

**PARLIAMENT OF VICTORIA**

**PARLIAMENTARY DEBATES  
(HANSARD)**

**LEGISLATIVE COUNCIL  
FIFTY-SIXTH PARLIAMENT  
FIRST SESSION**

**Thursday, 7 October 2010**

**(Extract from book 15)**

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**Select Committee on Train Services** — Mr Atkinson, Mr Barber, Mr Drum, Ms Huppert, Mr Leane, Mr O'Donohue and Mr Viney.

**Standing Committee on Finance and Public Administration** — Mr Barber, Mr Guy, Mr Hall, Mr Kavanagh, Mr Rich-Phillips, Mr Tee and Mr Viney.

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Leane, Mr Shaun Leo	Eastern Metropolitan	ALP	Vogels, Mr John Adrian	Western Victoria	LP

<sup>1</sup> Appointed 3 February 2009

<sup>2</sup> Appointed 9 March 2010

<sup>3</sup> Resigned 1 March 2010

<sup>4</sup> Resigned 9 January 2009



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**Thursday, 7 October 2010**

**The PRESIDENT (Hon. R. F. Smith) took the chair at 9.34 a.m. and read the prayer.**

## PETITIONS

### Following petitions presented to house:

#### **Adelaide Street, St Albans: subsidence**

To the Honourable the President and members of the Legislative Council in Parliament assembled:

The petition of the undersigned citizens of the state of Victoria respectfully sheweth that ratepayer and citizen Mr Gavan Aitken wrote to the government-appointed administrators of the Brimbank City Council on 11 April 2010 with a request that they arrange a site meeting involving themselves, himself and the state member for Kororoit, the Honourable Marlene Kairouz, MP, in reference to damage, hazards and works arising from subsidence in Adelaide Street, west of Albert Crescent, St Albans, which the council's engineers are of the opinion is a consequence of a failure in a sewer caused by water flowing from a burst supply main (unusually situated in the same easement) several years ago.

The administrators sitting as Brimbank City Council have still not responded to Mr Aitken.

Brimbank City Council has so far had to wear the cost of repairs to kerb and channel as well as the cost of reinstating the asphalt road surface in Adelaide Street, even though neither the underlying fault — in a City West Water asset (the household connection branch or HCB from the sewer to 15 Adelaide Street) — nor the resulting subsidence have been corrected.

It is a significant concern that a broken sewer asset in a residential area is under the greatest stress after business hours, when residents are at home, the municipal offices are closed, City West Water is most certainly not open and help cannot readily be found.

It is at these times and on major public holidays that this damaged and defective sewer has become blocked and is at the greatest risk of doing so again, thereby posing a not insignificant local health risk.

Your petitioners note that the Local Government Act 1989 provides as follows:

1. (4) It is the role of the council to provide governance and leadership for the local community through advocacy, decision making and action.

Your petitioners therefore humbly pray that the Minister for Local Government will direct the administrators of the Brimbank City Council to convene a site meeting with Mr Aitken and the state member for Kororoit outside 15 Adelaide Street, St Albans, before the Parliament of Victoria rises for the next general election.

And your petitioners, as in duty bound, will ever pray.

**By Mr FINN (Western Metropolitan)  
(12 signatures).**

**Laid on table.**

### **Transport: infrastructure**

To the Legislative Council of Victoria:

The petition of the residents of West Footscray, Kingsville, Sunshine and surrounding communities draws to the attention of the house that funds used for WestLink should be spent on more cost-effective and sustainable infrastructure for Victoria.

This includes the immediate implementation of the three inland ports that are connected to the port of Melbourne by rail, as recommended in the east-west link needs assessment.

The petitioners therefore request that the Legislative Council of Victoria reconsider the development of WestLink immediately and instead redirect the proposed funding allocated for WestLink to more sustainable, long-term infrastructure like rail.

**By Ms HARTLAND (Western Metropolitan)  
(165 signatures).**

**Laid on table.**

### **Buses: route 536**

To the Honourable the President and members of the Legislative Council assembled in Parliament:

The petition of certain citizens of the state of Victoria draws to the attention of the Legislative Council that route 536 bus services between Glenroy and Gowrie need to be increased.

Your petitioners therefore pray/request that route 536 bus services be extended to operate between 6.00 a.m. and 9.00 p.m. on weekdays, 8.00 a.m. and 9.00 p.m. on Saturdays and public holidays, and 9.00 a.m. and 9.00 p.m. on Sundays, Christmas Day and Good Friday.

**By Ms HARTLAND (Western Metropolitan)  
(26 signatures).**

**Laid on table.**

## AUDITOR-GENERAL

### **Reports 2009–10**

**Mr LENDERS (Treasurer), by leave, presented response by minister for finance.**

**Laid on table.**

## STANDING COMMITTEE ON FINANCE AND PUBLIC ADMINISTRATION

### Builders warranty insurance

**Mr RICH-PHILLIPS (South Eastern Metropolitan) presented final report, including appendices and extracts of proceedings, together with transcripts of evidence.**

**Laid on table.**

**Ordered to be printed.**

**Mr RICH-PHILLIPS (South Eastern Metropolitan)** — I move:

That the Council take note of the report.

The report arises from an own-motion reference by the standing committee to look at the vexed issue of domestic builders insurance, more commonly known as builders warranty insurance. The committee has looked at a number of elements with respect to the domestic building insurance product. It has considered the current model that exists in Victoria, consumer perspectives, industry perspectives and alternative schemes.

I have to say that through the course of the inquiry there was a substantial change in the way in which the domestic builders insurance product operates in Victoria, with the government, through the Victorian Managed Insurance Authority, assuming responsibility for the product earlier this year. What emerged from the inquiry was that there has been widespread consumer concern surrounding the way in which the product has operated, largely the committee believes due to a misunderstanding as to the purpose of the product and the type of coverage that it provides versus consumer expectation.

The committee received a number of submissions from, in particular, parties to building contracts that had resulted in disputes between the builders and the customers where the clients had not received satisfaction because they had not been able to access the building warranty product. The committee heard some stories about how devastating it had been for the people who had been affected by those particular circumstances.

In its final report the committee has not recommended widespread changes to the product. However, one recommendation we have made is for a change in the name of the product to more accurately reflect the type of coverage it provides and the fact that it is not a

warranty product, which seems to be the crux of the issue — a belief among people who commission building works that they have warranty insurance when they do not.

It has been a very interesting piece of work for the committee to undertake. I would like to thank the witnesses who made submissions to the inquiry: insurance companies and government agencies, as well as homeowners who have an interest in this matter. I thank the committee secretariat under Richard Willis for its work on this report, and in particular I thank Susan Brent, who was the officer responsible for drafting the report. I believe she has done an excellent job. I commend the report to the house.

**Mr HALL (Eastern Victoria)** — Builders warranty insurance has been and continues to be a topic of a fair amount of controversy in Victoria, and that is because builders warranty insurance is not a well-understood concept. Currently it is mandatory by law for builders and others to provide builders warranty insurance, but the nature of that insurance, the extent of it and its application is still not well understood by the public. When we talk about builders warranty insurance most people believe it is an insurance for which they pay that covers all aspects of their building work, including coverage against defective building work. It does not; it has a very limited application, and those who have followed this debate are well aware of that.

The committee has had a look at this particular product, and as Mr Rich-Phillips said, the committee did not come forward and make recommendations for wholesale changes to the scheme. Beyond what Mr Rich-Phillips highlighted — that is, a more appropriate naming of the scheme — there is one recommendation of note in this report, recommendation 5.1, which says:

The government, in consultation with industry and consumers, should undertake and publish a comprehensive cost-benefit analysis of:

- (a) a mandatory first resort builders warranty insurance scheme in Victoria ...

I think that is essential. That is the next step towards a better understanding and potential major reform of builders warranty insurance. That work needs to be undertaken. It is beyond the resources of this select committee to undertake an extensive cost-benefit analysis of different schemes; it is something I think that whoever forms government beyond 27 November should commit to.

As recommendation 5.1 goes on to say, there should also be a cost-benefit analysis of the scheme:

- (b) offering builders and consumers an option of upgrading from last resort to first resort insurance.

Quite frankly, I think this is unfinished work. Certainly cost-benefit analyses of various options should be undertaken, and then we may be better able to judge what consumers need and what the industry needs for the future.

It was an interesting exercise. I recommend this report to members and the Victorian public. It is an easy-to-read account of the background of builders warranty insurance as it applies in Victoria and other states across Australia. It is a useful document in terms of further progress towards resolving what has been and continues to be a controversial issue.

**Mr TEE** (Eastern Metropolitan) — I too wish to make some comments on the final report of the Standing Committee on Finance and Public Administration's inquiry into builders warranty insurance. I think the inspiration behind this report and the reason we proceeded to look at this issue was very much the interest that Mr Guy has in this subject. The committee received submissions and heard evidence from a number of witnesses in relation to the way in which the builders warranty insurance scheme operates in Victoria.

The starting point for any overview of this scheme is the context in which it occurs. If we look at the building industry in Victoria, and the domestic building industry in particular, we will see that it is one of the best in the country in terms of the volume of work that occurs. We also know from the material in the report that some 80 per cent of consumers do not have any problems with their domestic buildings, and of the remaining 20 per cent — those consumers who have issues with their builders — some 91 per cent of cases are resolved in a way which is satisfactory to those consumers. We are talking about a small proportion of the community of consumers who have an adverse experience which is not satisfactorily resolved. The committee heard from some such consumers.

It is fair to say that some of the experiences individuals have had are very difficult in terms of the amount of time and money that has been consumed as they have sought to resolve their issues with their builders. There is also the emotional impact on those individuals who are caught up in disputes with their builders.

It is in that context that the committee did its work. In terms of building warranty insurance, it considered a number of alternative models, including the one in Queensland, which is a broader-level model, and, at the other extreme, the Tasmanian model, which is a

voluntary model and is therefore not as encompassing. As other speakers have noted, the report does not recommend the adoption of either of those alternative models and does not make recommendations for wholesale change to the Victorian model. I think that is the right outcome in terms of the evidence that was heard.

That is not to say that we ought not continue to monitor this insurance, which, as I said, can have a major impact on individuals and on the industry. In that regard I note that this is an industry that has had a number of reviews. There was a review by the Victorian Essential Services Commission, there was a Senate review and there was a review by the Victorian Competition and Efficiency Commission. It is an industry that has been well monitored by governments at all levels, and I hope it will continue to be monitored so that to the extent that we do need changes we are on top of those. A minority of individuals have difficult experiences, and we should continue to make sure that we look to improvements on their experiences.

Those reviews by the Essential Services Commission or the Senate or the Victorian Competition and Efficiency Commission essentially recommended, and so does this report, that we continue with the insurance regime but that the government continue to look at so-called front-end ways of resolving disputes between builders and consumers. The recommendations have been that governments look at ensuring that disputes between builders and their consumers are addressed early on and effectively. That is really what the evidence from the government to the committee has been in relation to — that is, it focused on those measures that the government has taken to try to assist consumers to resolve their disputes with builders early on.

We heard about a number of initiatives, including on-site conciliation. For example, the Building Commission is able to send an inspector down to a building site with the builder and the consumer to try to identify the issues. As a result of those inspections there might be outcomes and compliance notices might be issued. Those compliance notices might require rectification and set a time frame for that rectification. Where that rectification does not occur, there are then avenues for the commission and others to take steps in relation to the registration of that builder.

