDMENT (EDUCATION) BILL

Introduction and first reading

Received from Assembly.

Read first time on motion of Hon. J. M. MADDEN (Minister for Planning).

Statement of compatibility

Hon. J. M. MADDEN (Minister for Planning) 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 Legal Profession Amendment (Education) Bill 2007.

In my opinion the Legal Profession Amendment (Education) Bill 2007 as introduced to the Legislative Council 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 Legal Profession Amendment (Education) Bill 2007 amends the Legal Profession Act 2004 to modernise the statutory bodies that oversee admission to the legal profession in Victoria. The bill also amends the powers and procedures used by these bodies in assessing applications and deciding on whether a person is a fit and proper person for admission to the legal profession. In addition it makes some amendments to the regulatory powers of the Legal Services Board and the Legal Services Commissioner.

Human rights issues

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

Section 13 — privacy and reputation

The Board of Examiners is the statutory authority that assesses individual applications for admission to the legal profession before making a recommendation to the Supreme Court as to whether or not that person may be admitted to the legal profession. The bill provides for the Board of Examiners to require from an applicant for admission, or to obtain from third parties, a range of personal information about that applicant. These powers raise the right to privacy and reputation as set out in section 13 of the charter:

A person has the right:

(a) not to have his or her privacy, family, home or correspondence unlawfully or arbitrarily interfered with; and

(b) not to have his or her reputation unlawfully attacked.

The following provisions in the bill are considered to raise the right to privacy:

Clause 4, which allows the Board of Examiners to consider whether a person has been the subject of disciplinary action arising out of the person's conduct in attaining their qualifications for admission to the legal profession. The section further allows the Board of Examiners to request documents from the educational institutions that person attended.

Clause 5, which allows the admission rules to require applicants to submit a criminal record check with their application for admission.

Clauses 6 and 7, which allow the Board of Examiners to require a health assessment of an applicant for admission if they become aware of a 'mental impairment' that may result in a person not being a fit and proper person for admission to the legal profession. The definition of mental impairment includes alcoholism and drug dependency.

Although the right to privacy is raised by these clauses, it is not considered that these clauses unlawfully or arbitrarily interfere with the right.

The right to privacy and reputation is not an absolute right.

Suitability for admission to the legal profession

Section 1.2.6 of the principal act requires the Board of Examiners to consider a range of 'suitability matters' which may affect whether a person is a fit and proper person for admission to the legal profession. The amendments to the act contained in this bill set out how the Board of Examiners may gather sufficient evidence to make an informed decision about these suitability matters.

Conduct while studying law

Consideration of whether a person has been the subject of disciplinary action arising out of the person's conduct while attaining their qualifications for admission to the legal profession is considered not to be an unlawful or arbitrary interference with the right to privacy and reputation. The interference serves a significant public interest purpose as it allows for scrutiny of the conduct of applicants for admission to the legal profession in the years preceding their qualification for admission. Evidence of disciplinary action taken against an applicant for admission, for example of plagiarism or sexual harassment, may be evidence that the applicant is not a fit and proper person to be admitted to the legal profession. It may also provide evidence that, despite such action taken in the past, a person is now a fit and proper person to be admitted. The interference is restricted to scrutinising disciplinary action in the course of pursuing the academic and practical legal training qualifications that precede admission to the legal profession. The interference supports the need for the Board of Examiners to have a range of information about applicants for admission to inform their decision making.

Criminal record checks

Similarly consideration of whether an applicant has a criminal record is considered not to be an unlawful or arbitrary interference with the right to privacy and reputation. The interference serves a significant public interest purpose as it allows for scrutiny of the behaviour of applicants for admission to the legal profession. Evidence of criminal convictions may inform the Board of Examiners as to whether an applicant is a fit and proper person to be admitted. The interference is restricted to scrutinising criminal convictions. The interference supports the need for the Board of Examiners to have a range of information about applicants for admission to inform their decision making.

Health assessments where mental impairment evidenced

Providing for a health assessment to be requested where the Board of Examiners or the Legal Services Board has reasonable grounds to believe that a person has a mental impairment that may result in that person not being a fit and proper person to be a member of the legal profession is also considered not to be an unlawful or arbitrary interference with the right to privacy and reputation. It should be noted that the power of the Legal Services Board to require a health assessment already exists under the current act. The amendment is only to give the Board of Examiners similar powers. As explained above, section 1.2.6 of the principal act requires the Board of Examiners to consider a range of 'suitability matters' which may affect whether a person is a fit and proper person for admission to the legal profession. The provision to allow the Board of Examiners to require a health assessment where there are reasonable grounds to believe that the applicant has a mental impairment that would affect their suitability for admission supports the Board of Examiners' need to gather sufficient evidence to make an informed decision about these suitability matters.

It should also be noted that clause 8 of the bill protects privacy as it provides that health assessment reports are confidential to the Board of Examiners. Clause 23 will make the requirement to provide health assessments only apply to applications for admission made on or after 1 July 2008.

Section 8 — recognition and equal treatment before the law

The amendments regarding the use of health assessments also raise the right to equal treatment before the law. That right is expressed in the charter to be:

(1) Every person has the right to recognition as a person before the law.

(2) Every person has the right to enjoy his or her human rights without discrimination.

(3) Every person is equal before the law and is entitled to the equal protection of the law without discrimination and has the right to equal and effective protection against discrimination.

(4) Measures taken for the purpose of assisting or advancing persons or groups of persons disadvantaged because of discrimination do not constitute discrimination.

The amendments require applicants for admission or for a practising certificate, or holders of a current practising certificate, to undertake a health assessment if the Board of Examiners (in the case of applicants for admission) or the Legal Services Board (in the case of those applying for or holding a practising certificate) have reasonable grounds to believe that a person may have a mental impairment that may result in that person not being fit to be admitted or engage in legal practice. It should be noted that the powers in relation to the Legal Services Board already exist under the principal act. This effectively treats people with mental health issues unequally to people who do not have mental health issues. The charter protects the rights of people with impairments, including mental impairments, from such unequal treatment unless such a limitation on the right to equal treatment and non-discrimination can be justified under s. 7 of the charter.

2. Consideration of reasonable limitations

Limitations on the right to privacy and reputation

As discussed above, the clauses that engage the right to privacy and reputation are not considered to be an unlawful or arbitrary interference with those rights, so although the right is raised, the right is not limited. Therefore it is unnecessary to consider whether the interference is a reasonable limitation.

Limitations on the right to equal treatment before the law

The requirement to undergo a health assessment in circumstances where an applicant has a mental impairment that may result in that person not being fit to be admitted is considered to be a reasonable limitation on the right to equal treatment before the law, despite the potential discrimination against people with mental impairments. Whether an applicant has a 'material mental impairment' is a suitability matter under section 1.2.6 of the principal act which must be considered by the Board of Examiners in deciding whether a person is fit and proper to be admitted. The Board of Examiners requires an appropriate procedure for making such an assessment. The bill provides that a medical practitioner is able to be engaged to provide a health assessment to the Board of Examiners to inform their decision making. Without such a procedure in place, the Board of Examiners may have a history of mental health issues disclosed to them by an

applicant but have no way of properly assessing whether those mental health issues should be a barrier to the applicant being admitted to the legal profession. Prejudice or ignorance may lead to applicants being denied admission, when in fact a health assessment may inform the Board of Examiners to admit an applicant.

The limitation serves an important public purpose as it allows for an objective assessment by a qualified medical practitioner of an applicant's mental health in cases where the Board of Examiners has reasonable grounds to believe that the applicant's mental impairment may result in that person not being a fit and proper person to be admitted. The Legal Services Board is currently able to conduct health assessments on lawyers applying for a practising certificate or current holders of a practising certificate. Recognising that admission to the legal profession is the first step toward practising as a legal practitioner, these amendments extend that power to the Board of Examiners.

The limitation is restricted to allowing for health assessments only where the Board of Examiners has reasonable grounds to believe a mental impairment may result in a person not being a fit and proper person to be admitted to the legal profession. 'Reasonable grounds' may include circumstances where an applicant discloses a history of hospitalisation in relation to a mental health issue, or a criminal record that is related to mental health problems.

The requirement that the board must form a belief on reasonable grounds that an applicant's mental impairment would render them unfit for admission recognises that not all mental health problems warrant a health assessment. Only those more serious mental health problems that would result in a person being unfit to engage in legal practice may trigger a health assessment. A health assessment will not necessarily lead to the conclusion that a person not be admitted — in many circumstances the health assessment may support the applicant's case for admission, despite having a mental impairment.

The limitation supports the need for the Board of Examiners and the Legal Services Board to have a range of information about people seeking to be part of the legal profession to inform their decision making and regulate the legal profession for the benefit of the public.

As this is an amendment bill, the clauses need to be read in the wider context of other provisions in the principal act which protect the applicant's right to equal treatment. These provisions include a requirement that at least 28 days written notice of the health assessment is to be provided to the applicant, a right to apply to the Victorian Civil and Administrative Tribunal for review of a decision of the Board of Examiners to require them to undergo a health assessment, and that the health assessment can only be used for the application before the Board of Examiners and not in other unrelated proceedings.

Conclusion

I consider that the bill is compatible with the Charter of Human Rights and Responsibilities because although the bill raises the right to privacy it does not limit that right. Although the bill limits the right to equal treatment before the law for people with mental impairments this limitation is reasonable, justifiable and in the public interest.

JUSTIN MADDEN, MP
Minister for Planning

Second reading

Ordered that second-reading speech be incorporated on motion of Hon. J. M. MADDEN (Minister for Planning).

Hon. J. M. MADDEN (Minister for Planning) — I move:

That the bill be now read a second time.

Incorporated speech as follows:

This bill amends the Legal Profession Act 2004, which commenced on 12 December 2005.

The main purpose of the act was to improve the regulation of the legal profession by implementing national model provisions developed through the Standing Committee of Attorneys-General (SCAG). Recently Parliament passed the second tranche of amendments to the national model in May this year.

However, the act was not intended to change the structures, rules and procedures of the previous act (the Legal Practice Act 1996) in relation to admission to the legal profession and continuing professional development until a comprehensive review could be undertaken.

In 2006 I commissioned an expert review by Ms Susan Campbell, formerly professorial fellow in legal practice at Monash University. She was assisted by an advisory board made up of recognised legal education experts — Professor the Honourable George Hampel, AM, QC, Professor the Honourable Michael Lavarch, Professor Ainslie Lamb, AM, Associate Professor George Beaton, and Mr John Cain. Ms Campbell conducted a range of consultation exercises with key stakeholders including the Council of Legal Education, the Board of Examiners, the Legal Services Board, the Law Institute of Victoria and the Victorian Bar. I would like to take this opportunity to thank all of the contributors to this review for their dedication to improving the education and training of the legal profession in Victoria.

The purpose of the review was to assess whether current legal education services in Victoria were providing legal practitioners at all stages in their careers with the appropriate level of knowledge and skills to support effective legal practice.

The review identified 47 reforms required to the education and training framework, many of which have been or are in the process of being implemented. In particular the review recommended a new 12-month traineeship system for people seeking to become a legal practitioner to replace the articles of clerkship currently undertaken by most law graduates before being admitted to the legal profession. The traineeship is based on ensuring all applicants for admission attain core competencies in legal practice, particularly in ethics and professional responsibility and work management and business skills. This necessitates a number of changes to the Legal Practice (Admission) Rules 1999 (admission rules) which will shortly be subject to public consultation before their introduction in July 2008. The review has also brought about

the introduction of uniform continuing professional development rules from 1 April 2007 which will ensure that all legal practitioners undertake core areas of ongoing training and learning in key areas of legal practice such as business skills, ethics and substantive law.

The amendments before the house are mainly to modernise the two bodies that oversee admission to the legal profession — the Council of Legal Education (the council) and the Board of Examiners. The council is responsible for setting the admission requirements. The Board of Examiners is responsible for assessing individual applications for admission.

The report identified a number of problems with the current statutory framework for these two bodies. In accordance with the recommendations for reform made by the review the bill:

changes the membership of the Council of Legal Education and the Board of Examiners to remove the large number of ex-officio members; and

makes associated changes to modernise the requirements in relation to the appointments process, quorums, delegation powers and staffing of these two bodies in line with cabinet-approved guidelines for such statutory appointments.

The report also reviewed the factors considered by the Board of Examiners when determining if an individual is eligible for admission to the legal profession. The report noted that the Board of Examiners needs to assess a wide range of information about individual applicants in order to ensure that only suitable people are admitted to the legal profession. Current arrangements do not allow the Board of Examiners to gather all of this information effectively. The report therefore recommended that the act be amended to give the Board of Examiners improved processes for informing themselves about the fitness of applicants for admission. This includes extending the range of issues the Board of Examiners may be informed about to include conduct while in tertiary education. The report also suggested that the Board of Examiners be able to require health assessments of applicants with serious mental health issues, including alcoholism and drug dependency, in circumstances where a question arises as to whether the impairment may affect their fitness to be admitted. Such health assessments provide the Board of Examiners with independent professional medical advice which can be used by the Board of Examiners to inform its decision to recommend an application for admission. The bill makes these amendments.

The amendments also make minor technical changes to application and admission procedures.

Separate to the report, the Legal Services Board and the Legal Services Commissioner have requested changes to their powers and processes to improve their regulatory functions. The Legal Services Board and the Legal Services Commissioner are relatively new legal profession regulatory bodies established in December 2005 under the Legal Profession Act 2004. These amendments will improve their performance as local regulators.

These amendments are to:

clarify that a law practice is exempt from costs disclosure if the legal costs, excluding disbursements, are less than $750, exclusive of GST

allow the Legal Services Commissioner to release costs lodged with the commissioner to a law practice if a complainant fails to attend mediation

allow settlement agreements certified by the Legal Services Commissioner to be lodged with the Magistrates Court so that they can be enforced

provide the Legal Services Board with power to apply to the Supreme Court for a legal practitioner to be struck off the local roll where a legal practitioner has been found guilty of a criminal offence in any Australian jurisdiction or has had interstate regulatory action taken against them.