It is an important new innovation we have heard about, an innovation which from the annual reports has shown considerable success in requiring parties to sit down in a less formal and less legalistic environment to come to practical outcomes which will deliver for both the consumer and the builder. I welcome those initiatives

which have come through the evidence arising out of a number of other reports we have had. I thank the staff of the committee for their excellent work and for a report which summarises a lot of the issues that occur.

**Mr BARBER** (Northern Metropolitan) — As Mr Tee just pointed out, this is a phenomenon, or a policy, that affects a very small number of people, and yet as he also pointed out this area of policy seems to be somewhat intractable and constantly comes to the attention of politicians in various states and even federally. The committee found during this inquiry that that happens for a number of reasons. If this particular product operated in the way it does and affected a lot of people regularly, we would have a major controversy and it would be fixed in short order, but it is only after the fact for this small group of people that you find out exactly what the problem is in this area. Through this inquiry we have been quite successful, at least with the information available to us, at nutting out some of these problems.

The first problem with builders warranty insurance is the name. Most people think it provides a warranty in the same way as a warranty for a motor vehicle or a video player — that is, if the thing is no good, you send it back and it gets fixed or you are given a new one. Builders warranty insurance is really completion insurance but only in the instance where a builder either disappears, dies or goes broke. That brings us to the second thing we found out in the inquiry —

**Mr Viney** interjected.

**Mr BARBER** — As Mr Viney points out, our inquiry still being called a builders warranty insurance inquiry is in some way perpetuating this misunderstanding. The committee found that when a building project is stopped, particularly when there is a dispute or if there are problems with the work and it needs to be restarted, that in itself is an enormously expensive exercise. That situation points to the great difficulty in maintaining a viable insurance product. It is never a situation we want to be in, because it is always going to be extraordinarily difficult, expensive, time consuming and distressing to fix.

That brings us to our third dilemma: do we really want that to be the situation or do we want to look at models we have had in the past and models in the other states, where the government as the insurer takes a much more active approach not only in sorting out this particular type of circumstance but in preventing it from happening and more generally raising the standard of consumer protection across home building as a whole?

There is no question that building a home involves a major purchase, often a once-in-a-lifetime purchase, and therefore there is a good case for better consumer protection in this area. The complaints of builders have been that with the current compulsory but poorly provided model they are forced to pay for a product that most people are dissatisfied with.

We heard good evidence about successful models in other jurisdictions where the combination of builder registration, general complaints and raising of standards in relation to how builders operate and the resolving of specific complaints — whether they be about poor workmanship, or in this case the more narrow case of a builder disappearing, dying or going broke — was handled in a more active way.

At the moment we have Consumer Affairs Victoria doing that in a kind of way and we have the building registration authorities doing it in a kind of way. We were presented with this amazing ‘noodle nation’ flow chart of how a particular complaint might be handled, and we more or less came to the view that that is an unsatisfactory state of affairs.

Our inquiry had a bit of a breaking point when in midstream the government stepped into the breach to become the underwriter of this insurance product. In a way that really changed the ball game, because as time goes on there will be another set of inquiries about how that new regime is operating. Suffice to say, whatever problems you had with the insurance product as either a builder or a consumer up until now, as sure as night follows day under this new system the politicians are going to be deeply involved. Anybody with a beef with this product is going to be going to the minister for finance, the minister for building — which in this case is the Minister for Planning — and the Minister for Consumer Affairs, all of whom will be trying to sort out this messy public policy problem in various ways.

**Mr KAVANAGH** (Western Victoria) — As a member of the Standing Committee on Finance and Public Administration and as someone who has raised the issue of BWI (builders warranty insurance) in the house, I feel it is appropriate to make some comments.

Like Mr Guy, I was anxious that the committee look into BWI, because it is a matter that concerns quite a lot of people. Indeed the committee heard from a range of people who are extremely upset about the situation relating to BWI, both as consumers and as builders. We heard a lot of allegations about the way that BWI in the present system disadvantages builders. It costs them very dearly and they get very little from it. Indeed there

were even stronger assertions made about the way the system works than that.

I think the committee could have gone a bit further and should have gone further in its recommendations about BWI because not only is a better system possible but better systems seem to operate in other parts of Australia. It seems to me that we should have gone further. Mr Hall referred to the report as unfinished work. I think the report is unfinished work and that the matter should be open for further consideration.

I would like to thank the committee staff, who were always helpful and professional in the assistance they gave to the committee.

**Motion agreed to.**

## STANDING COMMITTEE ON FINANCE AND PUBLIC ADMINISTRATION

### Activities for the 56th Parliament

**Mr RICH-PHILLIPS (South Eastern Metropolitan)** presented report, including extracts of proceedings.

**Laid on table.**

**Ordered that report be printed.**

**Mr RICH-PHILLIPS** (South Eastern Metropolitan) — I move:

That the Council take note of the report.

This is a summary report of the committee's activities over the course of the 56th Parliament. The committee was established at the beginning of 2008. It is unique in character in so far as it consists of a non-government majority. It has self-referencing powers, and it has the ability for committee members to substitute other members of their party in their place.

The committee has undertaken a number of inquiries throughout the last three years. The first was a reference from the Legislative Council into the business case for channel deepening. The committee then established an own-motion investigation into departmental and agency performance and operations. This was a standing inquiry which allowed the committee to examine aspects of operations of government agencies on an individual and relatively detailed basis, which is a mechanism that has not existed elsewhere in this Parliament.

Over the course of the committee's existence it has undertaken inquiries under that reference into

VicForests, Goulburn-Murray Water, the Victorian Funds Management Corporation, the Victorian Skills Commission, the Growth Areas Authority, the Department of Health in relation to the January 2009 heatwave, the Ombudsman's inquiry into the Brookland Greens estate — investigation into methane gas leaks, the Victorian Bushfire Reconstruction and Recovery Authority and the Department of Human Services child protection program. The committee also separately established inquiries into public hospital performance data; the business case for water infrastructure; the Victorian government decision-making consultation and approval processes, otherwise known as the Windsor inquiry; and an inquiry into builders warranty insurance, on which the committee has just tabled its final report.

The summary report is a useful document as the Parliament goes forward with its new committee structure in the 57th Parliament, and as such I would commend this report to those members of the Legislative Council who will be forming the new committees in the new Parliament. This committee was in many respects an experiment, and some of its references and the way it operated were experimental. It would be useful for future committees to learn from the experiences of this committee. In particular the committee's inquiry into departmental and agency performance and operations was a useful tool to allow the Parliament to have ongoing scrutiny of agencies and operations which normally would not get parliamentary scrutiny due to their unique nature, being relatively small size.

In concluding I would like to thank my fellow members of the committee: deputy chair Mr Viney, Mr Guy, Mr Barber, Mr Kavanagh, Mr Hall, Mr Tee and, prior to Mr Tee joining the committee, Ms Broad. The committee also had a number of substitute members operating on various inquiries throughout its life, and I would also like to thank those members. Finally, I would like to thank the Council committees office under Richard Willis's leadership as well as the other staff who worked with the committee, Anthony Walsh, Susan Brent, and Sean Marshall, for their dedication and hard work on the committee's inquiries over the life of the 56th Parliament.

**Mr BARBER** (Northern Metropolitan) — I echo Mr Rich-Phillips's sentiments and also thank him for the way he has chaired the committee over this period.

**Mr KAVANAGH** (Western Victoria) — I too endorse those comments and thank Gordon Rich-Phillips as well as the committee staff for their help.

**Motion agreed to.**

## RURAL AND REGIONAL COMMITTEE

### Extent and nature of disadvantage and inequity in rural and regional Victoria

**Mr DRUM (Northern Victoria) presented final report, including appendices and minority report, together with transcripts of evidence.**

**Laid on table.**

**Ordered that report be printed.**

**Mr DRUM (Northern Victoria) — I move:**

That the Council take note of the report.

This report is a body of work that consumed most of this year. It took the committee right around the state. Of the four reports this committee has done and the three in the last Parliament that I was involved with I think this is the best, and it is the best I have ever been associated with. To go out into areas of rural and regional Victoria to do this inquiry and come up with the body of evidence that we received was something that made us very much aware of how people in the region are travelling.

Why do an inquiry into disadvantage in Victoria? We are a wealthy society. People from the rest of Australia and the world want to come and live here. That is because life is good. Unfortunately it is not good for everybody. Professor Tony Vinson is one of the most influential researchers and social commentators in Australia, and over the past several years he has been carrying out an ongoing project looking into disadvantage across Australia, including Victoria. The sorts of things he has found mean that we have no excuse to be complacent.

Pockets of communities across the state are performing poorly in education, health, employment and social cohesion. Disturbingly, many of the problems are becoming ingrained. There is increasing evidence that in parts of Victoria we are beginning to see what is termed 'generational disadvantage' — for example, unemployment is now seen to be affecting second and third generations of families. This is simply inexcusable on a social justice level. Unemployment, as we all acknowledge, is unacceptable. It is unacceptable on a practical level, because the longer it goes on, the harder it is to fix. That is why we need to keep being vigilant.

No society is perfect; we understand that. We understand that no government is perfect. The aim of this inquiry was not, as has been suggested by some, to attack the government. The aim was to travel to the four

corners of the state to listen to the people of Victoria speak about the challenges that exist, find out what they are doing, what programs are working well and, crucially, to find out what needs to be improved to help them.

Right from the very first bounce of this inquiry we heard the phrase 'the web of disadvantage'. This means there are many contributing factors why people experience disadvantage. Undoubtedly at the centre of this web of disadvantage is education.

As I mentioned in the foreword of the report, the idea for this inquiry came to me back in 2009 when I listened to Mr Ken Carr of Mildura. Ken is one of many great people in the Mildura region; he is hard working and trying to tackle disadvantage in north-west Victoria. He told us then how he traced so many of the community's problems directly back to low school completion rates. He told us to just look at the statistics: in Melbourne completion rates sit above 85 per cent; outside Melbourne they are barely around 70 per cent. In some places the rates are even worse. It is for that reason that 15 of the 50 recommendations in this report concern education.

A witness, Margaret Kent from the Maryborough neighbourhood renewal program, said:

... education is the single biggest protective factor against poverty.

All the evidence suggests this. We know our society is becoming increasingly competitive and school levels are so important in terms of getting ahead in life. Everywhere the committee went — Benalla, Mildura, Portland, Mallacoota and Corryong — we heard the same thing: we need to do everything we can to keep our kids in education.

One of the major issues many young people face is those transition points at school. Around years 6 and 7 there is a big change from a small primary school to a larger secondary school. For many country kids this is a time in their lives when there is a lot going on and things can get tough. We need our schools to be flexible enough to keep them in school to ensure that they do not become disengaged. City kids are not immune to this problem, but the effect can be much worse in the country where small schools by their very nature do not have the ability to offer as many subject choices. In the regions there is simply not another school 3 kilometres around the corner where kids can go if the school they are at seems to be giving them problems.

We tried to find out many times the exact number of young people who are not at this point in time engaged

in school, but we just could not find that number. That is why we have recommended to the government the development of a system of tracking school students. That would mean we always know when a young person finds it too tough and when school becomes irrelevant in regard to where that young person wants to go in life. Then we can jump in and do something about it.

**Ms Darveniza** interjected.

**Mr DRUM** — It is also why the committee has recommended, Ms Darveniza — and we have dedicated a considerable section of the report to this issue — that the government act on alternate education models. These models are the types of school settings where you can change the mainstream education model that does not always suit the needs and skills of our young people. These alternate education models can capture the imagination and interests of kids who simply need to walk down a different path in order to achieve their best.

**Ms Darveniza** — Come on! You can do better than this.

**Mr DRUM** — Ms Darveniza, you are true to form. You have been a total obstructionist right through the whole inquiry, so do not stop now! You have tried to do your best.

**Ms Darveniza** interjected.

**The PRESIDENT** — Order! Ms Darveniza! Mr Drum is to continue speaking through the Chair.

**Mr DRUM** — These models are needed in Victoria, and they have been proven to work. We visited the Doxa Youth Foundation organisation in Bendigo and we saw the great work it is doing; we saw the great people at NETschool and the work they are doing in Bendigo. We were surprised at how few of these alternative school models are in place throughout Victoria. We know that more can and must be done. We need to increase the funding for these alternative education settings. We need to make sure that every cent of funding allocated to students in Victoria is spent on re-engaging those students who are currently not being reached — —

**Ms Darveniza** interjected.

**The PRESIDENT** — Order! Ms Darveniza!

**Mr DRUM** — To do this we should take advice from the people at Doxa and NETschool. They are already making a difference, they know the problems

that exist and they should be entrusted with the opportunity to make these programs work.

**Ms Darveniza** interjected.

**The PRESIDENT** — Order! Ms Darveniza is warned.

**Mr DRUM** — All this is not to deny the great work that is already being done by many rural and regional communities around Victoria — teachers, principals and parents alike. Time and again when we visited communities during this inquiry we heard one word: aspiration. We found out why some communities, some families and some schools are doing well: aspiration. When communities expect the best from their young people, then they tend to get the best. Rural and regional Victorians everywhere are passionate about their education and about their young people. They need to be committed to providing the best, and they deserve our support.

But this was not an inquiry on education alone — the state of health of communities across Victoria is very concerning, and again we heard that everywhere we went. A particular concern was the health of farming families. We even heard from Associate Professor Susan Brumby from the National Centre for Farmer Health in Hamilton and the Sustainable Farm Families program. Susan Brumby spoke to the committee in Portland in March, and she provided us with some shocking statistics on farmer health, including on heart problems, stress problems, alcohol-related problems and a range of other issues. What struck the committee most was when she warned us about what she called the oncoming tsunami of diabetes. All the recommendations surrounding health are important, but it is very important that the state government fast-track a public health campaign on diabetes in the farming communities, including information on prevention and how to recognise symptoms. This could be done in conjunction with the organisation that Susan Brumby is working with, the National Centre for Farmer Health.

One of the problems is that farmers are hard to reach. They are not stoic in the sense of refusing help, but they are proud and busy. Whilst they will take help when it is offered to them, they will not necessarily go looking for it. They will not take time away from their busy schedules to seek help. It is very difficult to reach farmers and give them the assistance they need so they can enjoy better health, have more check-ups and get to the specialists and other health professionals they need.

One of the more memorable witnesses we heard from in the course of this inquiry was a man by the name of

Ivan Lister from Benalla. He is an outreach worker funded by the Benalla and District Memorial Hospital. Many of the stories he told us were about the physical and mental health challenges faced by farming families and the good work that can be done with outreach — effectively the type of work he is doing. Much of his story has been put into the report. It is compelling. This chap is acknowledged in his region as the bloke who saves lives. This work needs to be acknowledged. It needs to be highlighted that the work this individual does is critical, yet the funding for his position was terminated many months ago. I do not know how he is being funded. I think the local health service is trying to scrape together funds from other areas and direct them to this outreach counsellor.

The recent rains have certainly put a smile on the faces of our farmers, but it is still going to be impossible to overstate just how much the drought has knocked them around. We need to be aware of that. They have been knocked around financially and also in their morale and levels of hope. Plus we can see that the health needs will be ongoing. The health needs and stress are not going to stop, and these financial problems are not going to stop the moment there is a bit of rain around. The government has to ensure that funding for regional health organisations includes an appropriation for employment of outreach workers to make sure that work continues. That work goes to one of our key recommendations.

There is also a pressing need for better oral health outcomes across the state. The statistics simply cannot be ignored. There are just not enough dentists in country Victoria. Where there are dentists their waiting times are extremely high. In Wangaratta we have to wait more than 36 months, in Maryborough we have to wait 34 months and the people in Corio are considered lucky because they only have to wait 25 months to see a dentist in a public setting. It is interesting that in the areas of poverty and disadvantage the first aspect that is impacted upon in the community dynamic is oral health. Poor oral health is the first way in which disadvantage and poverty manifests itself in the community.

Another topic brought to the committee's attention during the inquiry, and one that always raises its head for the government of the day, is funding. We all want to give more to everyone. What a great world it would be if we could do that, but we need to be realistic and pragmatic. We do not have a bottomless pit. Although we have made recommendations around increasing support in vital areas such as help for students with disabilities, homeless shelters and oral health — all areas which deserve more resources to be allocated to

them — this is not the only approach we have taken. Funding models do not only need to be bigger, they need to be more effective. We can be a lot smarter in responding to the ever-changing society; that is just common sense. We have put in the report recommendations around better funding models.

What can we do? What has the committee recommended when it comes to funding models? We can listen to the local service providers when funding is being allocated to ensure that it is spent where it needs to be spent and that the amount is sufficient to make a difference, and we must ensure that the funding does not come to a sudden stop. We have had that problem put to us around the neighbourhood renewal program. It is a fantastic program doing a lot of great work and we are getting some good outcomes from it, but we need to be mindful of the fact that when we run these programs for four to eight years and then the money stops there will be some anxiety about whether we will retreat to where we were prior to the support coming in. We need to give some certainty to community groups about the amounts of funding they will get. We need to end the situation where you might get \$5000 one year, \$20 000 the next year and none the year after that. The councils and the health community groups simply cannot organise their funding on that basis. They need to have an understanding as to how much money they are going to get.

Inherent in all this is the recognition that one size does not fit all. We heard Frances Ford, a rural access worker who spoke to us in Lakes Entrance, underline the importance of this when she said, 'If we could get it as an accepted principle, it could be applied in so many different concepts — that Melbourne-centric policy is not acceptable in the regions'. We heard that around the state.

When they live in the more remote parts of the state it is harder for teachers and other professionals — those in Portland and Corryong, for example — to fulfil their professional development. We know that. For them to go to Melbourne to do courses is extremely difficult. When specialists have to go to Robinvale from Mildura or Swan Hill the community loses; members of the community lose from not being able to produce those specialists from their own community. We know that it is more difficult for the health providers of Seymour and Benalla to reach people who are only 40 or 50 kilometres away if it involves travelling over the mountain range. Even though when looked at on a map the distance they need to travel does not appear to be great, we know the outreach work that has to be done to produce the same levels of service delivery and



outcomes that we see delivered in Melbourne just costs so much more in the regions.

Geographic weighting must, therefore, immediately become an automatic part of all funding models for the state government. This is the only way to genuinely acknowledge the true costs incurred by service providers in rural and regional Victoria. Geographic weighting is, as it turns out, a key recommendation of this report. The committee has linked it to key recommendation 1, which is to do with rural proofing.

Rural proofing will mean that policy-makers have to monitor and review everything that they do to measure the impact on rural and regional Victorians. The aim is to ensure that government legislation and policy does not inadvertently disadvantage those living in regional Victoria, which often happens. The recent changes to liquor licensing legislation are a prime example. It was brought up more than once during the hearings. It comes to mind that this all could be averted if we had a form of rural proofing. The communities in regional Victoria are now very aware that rural proofing exists in other parts of the world. They want it here in Victoria because they are sick of putting up with decisions that are made without any understanding of their impact and consequences on regional Victoria.

The committee realises that it made this recommendation as part of its previous inquiry into regional centres of the future, and it understands the government did not agree with the need for it then. However, as a result of what committee members have heard in the last year, we think it is critical that this government, and any future government, put in place a genuine, independent form of rural proofing. We also know that it happens to be Labor Party policy, yet we cannot get the government to support it.

Over the course of the inquiry the government has taken note of the work the committee has done and of what the committee has been told and the advice it has received from the good people of country Victoria. Rather than waiting for the committee's report and giving it the respect and consideration it deserves, this government has picked up a lot of good ideas from the committee's hard work and consultations with people from rural and regional. Government members have sifted through the evidence and they have brought forward some of the new policies.

What I want is results for country Victoria. I am happy to see these results; that is important. However, some amazing coincidences have occurred in the last 12 months. The government has come up with some ideas for new policies and programs at the very same

time as the committee heard about those ideas from witnesses in rural and regional Victoria. These coincidences have often occurred, and I will take the opportunity to mention a few of them.

In June this year the ALP suddenly came up with a policy for rural proofing all cabinet decisions. The government members of the committee rejected the idea — I understand that — and the government rejected the idea when it was recommended in our last report; but apparently the party likes the idea. In September this year, as the committee was formulating its recommendations, the government provided funding for at-risk youth and for schools to identify the early warning signs of youth at risk. This issue is clearly set out in the committee's report. In July this year there was action to provide funding to increase kindergarten hours — another key issue that we heard about. I hope the government does not forget rural and regional Victoria when it is spending those funds.

A system of family coaches was announced in July. That was another great idea that came out of the committee's hearings in Seymour in May — another amazing coincidence. In June this year a magnetic resonance imaging machine was provided in Warrnambool and a review of cancer services was announced. We heard about that particular need in Portland in May. In October we heard the news that a framework would be implemented to help courts assess and improve the quality of justice and administration standards. That is amazing, because the government members of the committee did not support the committee's recommendation on that very subject. I am glad that the committee's efforts have been so influential, because we want to see results for rural and regional Victoria. People need to be listened to and their needs responded to. Rural and regional Victorians know what they need; they know what is required in their region.

Everything I have talked about today is in the report. It is all evidence that the committee heard from rural and regional Victorians. It is all in the recommendations, which are all based on what the committee heard. I hope the government takes the opportunity to look closely at this report. It is great that the government has been paying attention to the committee's efforts, even before the report was tabled today. That is fantastic.

What has been a major disappointment to me as chairman of this committee has been the attitude of committee members from the Labor Party towards witnesses. The level of bullying by the Labor members of the committee has been disgraceful. The government members of the committee had absolutely no interest in

listening to witnesses and facing the issues of disadvantage that exist in rural and regional Victoria. Nor did they have an interest at all in finding solutions or answers to areas of inequality, inequity and any disadvantages that were presented by the witnesses to the committee. From the very start of the public hearing process witnesses were confronted by hostile Labor government members who were interested only in minimising any embarrassment to the government due to their own inaction and ambivalence about facing up to and doing something about the problems they were hearing about.

The government members showed that politics was their only interest. That was truly disappointing. Witnesses were bullied at hearings, starting from the very first ones at committee hearings in Warracknabeal and Donald. Witnesses drove from as far as 2 hours away to engage with the committee, and they were greeted by Labor members who did not have any interest in listening to them but who bullied them until the witnesses were too intimidated to say anything. It was an embarrassment to me, and I could not help but think that if I had the same powers as the President has in this chamber, I would have thrown out the government members time and again. However, I did not have that ability, and I was not going to engage in an out-and-out fight in front of witnesses who had given up their time to come and give their evidence to the committee. It was embarrassing.

I congratulate my colleagues on the committee: John Vogels and Wendy Lovell from this place and Russell Northe, the member for Morwell in the other place. They were there to help pick up the pieces and reassure the CEOs, councillors, welfare workers, farmers and community members that, yes, we would listen to them and, yes, we were interested in what their issues were. We reassured them that not all members of Parliament would attack them if they dared to speak out about something. There was a complete lack of cooperation from the government members, who did not volunteer a skerrick of information. Even though the committee has as members parliamentary secretaries who have access to departmental figures, such statistics and figures were never forthcoming.