The sum effect of the implementation of the recommendations in the review of legal education report will ensure that all legal practitioners in Victoria are equipped through their pre-admission training and post-admission professional development to maintain high standards of legal practice throughout their careers. This bill, although only dealing with limited aspects of the review's recommendations, is another significant step in the government's program of modernising and improving the regulation of the legal profession.

I commend the bill to the house.

Debate adjourned on motion of Mr RICH-PHILLIPS (South Eastern Metropolitan).

Debate adjourned until Thursday, 16 August.

GRAIN HANDLING AND STORAGE AMENDMENT BILL

Introduction and first reading

Received from Assembly.

Read first time for Hon T. C THEOPHANOUS (Minister for Industry and Trade) on motion of Hon. J. M. Madden.

Statement of compatibility

Hon. J. M. MADDEN (Minister for Planning) 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 Grain Handling and Storage Act Amendment Bill 2007.

In my opinion, the Grain Handling and Storage Act Amendment Bill 2007, as introduced to the Legislative Council, is compatible with the human rights protected by the charter. I base my opinion on the reasons outlined in this statement.

Overview of bill

The bill amends the Grain Handling and Storage Act 1995 ('the act') to:

reduce the regulation of the grains handling and storage sector by the Essential Services Commission ('the commission') to a light handed access regime; and

extend access regulation to the port of Melbourne by way of this new access regime.

Human rights issues

There are no human rights protected by the charter that are impacted by the bill.

Conclusion

I consider that the bill is compatible with the Charter of Human Rights and Responsibilities because it does not limit, restrict or interfere with human rights.

Theo Theophanous, MP
Minister for Industry and Trade

Second reading

Ordered that second-reading speech be incorporated on motion of Hon. J. M. MADDEN (Minister for Planning).

Hon. J. M. MADDEN (Minister for Planning) — I move:

That the bill be now read a second time.

Incorporated speech as follows:

The Essential Services Commission was required by the Grain Handling and Storage Act 1995 to review the regulatory arrangements for the handling and storage of grain for export by 30 June 2006.

The review concluded that, given the significant degree of change in the grains industry at this time, some form of limited regulation of this sector was still warranted in the short term.

The commission recommended that rather than the current licence regime, where the cost of activities undertaken by the commission in regulating grain-handling facilities are recovered through licence fees, the commission should adopt more of a monitoring role. In this role, the commission would require each of the terminals to prepare an access undertaking that would contain the principles upon which access is to be provided, including a binding dispute resolution process. The commission would only intervene if this undertaking was not adhered to.

The commission also found in its review that the GrainCorp facilities at Portland and Geelong are no longer the dominant grain handlers in Victoria. Instead, a relatively balanced duopoly has developed between these facilities and those operated by the Australian Bulk Alliance at the port of Melbourne. The commission therefore recommended that there be no discrimination in the regulatory treatment of grain handling and storage services in Victoria. As a result, regulation should also be extended to the grain-handling facilities at the port of Melbourne in the form of this new light-handed access regime.

The bill implements the key recommendations of the commission's final report. Specifically, it will:

reduce regulation of the grains-handling and storage sector to a light-handed access regime, where undertakings will become the basis for access to the facilities; and

extend access regulation to the port of Melbourne, which will remove regulatory discrimination between the terminals.

In its review, the commission also proposed that once these undertakings had been prepared and accepted, government should abolish licence fees for export grain-handling facilities, as they would no longer be necessary. Exemption from these fees will be sought when the undertakings are completed and approved by the commission.

Overall, this new access regime is consistent with the government's objective of reducing the regulatory burden on industry.

I commend the bill to the house.

Debate adjourned on motion of Mr VOGELS (Western Victoria).

Debate adjourned until Thursday, 16 August.

PARLIAMENTARY SALARIES AND SUPERANNUATION AMENDMENT BILL

Introduction and first reading

Received from Assembly.

Read first time for Mr LENDERS (Treasurer) on motion of Hon. J. M. Madden.

Statement of compatibility

Hon. J. M. MADDEN (Minister for Planning) 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 Parliamentary Salaries and Superannuation Amendment Bill 2007.

In my opinion, the Parliamentary Salaries and Superannuation Amendment Bill 2007, as introduced to the Legislative Council, 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 object of the Parliamentary Salaries and Superannuation Amendment Bill 2007 is to limit the increase in the salary

payable to members of the Victorian Parliament to 3.25 per cent.

Human rights issues

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

The bill does not engage any of the rights under the charter.

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

As the bill does not engage any of the rights under the charter, it is not necessary to consider section 7(2) of the charter.

Conclusion

I consider that the bill is compatible with the Charter of Human Rights and Responsibilities because it does not raise a human rights issue.

HON. JOHN LENDERS, MP
Treasurer

Second reading

Ordered that second-reading speech be incorporated on motion of Hon. J. M. MADDEN (Minister for Planning).

Hon. J. M. MADDEN (Minister for Planning) — I move:

That the bill be now read a second time.

Incorporated speech as follows:

The purpose of this bill is to amend the Parliamentary Salaries and Superannuation Act 1968 to limit the increase to the basic salary payable to members of this Parliament to 3.25 per cent for the 2007–08 financial year.

As members are aware, under the Parliamentary Salaries and Superannuation Act 1968, Victorian parliamentary salaries are set by reference to the federal parliamentary salaries. In May and June of this year, the federal Remuneration Tribunal announced that federal parliamentary salaries will increase by 2.5 per cent and then a further 4.2 per cent, effective from 1 July 2007.

In response to the tribunal's decision, and in line with this government's public sector wages policy, this bill limits the pay rise for members of this Parliament to 3.25 per cent. It achieves this by amending the definition of 'basic salary' in the Parliamentary Salaries and Superannuation Act 1968 to increase the difference between federal and Victorian members' basic salary from $1442 to $5733, backdated to 1 July 2007. The same approach was adopted in 2004.

These amendments demonstrate the government's willingness to apply to itself the same standards that apply to Victoria's public sector workforce.

The government has a comprehensive agenda to deliver good government on behalf of all Victorians. This agenda includes significant spending commitments in building and maintaining infrastructure and improving services in health, education, water supply and community safety.

The government's wages policy for Victoria's public sector workers provides a guideline wage increase of 3.25 per cent, which provides a real wage increase given that the consumer price index increased by only 0.1 per cent in the last quarter, or 2.2 per cent for the year. Higher wage increases are possible if funded through productivity improvements.

The policy is designed to ensure fair wage outcomes for our highly valued public sector workforce and to generate improved productivity, while ensuring the government's policy agenda is implemented in a fiscally responsible manner.

I also draw the attention of the house to section 4 of the bill. This clause will only be proclaimed as a safety measure to protect members' existing salary in the unlikely event that the federal Remuneration Tribunal determinations are disallowed by the commonwealth Parliament. I do not expect that it will need to be used.

I commend the bill to the house.