The input we got from people for this report was amazing. We had 195 witnesses at 15 different public hearings throughout Victoria, including some in more isolated locations that have never had a parliamentary committee visit. My heartfelt gratitude goes to all the witnesses for this inquiry. The individuals we met love where they live and love what they do, and their contribution to the community is priceless. I encourage them all to keep up the good work.

I also need to thank the secretariat, who were put through more stress and more pressure than anyone would ever need to be put through. Lilian Topic, the executive officer, did an amazing amount of work in contacting witnesses, supporting witnesses and compiling the report. The way it has been completed is a credit to her. I also thank Patrick O'Brien, who as the researcher is a tireless worker. He is a very smart and very strong individual who did an amazing amount of work to bring this report through. My thanks also go to Eleanor Howe, who has continually been there to make sure the committee works well and who also had input into the report with her skills as well. I really want to thank those three. I know that members from this side of the house have an enormous amount of time for the work the secretariat do and the skills that they possess. I want to thank the executive for the work they have done.

The report is worth its weight in gold, in my opinion, because of the input we had from the witnesses. It contains the voices of many people from rural and regional Victoria and from all walks of life. We have successful businesspeople dedicated to addressing issues in their communities, farmers, teachers, doctors, community health workers, lawyers, policemen and academics. This report reflects regional voices, regional concerns and is very much concerned with community-based solutions. The recommendations relate directly to these solutions, and I commend the report to the house.

**Ms TIERNEY** (Western Victoria) — Can I say right from the beginning that there is always more work that can be done to address the issues surrounding rural and regional social and economic disadvantage. That was the view the government members of the committee took into this inquiry. That is why we were particularly interested in making sure there was a cooperative approach to this inquiry. I will make some remarks later in my contribution today in respect of the way the committee functions, but at the outset I want to just put some pegs in the ground as to what our view from a government members' perspective has been in relation to this report. There is a minority report attached at the back of the publication that has been tabled today. The government members have supported the vast majority of recommendations contained in the report. I believe there are three recommendations that are not supported by the government members.

The chairman of the committee, Damian Drum, is quite correct: the committee did travel wide and far throughout regional Victoria in respect of this inquiry, as it was also dealing with the Wimmera–Mallee pipeline inquiry for part of that time as well. We heard

many inspiring stories of initiatives developed and implemented by local communities that were bringing about real change and helping to break the cycle of disadvantage. There were many examples of partnerships at a local level where we saw the outcomes and the ongoing good work of programs such as Best Start, neighbourhood renewal, Transport Connections, and the list goes on. They are clearly making a difference in our rural and regional communities with respect to health, education and social outcomes.

Unfortunately the committee was not particularly interested in learning more about which programs were working, which ones needed more support and how successful initiatives could be adapted and used in other communities. The non-government members were more interested in teasing out more about what was wrong in communities and ultimately were really wanting to talk down rural and regional Victoria.

At the outset the committee was not interested in creating benchmarks to look at exactly what government programs were already in existence across a whole range of portfolios and then going out there and checking and testing. The evidence we heard in rural and regional Victoria was that they were not working and they needed to be improvised, amended or added to; the inquiry was not anything like that. In many ways it was an exercise where the non-government members were more interested in trawling for negative elements all the way around rural and regional Victoria, which was really unfortunate.

There was very little acceptance of fact. I think that can be picked up from the remarks made by the chairman today — he basically implied that somehow in the last 12 months all of these things that he listed as initiatives have had something to do with this inquiry when this report had not even been published. The initiatives that he listed in terms of the positive promotions that have been happening in rural and regional Victoria are a net result of the two years of really hard work that this government has been putting in with non-government organisations and local government instrumentalities, councils and shires right across the state in its development of the blueprint for regional and rural Victoria. That is where the hard work has been done; it has not necessarily been done through the work of this particular inquiry.

It is of note that in the past decade there have been over 120 000 new jobs created in rural and regional Victoria. We have seen the state government facilitate more than \$11.7 billion in new investments and invest more than \$1.6 billion in the past four years in regional health, education and job-creating infrastructure.

We heard from witnesses that they were concerned with the terms of reference. A number of people, from the chief executive officer of Castlemaine Health, Graem Kelly, to a social planner from the East Gippsland Shire Council, Bruce Smith, and the chief executive officer of Hindmarsh Shire Council, Dean Miller, were concerned that there was negativity in the terms of reference which did not encourage people to highlight the good things they have been doing and the positive contributions made by their communities.

Other witnesses who appeared before the committee, such as Mary Pendergast, the principal of Warrnambool College, Tanya Rodinov, a GP from Donald, and police sergeant Brady from Corryong, were concerned that their comments be understood to have been made only in response to the terms of reference and that they did not want to talk down the many benefits there are in living and working in regional Victoria.

We had a number of examples of community-based initiatives, partnerships and models which are working really well in regional Victoria, ranging from the Wimmera Virtual School network, Seymour neighbourhood renewal resident action group, Students@Work at Orbost, Koori Strong and Proud program in Gippsland, the Upper Murray Health and Community Services at Corryong and the bike banks at Maryborough — and the list goes on in terms of communities who wanted to come to the hearings and outline the fantastic efforts they have been putting in to try to break the cycle and systemic nature of disadvantage in rural and regional Victoria.

We had difficulties at the committee level trying to make the non-government members understand that when this government came into office in 1999 it was incredibly concerned that the voices of the marginalised were not being heard and that it would put in a very systematic approach to tackling disadvantage. We have seen that happen in a variety of ways, but the first was the *A Fairer Victoria* document. We also saw the challenges in addressing disadvantage and implemented Moving Forward, which was a \$502 million blueprint for continued growth in regional Victoria, and *Ready for Tomorrow — A Blueprint for Regional and Rural Victoria*, with \$631 million for strategic investment. Coupled with those programs is our Future Farming strategy, which details investment in research and development as well as support and services for farming businesses, rural communities and individual farmers.

Given that the terms of reference for this inquiry were developed well after the ministerial task force commenced its investigation, the inquiry duplicated

much of the work that had been undertaken in formulating the blueprint. It is hard not to be cynical about the underlying political motives of the coalition members in conducting this inquiry in an election year.

As I said we are well aware that there is always much more that can be done to tackle disadvantage. However, we believe the government has a track record of not only identifying areas of disadvantage but also taking action to address them. On page 7 of our report we have described all the elements that are part of A Fairer Victoria, which was launched in 2005. They are the four key priorities of: helping all Victorian children to get the best start in life; improving education opportunities and helping people into work; improving health and wellbeing and reducing health inequities; and developing livable communities where Victorians want to live, work and raise families.

Each year the government announces an updated statement of objectives and priorities for A Fairer Victoria. At the launch of this year's statement the Victorian Council of Social Service's chief executive officer, Cath Smith, acknowledged the state government's commitment to addressing disadvantage. I will read out some of her comments, because it is very important that people are aware that the major non-government social service organisation in this state endorses the approach taken by this government. Ms Smith said:

Not many governments respect the right to advocate and really listen to what community organisations have to say. But this government does work incredibly hard and most of the time does get it right and keeps trying to get it right.

There are literally billions of dollars and thousands of programs supported by this government that if they were purely 'driven by the dollar' they wouldn't have spent over the last five years of AFV.

VCOSS and its 462 members (mainly organisations) have robust relationships with people in government (at both political and bureaucratic levels) and we value our work together — both where we can assist those pushing great ideas from within government, as well as where we don't agree — and we seek respectful dialogue and debate.

A Fairer Victoria this year saw a further \$1.35 billion of new investment aimed at providing opportunities for the most vulnerable Victorians. But unfortunately, as I pointed out earlier, the limitations of the inquiry's terms of reference provided no opportunity to demonstrate, celebrate, learn and share the success of community-driven initiatives and partnerships. Instead people who made submissions found that they had to respond in such a way that they often felt they were being brought to account and had to justify themselves or the programs which their communities were working

on. The reality is that many of the communities we visited made it clear that they embraced the opportunity to drive projects and that with the support of all levels of government they are seeing real change and improvement as a result.

What we also saw was clear and positive feedback about the need for early intervention, particularly in the area of early childhood. On page 9 of our report we talk about a number of initiatives that have already taken place in this area. I should also say at this point that I understand the Minister for Children and Early Childhood Development, Maxine Morand, in a speech she gave as recently as last night, announced a number of funding initiatives, one of which was \$4000 for each rural kindergarten — I think there are about 90 rural kindergartens on the list. Their counterparts in metropolitan Melbourne will receive \$2300. But in recognition of the need for resources and of the travel costs associated with running small rural kindergartens, their funding amount will be \$4000.

We have also documented a number of areas that this government has been involved in in rural health since 1999. In respect of that, we have invested \$1.5 billion on almost 90 capital works, redevelopment projects, equipment and infrastructure upgrades across rural and regional Victoria.

An example of the investment we have put in place is in the West Wimmera Health Service, which has experienced a 106 per cent increase in recurrent funding, from \$5.3 million to \$11.1 million, since 1999. We have seen capital works that have included \$2.6 million for the redevelopment of the Natimuk Nursing Home, \$8.5 million for the Nhill Hospital redevelopment and \$3.7 million for the Rainbow aged-care facility redevelopment. No-one can argue that even in that part of Victoria we are not concerned about rural health and in particular the areas of aged care and nursing as well as significant redevelopment of our hospitals.

It is important to note that at many of the hearings held during the inquiry we heard that most of the health initiatives the state Labor government has facilitated during the past decade have had wider social benefits for our communities. Not only has our investment in health-care delivery and infrastructure improved the health and wellbeing of residents in those communities but it has also provided valuable job opportunities locally, created strong leadership networks and attracted young professionals and families to regional areas, further boosting local populations and economies. I urge those who are particularly interested

in rural health to look at the outline in the 2005 report entitled *Rural Directions for a Better State of Health*.

I want to mention also some of the fine examples of innovation that were brought to our attention during the inquiry, in particular the evidence that we heard in Mallacoota from the paramedic community support coordinator about how the work of that position is organised in remote rural communities. We heard also that the Rural Maternity Initiative has brought a number of partnerships together and has made sure that networking and local birthing services can operate more effectively and efficiently.

A number of other areas are mentioned in our report. Time does not allow me to go to all of those, but they include mental health, which is referred to on page 12 and part of page 13 of the minority report. Rural housing is referred to on page 13. Homelessness is referred to on page 14 and part of page 15. Regional education is also referred to. If there was more time, I would have liked to have spent a substantial amount of time on this very important area, because it is a key priority.

I take this opportunity to draw to the attention of the house the Positive Pathways for Victoria's Vulnerable Young People policy framework to support vulnerable youth, which was announced on 22 September. In particular I draw to the attention of the house the fact that demonstration projects will be established in the cities of Greater Geelong, Queenscliff, Surf Coast, Yarra Ranges, Swan Hill, Buloke, Mildura, Greater Bendigo, Central Goldfields, Mount Alexander, Campaspe, Macedon Ranges, Loddon, Ballarat, Hepburn, Moorabool, Pyrenees and Golden Plains areas, showing that the vast majority of the government's strategy has been targeted at rural and regional Victoria.