Debate adjourned on motion of Mr RICH-PHILLIPS (South Eastern Metropolitan).

Debate adjourned until Thursday, 16 August.

SUMMARY OFFENCES AMENDMENT (UPSKIRTING) BILL

Statement of compatibility

Hon. J. M. MADDEN (Minister for Planning) 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 Act 2006, I make this statement of compatibility with respect to the Summary Offences Amendment (Upskirting) Bill 2007.

In my opinion, the Summary Offences Amendment (Upskirting) Bill 2007, as introduced to the Legislative Council, is compatible with the human rights protected by the charter. I base my opinion on the reasons outlined in this statement.

Overview of bill

Clause 3 of the bill inserts a new division 4A in part 1 of the Summary Offences Act 1966. In summary, the bill:

makes it an offence to use an aid or device (such as a mirror or drilling a hole in a wall) to deliberately observe another person's genital or anal region (intimate body parts) in circumstances where it is reasonable for the other person to expect such observation could not otherwise be undertaken.

makes it an offence to visually capture (such as a photograph or film) another person's intimate body parts in circumstances where it is reasonable for the other person to expect such a visual image could not be made.

makes it an offence to distribute (for example by sending, supplying or transmitting) a visual image made of another person's intimate body parts, without their consent to any distribution.

provides that where the subject of the visual image is incapable of giving consent, or is a child, that visual image can only be distributed in circumstances in which a reasonable person would regard the distribution as acceptable. However, the bill does not purport to interfere or replace current child pornography laws. A note is contained in the bill that the Crimes Act 1958 sets out current child pornography laws.

confers power to issue a search warrant in respect of an alleged visual capture or distribution offence.

Human rights issues

There are four human rights protected by the charter that are relevant to the bill. Each of the four rights together with the relevant new section(s) are outlined below.

1. Section 13(a) — right to privacy

Section 13(a) of the charter provides that a person has the right not to have his or her privacy, family, home or correspondence unlawfully or arbitrarily interfered with.

There are four new sections that arguably engage this charter right. Two of these new sections actually enhance, and do not limit the right. The third and fourth new sections engage the right to privacy and the right to correspond. However, the rights are not unlawfully or arbitrarily interfered with, and the sections do not limit these rights. These are explained below.

New sections 41A and 41B

New sections 41A and 41B prohibit the observation or visual capturing of another person's intimate body parts, in circumstances in which there is a reasonable expectation this region could not be observed and where there is no express or implied consent to do so. These provisions arguably enhance (and do not limit) the right of an individual not to have their privacy interfered with.

New section 41C

This new section prohibits the distribution of any visual images made of another person's intimate body parts, where the subject of the visual image has not consented to any distribution. This provision arguably engages and limits a person's right to correspond.

This aspect of the charter right provides a person has the right not to have correspondence arbitrarily or unlawfully interfered with.

Unlawful interference

The bill defines distribution to include communicating, sending or supplying. The bill prohibits the distribution of visual images of another person's intimate body parts. There are certain listed exceptions, such as with consent of the person being visually captured. Any 'interference' with correspondence is therefore permitted by the bill and the interference with correspondence is precise and circumscribed and in accordance with law.

Arbitrary interference

In providing clear parameters around the prohibition on distribution of visual images, with suitable safeguards in the form of exceptions to the offence where there is implied or express consent by the subject to any form of distribution, the bill ensures that any interference with correspondence will be reasonable in the particular circumstances. Any "interference" with correspondence under this bill is therefore not arbitrary.

New section 41E

This new section confers power for the issuing of a search warrant in respect of a visual image or distribution of an image. This provision arguably engages the right to privacy because it allows for power of entry into a person's home. However, to comply with the protection afforded by section 13(a), the charter requires that a person's privacy or correspondence must not be unlawfully or arbitrarily interfered with.

Unlawful interference

The power of entry can only be exercised if a warrant has been issued by the court. Importantly, this warrant will only be issued in accordance with the rules relating to search warrants under the Magistrates' Court Act 1989. As such, any interference is precise and circumscribed and in accordance with law.

Arbitrary interference

The lawful grant of a power of entry is only available pursuant to rules in the Magistrates' Court Act 1989, namely a discrete and defined circumstance, where there are reasonable grounds for the granting of the power. As such, any interference is reasonable and not arbitrary.

2. Section 15 — freedom of expression

Section 15 of the charter provides that:

(1) Every person has the right to hold an opinion without interference.

(2) Every person has the right to freedom of expression, which includes the freedom to seek, receive and impart information and ideas of all kinds, whether within or outside Victoria and whether —

(a) orally; or

(b) in writing; or

(c) in print; or

(d) by way of art; or

(e) in another medium chosen by him or her.

(3) Special duties and responsibilities are attached to the right of freedom of expression and the right may be subject to lawful restrictions necessary —

(a) to respect the rights and reputations of other persons; or

(b) for the protection of national security, public order, public health or public morality.

New section 41C

This new section prohibits the distribution of any visual images made of another person's intimate body parts, where the subject of the image has not consented to any distribution. This provision arguably engages a person's (namely the distributor's) right to seek, receive or impart information and ideas of all kinds. However, section 15 of the charter specifies that the right to freedom of expression may be subject to lawful restrictions to respect the rights of other persons, and for the protection of public morality.

Lawful restriction

The purpose of the whole bill, and particularly the new section 41C, is to protect the rights of individuals' privacy in relation to their intimate body parts, including when they are in a public place. It is arguable that this new section is reasonably necessary to respect the rights of others, in accordance with section 15(3)(b) of the charter.

Similarly, the bill is designed to prohibit the unauthorised distribution of visual images that are of intimate body parts. It is arguable that this section of the bill is also reasonably necessary for the protection of public morality. Accordingly, any restrictions on freedom of expression under this bill are therefore lawful, pursuant to section 15(3)(a) of the charter.

3. Section 17 — protection of families and children

Section 17 of the charter provides that:

(1) Families are the fundamental group unit of society and are entitled to be protected by society and the state.

(2) Every child has the right, without discrimination, to such protection as is in his or her best interests as is needed by him or her by reason of being a child.

New section 41D

This new section provides that visual images of a child's intimate body parts can only be distributed in circumstances that reasonable persons would regard as acceptable. It is arguable that this section enhances (but does not limit) the right of a child to such protection as is in their best interests, and the standard is as determined by a reasonable person.

4. Section 20 — property rights

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

New sections 41E and 41F

These new sections arguably engage this right, because they provide for seizure of things pursuant to a warrant, or in addition to the warrant in limited circumstances. The charter right, however, is not absolute and does not apply to property seized in accordance with law.

The new sections clearly set out the circumstances in which a warrant can be granted by a court (enabling seizure pursuant to it), and circumstances in which things not listed in a warrant can be seized, namely if there are reasonable grounds for believing the items could have been included in a warrant, will afford evidence relevant to one of the offences or it is necessary to seize the thing in order to prevent its loss or use in commission of an offence. The seizure of property is in accordance with this right, which is not limited.