Skills are referred to at the bottom of page 16 and on pages 17 and 18 of the report. The recently released initiative entitled *Ready for Tomorrow — A Blueprint for Rural and Regional Victoria* has \$103.6 million for tertiary education opportunities. Of that, there is \$75 million for a Tertiary Education Infrastructure Fund, \$9 million for regional tertiary education partnerships, \$7.1 million to improve transport from small rural communities to universities and TAFEs and \$12.5 million for provincial cadetships for young professionals. This initiative is designed to ensure that there is greater access to post-school education and training for rural students, hopefully in or close to their communities. That is a significant priority, to say the least, for this government.

The minority report also highlights what the committee heard about regional transport. Fantastic things are happening in regional transport. One of the things we know is that for people who live in rural and regional Victoria distance is a key factor in their being able to access a range of services and participate in the workforce and other activities. Everyone accepted that Transport Connections is an absolutely fantastic project. There are of course areas where we can extend and expand that. The committee also heard from people in other communities about a range of other things they would like to see in those areas, and we look forward to the government's response to those matters.

Apart from the education and skills investment, the Ready for Tomorrow blueprint also highlights the need for support for jobs and industry. Therefore \$99.4 million has been put to one side to create thousands of new jobs, boost regional industries and help small businesses. Also \$203.9 million has been set aside for building infrastructure and connecting communities, as well as \$158.4 million for supporting the regional and rural way of life by providing funding for sports clubs, cultural activities and various other community programs.

The government also has the Planning Better Regions — A New Partnership initiative, which is backed by \$58.9 million to support an approach to regional planning and development, including significant funding to support the planning and design of regional cities and towns and fast-tracking projects to help local communities.

In terms of agriculture and farming communities those of us who prepared the minority report were disappointed, to say the least, that the committee was not all that interested in spending more time than it did on this area. In particular the committee was not willing to recognise the number of things that this government has been undertaking in the area.

In terms of drought relief, \$400 million assistance has been provided since 2002–03. In respect of the four main initiatives under the Future Farming strategy, we have the Rural Futures, Sustainable Farm Families and case management for farmers initiatives and the new National Centre for Farmer Health, which was established by the state government and is based in Hamilton. A very serious amount of work has been done in not only policy but also practical support for our farming communities because we know those communities have been among the most stressed in this state in the past 10 or so years. Whether it be drought, bushfires or flooding — and now we have the locusts — those communities have been under an

enormous amount of pressure, and it has been absolutely incumbent upon us to ensure that we have had a willingness and a practical area of response to tackle the myriad challenges facing our farming communities. We also talk about new industries that we have established and are facilitating, particularly in terms of alternative energy, which is discussed on pages 24 and 25 of our report.

I wish to turn briefly to the government's views on the recommendations. As I said at the outset, there are three recommendations we do not support. There are comments we have made in relation to some of the others, but in terms of the rationale for not supporting those three, firstly, government members do support rural proofing. We support it in a very strong sense to the point where we have talked to our colleagues over a period of time, and there is general consensus on a number of levels, so much so that rural proofing is part of the Labor Party's platform. We agree with rural proofing, but we do not agree with the practical implementation of it that has been brought to this chamber in not just this committee's report but the committee's previous report, which was about the future of regional cities, and its key recommendation was about rural proofing. I will not go into the fact that we did not receive any evidence on it and a range of other things.

Leaving that to one side, the recommendation essentially wanted us to accept a brand-new bureaucracy sitting on top of everything else. It would have been incredibly unwieldy and would not have been effective or efficient. There was not any proper discussion, even at the committee level, about the types of models, so when it was put in front of us as a recommendation it really was plucked from somewhere, and there was no real willingness to have that debate.

Today we have another recommendation about the implementation of rural proofing. It has gone from one extreme to the other and is about setting up an advisory committee on rural proofing. That is not our view. We do not agree with that narrow approach to rural proofing. We think it should be more encompassing. I believe it should be more systematic and ingrained in the way in which we do our business, not through an advisory committee.

As said in the minority report, the government thinks that coming up with a notion of an advisory committee, when we already have a number of other established committees established that deal with rural and regional initiatives, basically lets politicians off the hook. It is incumbent on all of us to be involved in rural proofing

in the way we go about our business and not to handball or buck pass it to some advisory committee. The government wants to make sure that it is checked off in the way we go about our business and deal with issues at a local level as they come up and get checked off, even through to the cabinet level. On that basis we do not support recommendation 1.

Recommendation 3 deals with the social contract, and the government does not support that because it is bad practice. It is supporting a concept that essentially wants to be a one-size-fits-all concept. An artificial template will be put down over communities, and it will impose a number of obligations on those communities without having the proper and necessary dialogue. That dialogue is out there at the moment; it is being built upon; it is called partnerships — building partnerships within and across our communities — and the committee goes into some description on that matter.

The other recommendation we do not support is the one in relation to access to justice. For those who are particularly interested in this area, it is quite compelling to read pages 27 and 28 and half of page 29. As time is against me, all I will say is that no-one in this chamber can deny the fact that what has been occurring in the justice area in this state has been almost revolutionary. Most of the legislation that has come before this Parliament has been in this area, so when the government was confronted with a recommendation that basically implied that it had done nothing — and almost implied that it had purposely been working against the interests of rural and regional people — government members were quite affronted. That is why we had to call in the people who administer the courts to find out the true facts.

Again I do not want to go into the ins and outs of the internal workings of the committee, but we were then faced with the situation where the committee had to rewrite its recommendation. We were given it at 10 o'clock and then had to make up our minds and get it approved by the next morning. Government members did not feel as if the recommendation acknowledged the true work that had been done and that it still implied that this government had hardly done anything in an area that has been significantly worked on. For example, we have expanded the Rural Dispute Settlement Centre. Staff from the centre provide timely dispute advice and can organise mediations.

We also have Koori courts that operate in Shepparton, Mildura, Swan Hill, Warrnambool, the Latrobe Valley and Bairnsdale. We have the mental health court liaison service that provides local area mental health services in the Geelong, Shepparton, Bendigo, Ballarat and

Latrobe Valley Magistrates courts. The youth justice court advice service is statewide.

We also have regional justice service centres. These are one-stop shops that have been established in each of the regions to help local residents access a range of justice services and information, including referrals to Consumer Affairs Victoria, funded advocacy service providers, consumer advice et cetera. We have consolidated and overhauled laws previously contained in four separate pieces of legislation and streamlined them into one regime which has resulted in a number of measures designed to reduce delay in the courts.

There has also been a major review of the Victorian Civil and Administrative Tribunal in recent times. VCAT staff will now be located in Geelong, Ballarat, Bendigo, Shepparton, Morwell, Mildura, Warrnambool and Wangaratta. In relation to the so-called justice recommendation, government members found it impossible to support that recommendation.

Can I say in closing that when the terms of reference first came before this chamber in November last year I said that I was looking forward to a vigorous inquiry — one that was open and transparent. I was looking forward to working further with a committee that does not wait until its last meeting to put key recommendations in its final chapter. I was sadly disappointed again. This inquiry was important because we needed to have vigorous discussion and debate and to challenge and search for solutions all the way through the course of the inquiry. I reiterate that I very much looked forward to vigorous, open debate during the inquiry. Unfortunately we just did not get any of that in this committee. From the outset it essentially became a situation where the coalition was trawling country Victoria wanting to hear only issues that its members thought they might be able to get some mileage from with respect to the forthcoming election.

This was an inquiry where the opportunity was absolutely missed. There is a lot of work that can and will be done in this area, but I was sadly disappointed as a reasonably newly elected member of this Parliament that this was again an inquiry that was politically motivated, one where people were just not interested.

In my final closing comment I would like to thank the staff of the secretariat. We had some very difficult moments, to say the least. I really appreciate the time and dedication and the thought we all gave to each other when things got tough. Thank you.

**Mr VOGELS** (Western Victoria) — I will not take as long as the previous two speakers. It has been a pleasure to be part of this inquiry into the extent and nature of disadvantage and inequity in rural and regional Victoria. At the outset I want to thank Lilian Topic, the executive officer, Patrick O'Brien and Eleanor Howe for their fantastic work over the last four years for which I have been on the Rural and Regional Committee, but especially in the last 12 months as we travelled the length and breadth of Victoria to come up with this report.

Listening to Ms Tierney — and I think we will hear the same from Ms Darveniza — you would think that there is not one problem out there in country Victoria and that everything is perfect. That is a sign of a government that badly needs to be kicked out of office. When governments start believing their own spin and rhetoric, it is time they left. We heard from many witnesses who turned up at hearings. Yes, of course there are some good projects out there that are being delivered by the government. There are some excellent programs, but everything is not hunky-dory. Yet government members always, at every meeting and every hearing, asked, 'How much money have you received from the Brumby and Bracks governments since 1999? Isn't that fantastic'. People are not interested in hearing that. I live in country Victoria, and we are not interested in hearing governments patting themselves on the back. That is why they are elected — to distribute funds and make things better for country people.

There are 54 recommendations. Nearly half of them deal with education. I was gobsmacked to hear as we travelled through country Victoria that approximately 20 per cent of our school-age kids do not go to school or very rarely go to school. One in five kids does not get an education, and we know how important an education is. We heard again and again that there is no imperative for some parents to send their kids to school. The ones that do turn up occasionally are probably more disruptive to the class. It is probably better if they do not turn up, because they are actually a pain in the backside. Twenty per cent is just not good enough.

The other statistic that I found amazing is that 20 per cent of the population of Victoria is receiving some sort of psychiatric help. One in five people is going to see the doctor for Valium or whatever. Once again the numbers are huge. We live in a society where the government keeps telling us, 'We are doing everything perfectly; everything is great'. If that is so, why are so many people seeking help? I am getting out of here because I will need psychiatric help if I stay here much longer.

**Ms Darveniza** — I can give you some; I can give you some. Breathe in, breathe out.

**Mr VOGELS** — Yes, well, you have been on red cordial, I know that — or Coco Pops this morning, I would say — by the sound of you.

I am not going to go through all the recommendations. They are in the book. Recommendation 45 is concerned with multipurpose services. It is one of the sad things that when this government was elected there were no more multipurpose services established across country Victoria. Being a past president of a multipurpose service, I know they were excellent facilities. In small towns in country Victoria all the health services came out of one entity, a multipurpose service doing exactly what it said — treating patients from the cradle to the grave. They looked after people right through the system, from newborn children to the frail and elderly.

The best part was that the then federal government and the state government of the day, and in the 1990s this was the Kennett government, set up multipurpose services and said to smaller hospitals, 'Here is your money. Spend it wisely.' I know at Timboon, where I was the president, we used to have more office staff and nurses trying to fill in all the forms. A lot of that was taken away so we could deal with the things that were really important — the health of the local community — with less reporting, meaning we could spend money wisely. I hope multipurpose services are once again seen as something that is important for smaller rural communities, because they do a fantastic job.

I have had an interesting four years on this committee. I think we have done four great inquiries. I know government members do not like being criticised and do not like hearing criticism — they get upset by it, but I do not. I think that is what you go out to listen for. You have one mouth and two ears, go and have a listen. Listen to what the community is saying. If there are things that could be improved, let us improve them. That is what this report is all about.

I have already thanked the executive officer and the committee staff. They have done a fantastic job. They all deserve medals for putting up with politicians who sometimes lose their way and get ingrained in politics rather than what the people really want. Once again, I hope this report does not sit on the shelf somewhere and get dust all over it. I am 100 per cent sure when we win government in six weeks time a lot of the recommendations in this report will be adopted. I will love coming back into this house, sitting up there and

watching Ms Darveniza and Ms Tierney sitting on this side of the house saying, 'Damn'.