Consideration of reasonable limitations — section 7(2)

The bill does not limit any human rights, and therefore it is not necessary to consider section 7(2) of the charter.

Conclusion

The Summary Offences Amendment (Upskirting) Bill 2007 is compatible with the Charter of Human Rights and Responsibilities on the basis that it raises four human rights issues, but does not limit and indeed enhances some of these human rights.

JUSTIN MADDEN, MP
Minister for Planning

Ordered that second-reading speech be incorporated on motion of Hon. J. M. MADDEN (Minister for Planning)

Second reading

Hon. J. M. MADDEN (Minister for Planning) — I move:

That the bill be now read a second time.

Incorporated speech as follows:

Victoria recently experienced a spate of incidents where police arrested men who were caught secretly filming up the skirts of women on public transport and at public events, such as the Australian tennis open. The unfortunate prevalence of this behaviour, and the increasingly sophisticated means of carrying out such activities, warrants the introduction of new and specific offences.

This bill will make it clear that taking unauthorised photos of a person's intimate body parts will be prohibited. Such behaviour is unacceptable to the community and will not be tolerated.

The bill creates specific and unique offences that ban 'upskirting' and related behaviour. Although this behaviour may already be prohibited by existing offences, such as indecent behaviour and stalking, this bill creates offences directly targeting such behaviour.

The bill also recognises the need to keep pace with technological changes. The small size of many cameras, and the advent of mobile phone cameras, means it is easier than ever before to take photos or make or transmit visual images without the subject's knowledge. Technological advances also facilitate the relatively easy transmission and distribution of visual images by mobile phones or the internet, in some cases without an actual recording being made, such as 'live streaming'.

Not only will it be an offence to take unauthorised photographs or film a person's intimate body parts when they are in public, it will be a separate offence to distribute such images. The invasion of privacy experienced by victims who have been surreptitiously recorded is compounded if the

images are made public, such as sent via email or mobile phone to others.

This issue has been considered by the Standing Committee of Attorneys-General. There is widespread national support for ensuring this behaviour is prohibited. Each jurisdiction either has an offence against this behaviour or is considering introducing such an offence.

There is currently no prohibition on making visual recordings of other people in public places in a broader sense, and the bill does not purport to create such a prohibition. The bill is not aimed at unnecessarily restricting the taking or distributing of visual images. Rather, the bill is designed to strike a balance between the rights of individuals to privacy and protecting social, artistic or journalistic freedoms to take photos or other visual images in public places.

Specific restrictions are legitimate where the visual image in question is of another person's intimate body parts. The bill is necessary to protect individuals, especially women, when they are in the public arena.

In summary, the bill:

> makes it an offence to use an aid or device (such as a mirror or drilling a hole in a wall) to deliberately observe another person's genital or anal region (intimate body parts) in circumstances where it is reasonable for the other person to expect such observation could not otherwise be undertaken;
>
> makes it an offence to visually capture (such as photograph or film) another person's intimate body parts in circumstances where it is reasonable for the other person to expect such a visual image could not be made;
>
> makes it an offence to distribute (for example by sending, supplying or transmitting) a visual image made of another person's intimate body parts, without their consent to any distribution;
>
> provides that where the subject of the visual image is incapable of giving consent, or is a child, that visual image can only be distributed in circumstances in which a reasonable person would regard the distribution as acceptable. However, the bill does not purport to interfere or replace current child pornography laws. A note is contained in the bill that the Crimes Act 1958 sets out current child pornography laws;
>
> confers power to issue a search warrant in respect of an alleged visual capture or distribution offence.

The bill prohibits the making of unauthorised visual images of a person's intimate body parts. It makes illegal the behaviour known as 'upskirting'. The bill also prohibits the distribution or publication of intimate visual images of another person, without the consent of the subject (or where a reasonable person would not consider distribution acceptable).

The bill complements existing offences such as using an optical device illegally, stalking and child pornography laws. By establishing specific offences in Victoria, this bill provides an important additional protection for people, especially women, in the public arena.

I commend the bill to the house.

Debate adjourned on motion of Mr RICH-PHILLIPS (South Eastern Metropolitan).

Debate adjourned until Thursday, 16 August.

ADJOURNMENT

Hon. J. M. MADDEN (Minister for Planning) — I move:

That the house do now adjourn.

McCormack Timbers: timber access

Mr VOGELS (Western Victoria) — I raise an issue for the Minister for Agriculture who is also the Minister for Small Business in another place, Joe Helper. It concerns the closure of yet another sawmill in Victoria — this time it is McCormack Timbers at Broadford. Twenty employees in a country town are out of a job, 20 country families have lost their income and have limited alternatives, and Broadford has lost another wealth-creating business.

The Labor government's Our Forests Our Future policy guaranteed the timber industry there would be a sustainable yield available to the industry of 576 000 cubic metres. This has since been reduced to 450 000 cubic metres, or 22 per cent, and is still falling. This has brought about the demise of many sawmills and timber processors. There were 53 industry customers three years ago, but the number has now been reduced to approximately one dozen. The Bracks Labor government signed the Central Highlands regional forests agreement, which we were told was based on the best science available.

The sawmill industry around the Central Highlands was encouraged to keep investing under the forest industry structural industry adjustment program. Just two years ago the then Treasurer, Premier John Brumby, officially opened the expanded production of another Central Highlands timber company, Black Forest Timbers at Woodend. He said:

> This company is extremely important to the region and to Victoria as a significant local employer with some 50 employees, making a huge direct contribution to the local economy with net sales in order of $5.5 million.

He went on to say:

> It is a lesson for manufacturers and particularly timber processors and sawmillers across Victoria on how to manage this resource.

What empty rhetoric! Less than two years later, due to a lack of available resources, this company has had to lay off its workforce. To add insult to injury, a large proportion of our hardwood timber is now being exported to Asia, where the value-adding is carried out with the finished product then being imported back into Australia, costing hundreds of jobs.

The action I seek from the minister is for the Brumby government to honour the commitment it made under the Our Forests Our Future policy, making sure that VicForests provides to the industry a minimum of the 576 000 cubic metres of sawlog timber they were promised. We do not want to see any more small timber sawmills close because of VicForests's failure to deliver the resources promised to the industry.

Floods: Gippsland

Mr HALL (Eastern Victoria) — Tonight I wish to raise a matter for the attention of the Premier in his capacity as chair of the flood recovery task force. I know he was the chair of that task force prior to the change in the premiership in Victoria, and if he is not now, then I would hope he would redirect this matter to the new chair of that particular task force. The matter I raise is government assistance for flood-affected victims in Gippsland.

I am aware of a number of my constituents who have had their claims for water damage to their properties rejected by their insurance companies. One particular insurance company is involved, but there may be others — I am not absolutely sure of that. The basis for the rejection appears to be based on an assessment of whether water damage was flooding caused by local storms or flooding caused by a natural watercourse breaking its banks.