**Ms DARVENIZA** (Northern Victoria) — I am very pleased to rise and make a few comments on this report entitled *Inquiry into the Extent and Nature of Disadvantage and Inequity in Rural and Regional Victoria*. I say at the outset that I echo my colleague Ms Tierney's comments when she said that it has been a missed opportunity and it is a very disappointing report. We say that for a number of reasons, and probably the most important one is the way this inquiry's terms of reference were set up.

Mr Drum talked about the government members being driven by political motives throughout this inquiry. I say at the outset these terms of reference were developed and put forward by the opposition, and the terms of reference are very negative. Ms Tierney mentioned a number of people who made submissions to the inquiry and who commented on the negativity of the terms of reference. The terms of reference set the whole framework for the inquiry. Individuals who came along and made submissions to the inquiry stuck to the terms of reference, meaning that the information they gave us was very negative. We received a lot of written submissions, as Mr Drum pointed out, and in those written submissions people primarily stuck to the terms of reference and talked about their issues in the context of those terms of reference. Again, it was a very negative picture that we received.

What we did not have in this inquiry was an opportunity for people to come and talk to us about the things they were doing, particularly the programs and initiatives that have been developed and are being implemented by communities and funded by local government, federal government and sometimes through other community-based organisations. They did not have a chance to come along and talk or write to us about the things they were doing, and we are interested in hearing about it.

Mr Vogels says we are not interested in hearing anything negative — that was one of the criticisms he levelled at government members. We are very interested and wanted to have the opportunity to hear what was working, what worked well, what did not work, what could be done better and how we might be able to utilise those programs and initiatives that were working well in particular communities and how they might be able to be developed in other communities.

One of the other things that really demonstrated the political motivation of the opposition with the terms of reference for this inquiry was that when the terms of



reference were put up they were running parallel with a ministerial task force that was looking into the future of rural and regional committees. That task force was looking at a whole range of areas much broader than the ones that were developed for this committee, but it was running parallel so government members — and I was actually on that task force — including ministers, and I think there were six or seven ministers on the task force, were out there meeting with community members, listening with our ears, as Mr Vogels says, to what people have to say about how we can plan for the future, advance the rural and regional community, how we might be able to identify those things that are not working, where disadvantage lies and what programs and strategies can be put in place to alleviate that.

Mr Drum, in a very arrogant manner, came in here and said, 'Now, look. Let's just take a look at what the government has picked up from this committee and from its deliberations'. Mr Drum believes that over the last 12 months the government has trawled through transcripts of his deliberations — God help anybody who had to do that — and that the government used this information and what Mr Drum had to say to develop its policies and programs. He is kidding himself. I tell members that the government did not use transcripts of this committee's hearings to develop policies and programs.

We were out there — Mr Drum knows this very well — running that ministerial task force at the same time this committee was having hearings. We were hearing for ourselves even more information than what was being given to this committee because the government did not restrict itself to a negative set of terms of reference. The government went out to hear in a genuine and open way whatever it was community leaders, businesspeople and community organisations had to tell us about what was and was not working. Mr Drum and this committee cannot take any of the credit for any initiatives which might have been introduced recently by the government.

Whilst the committee was deliberating regarding this inquiry, there was the release of *A Fairer Victoria — Real Support Real Gains* and *Ready for Tomorrow — A Blueprint for Regional and Rural Victoria*. Ready for Tomorrow is a \$361 million investment. It came out of the deliberations and work of that task force and the work so many people right across regional Victoria put into that task force. There was also Future Farming strategy and the funds associated with that project. Members opposite knew very well when they were developing these terms of reference that that task force was taking place and was going to be running parallel to this inquiry.

I will speak briefly about the recommendations in this report. I will not belabour my point, because Ms Tierney has already gone through the report in considerable detail and has put the government's position on record. However, I have to talk about rural proofing.

It amazes me that this committee had no discussion at all about the terms of reference or even the recommendations. The recommendations just got delivered. I do not know who write them, but they descended upon the committee. There was no discussion about what should be in the recommendations and what the priorities of the recommendations should be. Somebody somewhere dreamt them up and we were given them as a fait accompli.

While I am on this train of thought, Mr Drum said in his contribution that the government members were very negative during this inquiry. My response to that is that was definitely not the case. Mr Drum interprets things as government negativity, and to an extent so did Mr Vogels when he said we did not want to hear negative things and we only wanted to hear that everything was hunky-dory. That was not the case. We wanted to hear what people had to say. Mr Drum interpreted us as being negative when we asked questions about what positive things people were doing when they came to the inquiry. We asked, 'What are you doing that is working well? What are we doing that we could do better? How much funding are you receiving for that? Where is that funding coming from?'. Opposition members did not want to hear and know about these things or this information at all. That was interpreted as us being negative; we are not. We attempted in every way to play a very positive role.

We made significant contributions to this report even though we have not accepted it. We raised things in the recommendations in the report when we had a discussion about them after we were finally presented with them. We said, 'It really would not work and could not work; here is why we believe they would not work'. Whole recommendations were taken out and done away with on the basis of government members' contributions during the deliberations on the recommendations. A range of changes were made to the point where we were able to not oppose the majority of the recommendations because they deal with work the government is already doing and initiatives that are already in place.

But there are a couple of recommendations we cannot support. I want to talk about one in particular, and that is rural proofing. I want to talk about this because it is

simply a rehash of the last recommendation this committee put forward during its regional centres of the future inquiry. In the report on that inquiry the committee put forward a recommendation which we did not accept and that was dreamt up by somebody — God only knows who, because the committee had nothing to do with this recommendation — to set up a whole new structure. It is a Western Australian structure. We never took any evidence about that particular structure; there is no evidence about that particular structure. We did not go to Western Australia, we did not take a look at it and we did not ask anybody about whether it worked or not or how good it was. We knew nothing about it at all; we knew zip. But the committee put that recommendation forward, which we did not accept.

Our government is not opposed to rural proofing. The committee has put forward the exact same recommendation as last time but said, 'We will call it a rural proofing committee'. We took no evidence at all about a rural proofing committee or advisory body. We did not ask anybody if they thought this particular structure might be one they thought might work. We heard evidence about people wanting rural proofing, but at no time did we take or seek any evidence about this particular structure. It is nowhere, yet here it is in the recommendations. We did hear evidence that people wanted rural proofing and that communities were looking for rural proofing guidelines, policies and methodologies, but they made it very clear throughout the inquiry that they did not want another layer of bureaucracy.

In concluding I take the opportunity to thank all those who took the time to make submissions or to come along and talk to the committee. They were listened to; they were heard. I also take this opportunity to thank the members of the secretariat for the work they did. Government members believe this is a very politically motivated committee and that these terms of reference were very politically motivated, specifically in the lead-up to the next election, which is coming up in November. That made the committee work very difficult and also created difficulties for the staff. I thank the staff for their work and thank everybody who gave their time, effort and energy to make a contribution to this report.

**Ms LOVELL** (Northern Victoria) — I will also make a few comments on the final report of the Rural and Regional Committee's inquiry into the extent and nature of disadvantage and inequity in rural and regional Victoria. I quote from the chair's foreword:

This report on the Rural and Regional Committee's inquiry into the extent and nature of disadvantage and inequity in rural and regional Victoria is worth its weight in gold. Why? Because it contains the voices of many rural and regional Victorians from all walks of life — successful businesspeople dedicated to addressing issues in their communities, farmers, teachers, doctors, community health workers, lawyers, police, academics.

This report reflects regional voices, regional concerns and community-based solutions.

I could not agree more. I thank all the people from rural and regional Victoria who made submissions or gave evidence to the committee throughout the inquiry.

This document is a report card on the past 11 years of neglect of country Victoria by the Labor government. The evidence and submissions we received did not paint a glowing picture of what is happening in rural and regional Victoria. In fact we heard stories of significant disadvantage. We heard of disadvantage in access to health services in all areas — difficulty accessing GPs, acute services, maternity services, mental health services, dental health services, cancer services and other specialist services, some of which are virtually non-existent in country Victoria. This causes significant disadvantage for families who are forced to travel long distances to access these vital services.

We also heard of difficulty in accessing education, particularly tertiary education, and how that disadvantages rural and regional families. We heard of the enormous difficulties in maintaining facilities like sporting facilities and delivering services in areas where populations are dispersed.

Delivery of kindergarten services presents a major challenge for many rural and regional municipalities, where populations are dispersed and birth rates are particularly low. Rod Wangman, the CEO of the Albury Wodonga Community College, appeared before us in Corryong. He presented an alternative model for delivery of these services. This was just one example of local communities coming up with practical solutions that need to be supported by government so that they can deliver these types of services. In other areas we heard how difficult it is to run small rural and regional kindergarten services. We also heard of the effect the federal government's policy to move to 15-hour programs by 2013 is having on these communities and how hard it will be for them to meet this requirement.

The difficulties of maintaining educational opportunities for students who fall through the cracks were also highlighted in the evidence that was given to our committee. I particularly mention four programs

that are doing tremendous work in this area. They are the McAuley-Champagnat program in Shepparton, Doxa School Bendigo, NETschool Bendigo and the Albury Wodonga Community College.

In addition to the matters I have already mentioned, other areas of major concern on which the committee received evidence were housing opportunities, the lack of homeless services in rural and regional Victoria and inadequate mental health services, the demand for which was heightened by the drought.

Mr Drum talked about Ivan Lister, the outreach worker from Benalla who worked for the Benalla health service and provided an outreach service that visited farmers in their homes to identify problems at an early stage. He does a tremendous job. I have worked with him, both in the Benalla area and in the Greater Shepparton area when he worked there. I commend the work he does. If we could only have an Ivan Lister in every community, I am sure that things would be much better in rural and regional Victoria. It is often very difficult to engage with families who are isolated on farms. They rarely come into town and will not attend some of the other services provided by Centrelink or as part of drought recovery programs, so outreach workers are absolutely vital in those areas.

We also heard that there are limited employment opportunities and that rural and regional Victorians have many more concerns about the level of disadvantage they face. Rural and regional Victoria is actually a wonderful place to live, and it offers many positive lifestyle opportunities. I choose to live in my electorate of Northern Victoria Region, unlike some Labor members who choose to live in Melbourne, because I value the lifestyle that rural and regional Victoria provides for me and my family. That is why I put up my hand to represent a rural and regional electorate. I live there, I am part of the community and I understand the problems.

Labor members who choose to live in Melbourne do not understand the problems that are faced by rural and regional communities. Only yesterday I heard that one of our hospital representatives needed to come to Melbourne to visit one of the Labor members of our committee because they could not meet with them in the electorate of Northern Victoria Region.

Whilst rural and regional Victoria is a wonderful place to live and offers many positive lifestyle opportunities, unfortunately there are also many problems that have led to significant disadvantage in these communities. Local communities have been proud and imaginative in coming up with their own solutions to assist in

addressing the issues of disadvantage, but they need more assistance from the government. I hope this report will be taken seriously and deliver that support to rural and regional communities.

I would like to thank the coalition members who showed such strong interest and dedication to this report and this inquiry and to country Victoria. I would like to thank the staff of our committee, Lilian Topic, Patrick O'Brien and Eleanor Howe, for the tremendous support they gave to all members of the committee during this inquiry. In particular I would like to thank Lilian, our executive officer, for her assistance over the past four years. I do not think there is a more professional executive officer in the Parliament. I truly from the bottom of my heart thank you, Lilian; you have been fantastic for our committee. It has disappointed me at times to see the way that you have been treated by other members of the committee.