I put to the house tonight and to the chair of the flood recovery task force that there is a strong argument that flooding in the Newry and Tenamba area at least was influenced by the actions taken by the Victorian government over time. One of those actions was the construction of Glenmaggie Weir itself. There is a strong argument that had Glenmaggie not been there the water would have flowed through that particular area following the natural course of the Macalister River and would not have hit the downstream towns of Newry and Tenamba with the force that it did, which caused the damage.

There was also a failure of flood-warning systems higher up, north of the Glenmaggie Weir. The people I have had some contact with have insured their properties, but have missed out on any form of compensatory payment by virtue of the insurance company that they chose to do business with.

My request to the Premier is to ask him to consider providing compensation to those people who have had insurance claims rejected with the justification being that the actions of the government that I mentioned previously contributed, at least in part, to the severity and to the extent of the damage incurred to the property of these people. I want to also say I acknowledge that the government has already pledged something in the order of $60 million to assist in the flood recovery effort. I was one of the first to acknowledge and to thank the government for that effort.

I believe the measure I am requesting tonight would probably cost in the order of another $500 000, which is a small amount in terms of the total flood package. The cost to government would be small, but the benefit to those who have had insurance claims knocked back would be most significant and appreciated. I ask the Premier to consider the suggestion I put to him tonight.

Police: firearms

Mr FINN (Western Metropolitan) — I wish to raise a matter for the attention of the Minister for Police and Emergency Services in the other place. Members of this house would be aware of my concerns about the direction the police force in Victoria is taking under the present chief commissioner. However, they will be relieved to learn that tonight I am not asking the minister to remove the chief commissioner from her position — although if the minister wishes to do that, I certainly will not oppose him.

My concern is in regard to comments that have come to my attention after being reported in the online edition of the *Herald Sun* yesterday. They are comments by Superintendent Graham Kent of the Victoria Police Academy. Superintendent Kent was one of two police officers who spent some hours interviewing Julian Knight soon after his appalling crime some 20 years ago. I can certainly understand how Superintendent Kent must have been affected by that and I can understand that that effect would be colouring his thinking today. My concern is regarding his comments when he said that there should be a complete ban on all guns in the community, including guns carried by police. He said:

> If I had a magic wand, if I was Premier for a day, I would have a total prohibition on guns. Total prohibition, including disarming the police force …

Apart from the fact that there are many legitimate and genuine shooters in our community who I think have

borne a great burden over the last 20 years as a result of the acts of some very evil individuals, the suggestion that our police force be disarmed is something that should concern us all. That would leave us all open to attack. It would not allow our police to provide the proper protection our community needs and obviously wants.

I do not know how widely this thought that police should be disarmed is embraced in the police force. I am asking the minister to direct the chief commissioner to ensure that such a policy is never implemented in Victoria Police. The thought of our police being on our streets unable to protect themselves, much less us, must strike terror into the hearts of every law-abiding citizen, although it would give great joy to lawbreakers from one end of the state to the other. I ask the Minister for Police and Emergency Services to make contact with the chief commissioner and give a direction that our police should be allowed to protect themselves and indeed members of the community.

Water: north–south pipeline

Mrs KRONBERG (Eastern Metropolitan) — My adjournment matter is directed to the Minister for Water in another place. I am raising this matter because I did not see the minister at the rally of people from the irrigation districts in northern Victoria today. As a matter of fact, I am prepared to stand corrected on this but I do not think I saw any members of the government at all. I saw a large collection of people from The Nationals and from the opposition, the Liberal Party. I would like to convey the spirit of the meeting.

A lot of people left their jobs and their farms. Some of them are dairy farmers, and it is a huge decision for them to leave their dairy farms to come down to Melbourne and talk about their plight — the plight brought about by this north–south pipeline taking all of that water out of the irrigation area. Irrespective of the water saving, once the irrigation system is finally modernised, the pipeline will still drain the area. They are really on their knees and they have been suffering reductions in inflow and rainfall of 56 per cent, down to 29 per cent, and of course the drought of 2006.

I was particularly moved by two gentlemen, one from Kyabram and one from Tongala, who were literally in tears, and I can actually show members the spot on the bottom step in front of Parliament House where their tears were cascading down their faces, such was their distress. Sometimes women have the opportunity to see men in such a state; men are not necessarily likely to display such emotion to another man. I was moved by their plight. They were shaking, they were concerned, and they are begging this government to reverse that decision. I want to be their voice in this place today.

Accordingly I request the minister to report back to this house, and because he is a new minister he should have a fresh approach to this and not carry the burdens of poor decisions by previous water ministers who left in disgrace. I ask that he review the strategy and provide a time line for the review of this fundamentally flawed project that will not solve Melbourne's water problems but will directly contribute to the further pain and suffering of many communities affected by this pipeline.

Volunteers: wildlife carers

Mrs PETROVICH (Northern Victoria) — I direct my matter on the adjournment debate to the Minister for Environment and Climate Change, Gavin Jennings. I have been aware for some time of the issue facing volunteer wildlife carers across the state of Victoria and the cost of what is actually a labour of love.

Volunteer wildlife carers spend thousands of hours caring for injured wildlife — some have been hit by motor vehicles or injured by shooters or, less frequently thankfully, hurt by deliberate cruelty. Many of these animals, reptiles and birds require specialist care and often need more assistance when surrendered to wildlife shelters by well-meaning individuals who do not have the specialist knowledge and skills required to treat the injured animals. Many young marsupials found in their dead mothers' pouches are surrendered to volunteer wildlife shelters as there are no other agencies which deal with raising orphaned marsupials or injured wildlife in general.

The great cost of this work was highlighted to me recently when I viewed photos and spoke to a young wildlife carer from Gippsland who has looked after many burnt and injured animals and birds. This has required hundreds of hours of this admirable and dedicated young woman's time, but also approximately between $700 and $1000 of her own money in veterinary treatment for each animal treated. The other issue that is facing these carers is the decision to euthanase badly burnt native animals and the associated veterinary cost of this.

The saddest part of this story is the cost to the environment of the north-east fires, but I am sure all of that will be explored in good time. The action I seek from the minister is that he investigate the availability of funding for these hardworking volunteers so they can recover the expenses they incur in establishing

infrastructure for wildlife shelters and the cost of running and managing these facilities.

I also ask that there be an acknowledgement of the contribution made by these volunteers during times of crisis such as was experienced during the north-east fires, and that an investigation be conducted into the extent of work required by these individuals in the holocaust of the north-east fires.

Whitehorse Road, Nunawading: traffic

Mr ATKINSON (Eastern Metropolitan) — I wish to address my adjournment item to the Minister for Roads and Ports in another place, and it is in respect of treatment to the Whitehorse Road area between Springvale Road and Blackburn Road generally, but probably more particularly Goodwin Street.

The minister would be aware, and some members of this house would probably be aware, that this section of Whitehorse Road has become a homemaker centre with significant retail development. Obviously retail development generates considerable traffic activity and movement between different businesses. This is particularly so because these are destination stores rather than, with the exception of Brand Smart, being grouped together in a retail complex.

The result of this has been that the City of Whitehorse and VicRoads have got together and looked at traffic solutions for Whitehorse Road and how they can improve aspects of safety in this precinct. The problem here is that whilst there have been treatments that have been favourable to the Brand Smart property and to retailers on the southern side of Whitehorse Road, the traffic measures that have been effected by VicRoads in conjunction with the City of Whitehorse have been to the detriment of businesses on the northern side of Whitehorse Road.

I have been approached by a number of those businesses including Dick Smith Electronics, a bicycle shop, Forty Winks, Dulux, Nunawading Snooze, Brakes Plus, Dream World Furniture, Carpet Court, Clark Rubber, Granger's Camping World, Adriatic Furniture and Paint Spot. Those are some fairly well-known brands and significant businesses. I can advise the house that the people who run those businesses are all extremely concerned about a decline in traffic and a loss of business due to changes in traffic movements in and around that precinct, including the fact that the entry from the northern side of Whitehorse Road into a service road serving those businesses has been moved 150 metres west. That has caused considerable confusion to people who might well have patronised those retail businesses. There is no left turn at traffic lights on the north side and there are some other issues about U-turn movements and so forth.

The action I seek from the Minister for Roads and Ports is that he investigate the traffic treatments on Whitehorse Road and in this precinct and that he look at an alternative opportunity to allow access for motorists and shoppers into the service road servicing the businesses on the northern side of Whitehorse Road.

Princes Highway: noise barriers

Mr O'DONOHUE (Eastern Victoria) — My matter this evening is for the Minister for Roads and Ports in the other place. Many of the people of the growing south-east moved to the south-eastern communities because of the peace and quiet and the relatively rural atmosphere that still exists there. Sadly for many people this dream of a quasi-rural atmosphere has been shattered as a result of the ever-increasing traffic and resultant noise, air pollution and invasion of privacy because of the absence of noise barriers along some parts of the Princes Highway. The pollution, noise and traffic will only increase when the Pakenham bypass is opened, probably later this year, and more and more people use the Monash and Princes freeways as they commute to Melbourne.

Several years ago local residents of Beaconsfield and surrounds formed the Beaconsfield in Casey Residents Action Group. Members of the group, many of whom live along the Monash Freeway, have been told by both former and current Labor members of Parliament, VicRoads and others that the noise levels recorded along the freeway at Beaconsfield and on the north side of the highway are unacceptable. In fact before the 2002 state election the then Minister for Transport, now the Minister for Community Development, Peter Batchelor, wrote to Mr Ray Fleming of the Beaconsfield in Casey Residents Action Group saying that the Bracks government is also committed to installing sound barriers where noise levels are found to be unacceptable. He said that he understood that the northern side of the Princes Freeway past Brookvale Close is one such location and is currently being prioritised for funding. Sadly that funding has never been provided and the residents of Brookvale Close, Soldiers Road and the surrounds have to put up with the constant noise pollution and the angst that flows from the lack of quiet and privacy.

In addition to the noise issues, the lack of sound barriers allows people to use the area as a walkway across the Princes Freeway, which is dangerous to both those crossing illegally and the drivers who use the road. The

cyclone wire fence is regularly cut and broken. VicRoads appears to have a ranking system for the construction of noise barriers along the roads managed by it, but that system seems to change and has little consistency. I know, having visited and spoken to the local residents, that the residents on both sides of the Monash and Princes freeways are suffering.

Therefore I ask the Minister for Roads and Ports to meet with the affected residents and to instruct VicRoads to erect noise barriers along the Princes Highway at Beaconsfield east of Beaconhills College and the affected residential areas to the north of this location and to ensure that there are sufficient funds so that noise barriers can be built as soon as possible. To have allowed the situation to exist for so long is a disgrace. It is time for action.

Floods: Newry

Mr P. DAVIS (Eastern Victoria) — I raise a matter for the attention of the Minister for Finance, WorkCover and the Transport Accident Commission in the other place. It relates to a matter which has been raised previously this evening by my colleague Peter Hall. It seems to me that the problem of insurance claims in the Newry area is a matter of great concern for Victorians because in the insurance market we have people who play fairly and people who play unfairly. I refer specifically to CGU, which is a wholly owned subsidiary of the Insurance Australia Group. Unlike all of the other companies with whom claims have been lodged by Newry residents, CGU has refused claims made to it, notwithstanding that hydrologists' reports for the other companies involved in claims confirmed that in their opinion the activity around Newry could reasonably be described as a storm event and that claims have been accepted by other companies.

I suggest that some of the companies have acted extremely ethically. They include Allianz, Australian Pensioners Insurance, Wesfarmers, Elders and RACV Insurance. Interestingly though, RACV is a related entity to CGU through a business relationship with the Insurance Australia Group. Indeed there is a strategic alliance between RACV and IAG where IAG effectively underwrites insurance policies for RACV. Without going through the boring business arrangements of insurance companies, what I say is that IAG and CGU have not been fair to the people who had homes damaged to the extent that they cannot live in them and cannot get on with their lives, because even now those claims have still not reached a conclusion in respect to how CGU will eventually deal with them, although they have been initially refused.

I urge the Minister for Finance, WorkCover and the Transport Accident Commission, who has responsibility for insurance matters in the Victorian government, to vigorously press IAG and CGU to behave ethically in regard to six claimants who are basically turfed out of their homes and have no prospect of securing a recovery to a normal life simply because CGU is so miserable.

Rail: northern metropolitan lines

Mr GUY (Northern Metropolitan) — Today I seek action from the Minister for Public Transport in another place. I have noted over the years that the Labor government has used songs to advertise itself. Bus services are advertised at present by song, as were some of Connex's campaigns. I note that the government also used the tune *Eagle Rock* to advertise itself not too long ago.

In seeking action from the Minister for Public Transport in relation to the four very overcrowded rail services in my electorate — the Hurstbridge, Epping, Upfield and Broadmeadows lines — I would like to assist the minister to answer this matter by giving a realistic appraisal of the current condition of services on these lines. Ministers seem to have a problem responding to some opposition-raised issues on the adjournment, so I am going to try a novel way to get the minister's attention.

Honourable members interjecting.

Mr GUY — Just as we have a new leader, but the same old government, I have a new take on the *Eagle Rock* tune, with some new lyrics to the same old song. I assure you, President, they are parliamentary. My new lyrics to the song are:

Now listen,
Oh we're squashin' in,
I can't turn around,
Can't turn around once 'cause we're doing the Kosky Crush.
Oh Brumby!
Oh we're packed in well!
Hmm yeah doing the Hitachi drill,
Well we do it so well when we do the Kosky Crush.
Now Siemens!
Yeah you're brakin' fine!
Why don't you stay on time?
Hmm just stay on time and we'll do the Kosky Crush.

And then the chorus:

Hey hey hey, good old Kosky Crush's here to stay,
I'm not crazy 'bout — —

The PRESIDENT — Order! I hope Mr Guy is not singing it!

Mr GUY — I am not.

The PRESIDENT — He had better not be.