I was also disappointed during the inquiry to see the way government members behaved while we were being presented with evidence. Government members were telling communities what was good for them and how grateful they should be for the crumbs that have been thrown to them by the Brumby government. It was rude, it was arrogant and it was totally uncalled for. It is disappointing that even this morning government members in their contributions, as they did in their minority report, are still showing that they are not prepared to listen to country Victoria and take on the concerns raised in this inquiry. Instead they are still determined to tell country Victoria what Labor thinks is good for country Victorian communities.

**Motion agreed to.**

## PUBLIC ACCOUNTS AND ESTIMATES COMMITTEE

### Audit Act

**Mr DALLA-RIVA (Eastern Metropolitan) presented report, including appendices, together with transcripts of evidence.**

**Laid on table.**

**Ordered that report be printed.**

**Mr DALLA-RIVA (Eastern Metropolitan) — I move:**

That the Council take note of the report.

In doing so I am pleased to be able to present the last of the Public Accounts and Estimates Committee's reports before this term of Parliament concludes. It is a measure of the amount of work that the Public Accounts and Estimates Committee (PAEC) has undertaken. We have spoken before about the amount of work it has done with the public hearings, the annual frogmarch in of the ministers to talk about the budget and the examination of the process and the outcome of the reports that have been presented.

This inquiry into Victoria's Audit Act 1994 is essentially the result of a motion that was moved in the self-referencing capacity of the committee in June 2009. It was seen as important given the issues around the Auditor-General and some of the concerns that were raised by him and others in terms of his office undertaking its responsibilities in investigating a range of authorities, agencies and other areas.

The inquiry went into the constitutional parliamentary status of the Auditor-General and the legislative amendments dealing with the Auditor-General's relationship with Parliament — and there were recommendations in relation to that and the audit of non-judicial functions within Victoria's courts, which was an interesting process, I must say, for those who attended a certain meeting — which I will not mention, but those who are on PAEC will know what we are talking about. It was interesting.

**Ms Darveniza** — There is too much laughter.

**Mr DALLA-RIVA** — Yes, there is too much laughter. I do not want to say what it was; I am not prepared to put it on the record.

**Mr Rich-Phillips** — Who was it with?

**Mr DALLA-RIVA** — No, I am not putting it on the record, Mr Rich-Phillips. The Auditor-General's information-gathering powers in relation to the public-private partnerships process are interesting. The committee also looked into the operational powers and responsibilities of the Auditor-General and the potential amendments, which it did not go into, but there are some issues around those areas that need to be considered.

We sought legal advice and undertook a raft of public hearings. I am pleased to say there was no gagging in the process; it was fairly open and transparent. We had the Auditor-General, the Department of Premier and Cabinet, the Department of Treasury and Finance, the Department of Transport and the State Services Authority. We even had the Australasian Council of Auditors-General present. There were issues

surrounding CPA Australia. We heard from the Department of Innovation, Industry and Regional Development and the Australian National University. We had the Speaker, the President, the clerks of both chambers and the parliamentary secretary present as well. Plus we had a range of submissions from various people; they are outlined in appendix 4.

In the end it was found that some amendments were definitely needed. There are some 53 recommendations. Some are controversial and some are not. Having said that, it is important for us to have the Audit Act going forward — or moving forward, as somebody once said. Who was she? I am a name-dropper.

**Mr Drum** — A train driver.

**Mr DALLA-RIVA** — Yes, I cannot remember her name.

The committee secretariat did a fantastic job. The final report has been tabled. I want to thank Valerie Cheong, who did an astounding amount of work in coordinating and dealing with the processes over four long years; Joe Manders, who was the specialist adviser; Vicky Delgos, who was the senior research officer; Justin Ong, the desktop publisher; and Melanie Hondros, the business support officer. I like to get her name in last because she is the one who really coordinated and obviously did a lot of shredding after our meetings as we handed back a lot of the papers.

**Hon. M. P. Pakula** — As do you.

**Mr DALLA-RIVA** — We do, that is right. Mr Pakula was on the committee over that period.

**Hon. M. P. Pakula** — It was a great time in my life.

**Mr DALLA-RIVA** — It was great. Mr Rich-Phillips has spent his entire life on the Public Accounts and Estimates Committee; he has no other life. It has been an interesting period. Whilst we have moments of tension and anxiety, in the end we work pretty well together and come up with some reasonably good reports, and this is one of them. I commend it to the house.

**Ms HUPPERT** (Southern Metropolitan) — I am delighted to rise to make a few comments on this final report to the 56th Parliament from the Public Accounts and Estimates Committee (PAEC). It is an important report on an important topic, the inquiry into Victoria's Audit Act. As we have heard, this inquiry was initiated by PAEC in the middle of 2009.

The Audit Act plays an important role in the system established by this government to ensure transparency and accountability. This government enshrined the independence of the Auditor-General in the Constitution Act, and that will not change. The Audit Act sets out the powers and responsibilities of the Auditor-General, and the inquiry into the act was for the purpose of ensuring that the powers and responsibilities of the Auditor-General, as set out in that act, continue to meet community and government expectations for transparency and accountability.

The committee consulted widely. Initially it sought views from both the Auditor-General and the Department of Treasury and Finance. The committee presented a discussion paper to this Parliament and then proceeded to seek submissions and hold public hearings which were attended by a wide range of witnesses, who are listed at appendix 4 to the report. Appendix 4 lists the submissions received; appendix 3 lists the witnesses from the public hearings, which included witnesses from academia, other auditors-general, witnesses from government departments and, of course, the presiding officers.

The committee received a wide range of evidence presenting a variety of views about some of the suggested amendments from the Auditor-General as well as amendments raised by other parties. This document provides a useful reference, not just for this Parliament but also for other jurisdictions, as it contains an extensive discussion about many different facets of the role of the Auditor-General and the Auditor-General's powers and responsibilities. It discusses the position in other jurisdictions, and it discusses at some length the evidence received by the committee.

It is clear from the evidence that due to the way in which the government has changed the way it does business — the way that government now seeks to provide services and infrastructure for the community — there is a need to update the powers and responsibilities of the Auditor-General, and, taking this into account, the committee has made 53 recommendations. The committee reviewed existing legislation and has recommended that it is satisfactory. However, quite a number of the recommendations relate to significant reform proposals, and I hope the next Parliament will give due consideration to those recommendations. I look forward to seeing legislation in this place that enacts those recommendations that suggest reform. As I mentioned before, this inquiry builds on the significant work the government has done in trying to increase transparency and accountability, which is very important.

As I speak to the final PAEC report for this parliamentary session, I would like to take this opportunity, firstly, to thank my colleagues on the committee for their work and the long hours they have put in on considering reports, reading submissions and hearing from witnesses on a variety of topics over the almost two years that I have sat on the committee. As Mr Dalla-Riva mentioned, at times there has been tension, but generally, as can be seen from the type of work produced in this report, the committee worked together well and achieved quite a lot. I particularly thank the member for Burwood in the Assembly, who, as chair, spent a lot of time ensuring that the committee worked smoothly and produced reports that would be of great use to the Parliament.

I would like to add my thanks to those of Mr Dalla-Riva in acknowledging the work of the secretariat: Valerie Cheong, who is currently taking a well-earned break after spending many hours ensuring that reports were tabled in Parliament in a timely manner; Joe Manders, the specialist adviser on this report and other reports that the committee has produced; and Vicky Delgos, Melanie Hondros and Justin Ong. The time I have spent on PAEC has been — I am trying to think of the right words to describe it — invigorating at times, intellectually challenging at times, and at all times a valuable experience. I commend the report to the house.

**Ms PENNICUIK** (Southern Metropolitan) — I am also pleased to speak briefly on the report on the inquiry into Victoria's Audit Act 1994, which commenced last year when the Audit Act was then 15 years old — it is now 16 years old. I will not repeat what Mr Dalla-Riva and Ms Huppert have said in terms of the process that the committee went through in order to produce this report, except to echo that I also, having read through the draft in quite some detail in the last week, think it is going to be a valuable report not only for the Parliament to base a new Audit Act on but also for other jurisdictions, because it goes to some important issues, makes recommendations and provides the evidence, for and against, from different parties on particular issues.

The main recommendations in the report clarify the ability of the Auditor-General to audit the administrative functions of Parliament itself and also the administrative function of the courts. Very importantly, recommendations 22 to 24 go to the ability of the Auditor-General to look at the assets and contracts of public sector contractors and subcontractors who are carrying out work on behalf of the government for the people of Victoria and therefore are holding assets and/or financials on behalf of the

people of Victoria. That is because so many more of the government's functions are alliance agreements and public-private partnerships and so much more government work is done by contractors and subcontractors who deliver services under public sector contracts. Those recommendations will clarify that the Auditor-General can follow the money trail, as it has been put. That would be a welcome development, and it is a development that has occurred in other jurisdictions that have recently reviewed their audit acts. It would modernise and bring the Victorian Audit Act up to speed in that regard.

There are quite a lot of other clarifications of the powers and responsibilities of the Auditor-General and of other parties cooperating with the Auditor-General. One that I think is missing is the actual clarification in the act of the independence of the office of the Auditor-General, even though it is provided for in the constitution. That was a recommendation in some of the evidence we heard, and I would have thought it would be a welcome development.

Apart from that, I think it is an excellent report. I would also like to thank my colleagues on the Public Accounts and Estimates Committee. We spend a lot of time together. We have an awful lot of fun, and we do have some robust discussions.

**Ms Huppert** interjected.

**Ms PENNICUIK** — We had a lot of fun on Monday, yes. I agree with Ms Huppert that, as an MP, the experience of being on the Public Accounts and Estimates Committee, because you get involved in the activities of a range of government departments and agencies, helps you to learn what they are doing. It really does assist work as an MP. Conversely, we hope that our work as MPs on the Public Accounts and Estimates Committee assists the community.

I have very much enjoyed my experience on the committee, even though I cannot resist saying that it should not be a committee chaired by the government. Even so, the committee has done some excellent work and produced some very good reports which I would recommend all MPs familiarise themselves with.

I also thank the chair of the committee. I do not always agree with the chair, but I pay tribute to the amount of work and effort he puts into the committee, because that cannot be denied. I would also like to thank Valerie Cheong and Melanie Hondros, who are always with us in our meetings and who do a lot of the heavy lifting; specialist adviser Joe Manders, who drafted this report — he wrote draft upon draft of this report — and

took on board our comments over the term of the inquiry; and all the other staff of the Public Accounts and Estimates Committee who assist us in our work on a daily basis.

**Mr RICH-PHILLIPS** (South Eastern Metropolitan) — I will just speak briefly to this report. As other committee members have outlined, there has been a substantial change in the environment within which the Auditor-General has operated since the Audit Act was enacted in 1994. This report addresses some of the conditions that now exist in the contemporary environment. Of particular interest to me are the sections in this report on the relationship between the Auditor-General and this Parliament — not only the relationship via the Public Accounts and Estimates Committee but also the relationship of the Auditor-General acting as auditor of the administrative functions of the Parliament, which is a matter the committee has written at some length about.

Other areas of interest in the contemporary environment that are mentioned in this report include the capacity for the Auditor-General to audit the non-judicial functions of our courts. There is broad agreement within the committee that reform and clarity are required to ensure that those areas which involve the expenditure of large amounts of public money can be properly subject to scrutiny by the Auditor-General.

The third area of interest relates to the modern procurement methods the government now uses for the delivery of public services and infrastructure. As Ms Pennicuik and others have said in their remarks, we now have a range of alliance agreements as well as other public-private partnership models which in many respects were not envisaged when the original Audit Act was put in place. It is an opportune time, and the committee has commented upon the need, to review the scope and reach of the Auditor-General's powers to ensure that the Auditor-General can follow the trail of public money where service delivery involves the use of a private sector entity. I think the report is very valuable, and I commend it to the Parliament.