Mr GUY — It goes on:

I'm not crazy 'bout late train moves,
Doin' the Member for Altona Crush.
Oh oh oh get on late and you'll get off later — —

The PRESIDENT — Order! I have a couple of points to make. I have to say I am very uncomfortable with this. I do not think it is appropriate. In fact I will not say it is unparliamentary, but I am just not comfortable with it. Mr Guy refers to Minister Kosky as 'Kosky'. That is definitely inappropriate; and he also makes reference to the Premier. I ask him to withdraw all of that nonsense he just went on with in terms of pseudo-singing and the like and to just refer only to those relevant issues raised for the minister.

Mr GUY — President, I will withdraw and will replace, for your benefit, the surnames with the terms 'member for Broadmeadows' and 'member for Altona' if that is considered parliamentary. I will read the last part and finish my adjournment issue. As it went:

Oh oh oh get on late and you'll get off later,
I'm not crazy 'bout the way we're bruised,
Doin' the Member for Altona Crush.

There is another part, which I will not — —

The PRESIDENT — Order! I want the member to stop. Perhaps he did not understand what I said. I want him to withdraw all that nonsense and not come back to it either.

Mr GUY — Would the President like me to replace the terms which were unparliamentary — the references to the surnames?

The PRESIDENT — Order! The whole reference to that and the member's attempt to wax lyrical and refer to it in some sort of poetic style or whatever, is inappropriate in terms of the adjournment debate. In my view the inclusion of those names and references to the Premier et cetera is unacceptable.

Mrs Coote — On a point of order, President, I seek clarification. Could I ask what standing order it would actually come under if the member were to rephrase that and replace the names of those members?

The PRESIDENT — Order! I am not sure I am referring to a particular standing order. I am talking about the context in which the member is asking for a specific action of a minister.

Mr Guy interjected.

The PRESIDENT — Order! And that is fine, but I am talking about the member then moving into some poem-cum-song et cetera and trying to deliver it. It makes me very uncomfortable, and I do not think it is appropriate. That is the part I am saying will be withdrawn.

Mrs Coote — I thought we were supposed to operate under standing orders here. I believe the member still has over 1 minute to go and will perhaps come to the conclusion. I would like to know what standing order relates to reading poetry in this chamber.

The PRESIDENT — Order! The raising of a pseudo poem-cum-song in a manner that can only be described as criticising ministers and the Premier does not conform with the standards I would agree to or support in the house. The custom of this house is that those sorts of things would not be approved, and I do not approve of them. If the member wants to talk about a specific standing order, I will refer to the fact that I will exercise my judgement as to what I consider appropriate or the standard I require in the house.

Mr GUY — If that is your wish, President. I obviously find it extraordinary. I certainly do withdraw, if that is what the President deems appropriate.

The PRESIDENT — Order! I am sure the member is not reflecting on the Chair's judgement.

Mr GUY — I certainly would never reflect on the Chair's judgement — ever! Having said that, President, I do have about 1 minute to go. I sought action from the Minister for Public Transport. I have not, in anything I have referred to in my comments today, sought to judge anyone except to say that the transport system in my electorate, and the four lines that travel through it, is woeful — utterly woeful. I am entitled to ask for action for more services to be provided on the four lines I have mentioned, as commuters are sick to death of promises amounting to nothing. The minister can also hurry up and build the extension to South Morang as has been asked for. They are the adjournment actions I seek on this very quiet, uneventful Thursday afternoon.

Public transport: eastern metropolitan area

Mrs COOTE (Southern Metropolitan) — I have an adjournment matter for the Minister for Public

Transport in another place, and it is in relation to the lack of transport in the eastern region.

I have come across some verse I would like to read into this chamber. It is:

> Now listen,
> Oh we're squashin' in,
> I can't turn around,
> Can't turn around once 'cause we're doing the Member for Altona Crush.
> Oh Mr Premier!
> Oh we're packed in well!
> Hmm yeah doing the Hitachi drill,
> Well we do it so well when we do the Member for Altona Crush.
> Now Siemens!
> Yeah you're brakin' fine!
> Why don't you stay on time?
> Hmm just stay on time and we'll do the Member for Altona Crush.

The chorus:

> Hey hey hey, good old Member for Altona Crush's here to stay,
> I'm not crazy 'bout late train moves,
> Doin' the Member for Altona Crush.
> Oh oh oh get on late and you'll get off later,
> I'm not crazy 'bout the way we're bruised,
> Doin' the Member for Altona Crush.
> Go training!
> Well you're packin' in fine!
> Why don't you give us more lines?
> Just gotta give us more lines as we're doing the Member for Altona Crush.

The PRESIDENT — Order! I refer to the guidelines for the adjournment, and I will read them to assist the member.

> Members should adopt the following four-stage process for raising matters:
>
> 1. Indicate the minister to whom the matter is being directed.
> 2. Give a brief and succinct summary of the facts.
> 3. Set out the request, query or complaint.
> 4. Suggest the action sought.

I also refer to previous decisions with regard to singing — whilst I am not suggesting for one moment that the member was breaking out in song. It was a ruling by a previous President that singing is highly inappropriate for a member in the chamber. Again the member should be succinct and to the point. I am not sure she is there yet.

Mrs COOTE — I had in the vicinity of over 1 minute to go before I was interrupted on this issue. However, I would like to put on the record my praise for the verse from my colleague Mr Guy, and I would ask the minister to please, as a matter of urgency, increase the public transport and the Telebus in particular in the eastern region.

The PRESIDENT — Order! Before we conclude this evening, I would also remind the house that it is inappropriate to raise matters on the adjournment in the form of verse.

Mrs Coote — On a point of order, President, for clarification, what was the number of that standing order?

The PRESIDENT — Order! There is no actual standing order. It is the practice of the house, and one that I am going to maintain.

Responses

Hon. J. M. MADDEN (Minister for Planning) — Mr Vogels raised a matter concerning small businesses around sawmills in Broadford, and I will refer this to the Minister for Small Business in the other place.

Mr Hall raised the matter of the flood recovery task force and support for those who had been rejected by their insurers, and I will refer this to the Premier.

Mr Finn raised the matter of Superintendent Graham Kent's comments in relation to policing matters, and I will refer this to the Minister for Police and Emergency Services in the other place.

Ms Kronberg raised the matter of the water pipeline issues, and I will refer this to the Minister for Water in the other place.

Mrs Petrovich raised the matter of animal wildlife emergency shelter services, and I will refer this to the Minister for Environment and Climate Change.

Mr Atkinson raised matters around Whitehorse Road, and I will refer them to the Minister for Roads and Ports in the other place.

Mr O'Donohue raised the matter of noise barriers and freeway treatments in the south-east, and I will refer this to the Minister for Roads and Ports.

Philip Davis raised the matter of CGU and IAG insurers and other associated insurance issues for the Minister for Finance, WorkCover and the Transport Accident Commission in the other place, and I am happy to refer that matter to him.

Mr Guy and Mrs Coote raised matters for the Minister for Public Transport in the other place. I would be interested to know if they breached any copyright entitlements; however, I will refer that to the minister.

The PRESIDENT — Order! The house now stands adjourned.

House adjourned 5.31 p.m. until Tuesday, 21 August.