As other members have remarked, this is the last report to be tabled by the current Public Accounts and Estimates Committee. This is the 11th year that I have served on this committee across three Parliaments. It has been an extraordinary experience. As Ms Pennicuik indicated, it is a very valuable experience in understanding how Parliament operates and how a government operates. I would commend membership of the committee to incoming members of the next Parliament.

In closing, I would like to thank my fellow committee members for their hard work over the last four years on a range of issues the committee has addressed, and in particular I thank the committee secretariat under Valerie Cheong's leadership. This was the first term with Valerie as executive officer, following the retirement of Michele Cornwell. Valerie took up the mantle and has done an excellent job of overseeing the committee during her term as executive officer. I would like to thank the committee secretariat for its work, and I commend the report to the Parliament.

### Motion agreed to.

**The PRESIDENT** — Order! I remind members of the gallery that it is not appropriate for them to interfere in any way, shape or form with a sitting of the Council or any member in the chamber.

## PAPERS

### Laid on table by Clerk:

Alpine Resorts Coordinating Council — Report, 2009–10.

Auditor-General's reports on —

Annual Financial Report of the State of Victoria, 2009–10, October 2010.

Restricting Environmental Flows during Water Shortages, October 2010.

Victorian Registration and Qualifications Authority, October 2010.

Barwon Regional Waste Management Group — Report, 2009–10.

Calder Regional Waste Management Group — Report, 2009–10.

Central Murray Regional Waste Management Group — Report, 2009–10.

Commissioner for Environmental Sustainability Act 2003 — Framework for the State of the Environment Report 2013.

Commissioner for Environmental Sustainability — Report, 2009–10.

Crimes (Assumed Identities) Act 2004 — Report of the Chief Commissioner of Police pursuant to section 31 of the Act, 2009–10.

Desert Fringe Regional Waste Management Group — Report, 2009–10.

Highlands Regional Waste Management Group — Report, 2009–10.

Gippsland Regional Waste Management Group — Report, 2009–10.

Goulburn Valley Regional Waste Management Group — Report, 2009–10.

Grampians Regional Waste Management Group — Report, 2009–10.

Liquor Control Reform Act 1998 — Reports of the Chief Commissioner of Police pursuant to section 148R of the Act, 2008–09 and 2009–10.

Melbourne Central City Studios Pty Ltd — Minister's report of receipt of 2009–10 report.

Members of Parliament (Register of Interests) Act 1978 — Cumulative Summary of Returns, 30 September 2010.

Mildura Regional Waste Management Group — Report, 2009–10.

Mornington Peninsula Regional Waste Management Group — Report, 2009–10.

North East Victorian Regional Waste Management Group — Report, 2009–10.

Office of Police Integrity —

Report on Managing Conflict of Interest in Victoria Police.

Report under section 30L of the Surveillance Devices Act 1999, 2009–10.

Ombudsman — Report on Ombudsman's recommendations — Second report on their implementation, October 2010.

South Western Regional Waste Management Group — Report, 2009–10.

Surveyors Registration Board of Victoria — Report, 2009–10.

Victoria Grants Commission — Report for the period ended 31 August 2010.

Victoria Police — Chief Commissioner — Report under section 30L of the Surveillance Devices Act 1999, 2009–10.

Victorian Law Reform Commission — Report, 2009–10.

**The PRESIDENT** — Order! I will interrupt business now. In accordance with sessional orders, we will go to questions.

**Mr D. Davis** — At 12.00 p.m.

**An honourable member** — It is 1 minute to 12.00.

**The PRESIDENT** — Order! I am told I can go now.

**Mr D. Davis** — No; at 12.00.

**The PRESIDENT** — Order! We will just wait for a minute then to make Mr Davis happy.

**Mr D. Davis** — That is right. Thank you.

**Business interrupted pursuant to sessional orders.**

## QUESTIONS WITHOUT NOTICE

### Desalination plant: costs

**Mr D. DAVIS** (Southern Metropolitan) — My question is to the Treasurer. I refer to the *Auditor-General's Report on the Annual Financial Report of the State of Victoria 2009–10*, and specifically to pages 10 and 11, which show that over the 27.75-year operating term of the desalination plant the cost to the state is expected to be \$18 080 million, which is inconsistent with note 33 in the financial report for 2009–10 the Treasurer tabled last month. It seems that the Treasurer, according to the Auditor-General, sought to conceal capital commitments and estimated operating and maintenance costs with an underground power supply and plant refurbishment during the period of operation, and I therefore ask: will the Treasurer explain the \$2272 million black hole in payments to his mates at the desalination plant?

**Mr LENDERS** (Treasurer) — I thank Mr Kim Wells — I mean I thank Mr David Davis for his question. I notice that the member for Scoresby in the Assembly is watching him again to make sure he delivers it correctly and reads it properly. What is interesting about Mr David Davis is how he always selectively quotes from a report by the Auditor-General. I am pleased that he got to page 11; that is pretty good for him. But I am intrigued at how he selectively quotes an Auditor-General's report.

Let us look at what the Auditor-General actually said, rather than what Mr David Davis fantasised.

**Mr D. Davis** — I quoted it.

**Mr LENDERS** — Firstly, the Auditor-General signed the annual financial statement for the state of Victoria without qualification. Secondly, the Auditor-General put a number of reconciliation tables in his report which, if Mr David Davis's eyes stray to them, will show him a complete reconciliation between the figures of the Department of Sustainability and Environment (DSE) and Melbourne Water for the desalination plant versus what he comments on.

**Mr D. Davis** — I quoted from the table.

**Mr LENDERS** — What the Auditor-General commented on is quite legitimate, and his comment is:

under the accounting standard the Department of Treasury and Finance correctly recorded the items where contracts had been let. In the DSE and other figures in the annual financial report those areas — the underground cabling that Mr David Davis referred to — were recorded. What the Auditor-General has helpfully done for people who read his whole report is to provide a reconciliation table which reconciles the annual financial report, which in the table Mr David Davis referred to talks to contracted matters, with the report that talks to the entire project. I am surprised that Mr David Davis has not picked up the other things the Auditor-General has mentioned — he obviously has not read it. What it is is a complete reconciliation of tables. If Mr David Davis's eyes stray to the Auditor-General's certificate, they will notice that he has approved the accounts without qualification.

What I would suggest to Mr David Davis is that before he gets up in this place like his mentor, Mr Wells, and trashes the economic reputation of the state and causes a run on Members Equity Bank because of economic recklessness that would make Juan Perón blush, he should actually read the documents and perhaps take a little tutorial with his colleague Mr Rich-Phillips, who could explain accounting 101 to Mr David Davis.

### *Supplementary question*

**Mr D. DAVIS** (Southern Metropolitan) — The Treasurer's answer shows the doubtful way his government runs the accounts of this state, and I ask him to explain further some of the inconsistencies — for example, the net present value figure listed in his report at \$4590 million and the independent Auditor-General's \$5410 million figure in net present value terms — and further I ask: why will the government not allow the Auditor-General full access to every account that is relevant to this operation, including the accounts that are held jointly between it and the partners at the desalination plant?

**Mr LENDERS** (Treasurer) — I understand why Mr Rich-Phillips would not read Mr Wells's question; he would have been embarrassed. What we have from Mr David Davis, who has not even read the report — —

**Mr D. Davis** — Yes, I have.

**Mr LENDERS** — He says he has got to pages 10 or 11, but I am sure Mr Wells put a little marker in it for him and pointed it out to him so that he could dutifully read it. He asked about net present value. If he wants me, in the unlimited time I have available to me under our sessional orders, to explain the difference between



net present value and nominal value: with a starting point of one, when a project has been going for a number of years through a number of stages, the difference is where your starting point is to where your finishing point is.

**Mr D. Davis** — Thank you.

**Mr LENDERS** — I appreciate Mr Davis saying thank you, and I suggest that Mr Rich-Phillips quietly take Mr David Davis aside and give him a private briefing on net present value versus nominal value. Perhaps any of his constituents who have a mortgage could explain the difference to him, because they would have a better understanding than he does.

Let me remember who it was who voted as part of the Kennett government to gut the powers of the Auditor-General — it was Mr David Davis, the then member for East Yarra Province. It was Mr David Davis who voted to gut the powers of the Auditor-General when he was one of those dutiful and responsive members of the Kennett government. When the great man said jump his only question would have been, ‘How high?’. He now speaks in defence of the powers of the Auditor-General.

I say to Mr David Davis that if he wants a serious answer to a question, he should read the report, get a tutorial from Mr Rich-Phillips on the difference between net present value and nominal value and perhaps look at the reconciliation tables the Auditor-General helpfully put in his report for people like Mr David Davis; then he will be received with more credibility.

### **Rail: Balaclava station**

**Ms HUPPERT** (Southern Metropolitan) — My question is to the Minister for Public Transport, Martin Pakula. Can the minister inform the house of what the Brumby Labor government will do to improve access, safety and amenity at Balaclava train station?

**Hon. M. P. PAKULA** (Minister for Public Transport) — I thank Ms Huppert for her question. Last week I had the great pleasure of being with the Acting Premier at Balaclava station to announce that the government will spend \$13.3 million to rebuild Balaclava station to improve access for the more than 3100 passengers who use the station every weekday. This is a project that will involve a rebuild of the station, better closed-circuit television, better passenger amenities, better lighting, taking away those long and unsightly ramps and improving access for the elderly and disabled.

As some members would know — Mrs Coote I know would know — Balaclava is one of the busiest stations on the Sandringham line. It is a very popular station for residents of St Kilda, St Kilda East, Elwood and Balaclava. It is crucial that the infrastructure of the station keeps pace with the growing patronage, so we will be constructing new stairs to the platforms and installing lifts on either side of the station. Balaclava will also become — —

*Honourable members interjecting.*

**Ms Hartland** — I’m listening.

**Hon. M. P. PAKULA** — Thank you, Ms Hartland; I’m glad someone is.

Balaclava will also become a premium station. That will mean it will be staffed from first to last train, seven days a week. There will be additional station staff to provide assistance to passengers, to sell tickets and to improve security at the station. There will be better passenger amenities, with more shelter. The rebuilt station will also remove what is quite unsightly access ramping on Carlisle Street, so it will improve the streetscape of Carlisle Street.

I want to pay tribute to the fantastic local members, Tony Lupton and Martin Foley, the Assembly members for Prahran and Albert Park respectively, and Ms Huppert. They have been lobbying relentlessly for the upgrade of this station. I am pleased that those efforts by those great local MPs have come to fruition.

### **Public transport: myki ticketing system**

**Mr O’DONOHUE** (Eastern Victoria) — My question without notice is to the Minister for Public Transport, Martin Pakula. I refer to the *Auditor-General’s Report on the Annual Financial Report of the State of Victoria 2009–10*, and specifically to page xiii, which says:

Control weaknesses in the new myki ticketing system meant that it was not possible to form an opinion on the completeness and accuracy of myki revenue for the year ending 30 June 2010.

I ask: is it not a fact that the minister’s mismanagement of the myki ticketing system means that the myki revenue cannot be adequately scrutinised before the election and Victorians may never know the true costs of the Brumby government’s mismanagement of the flawed myki ticketing system?

**Hon. M. P. PAKULA** (Minister for Public Transport) — It only took three weeks for the opposition to ask a question about this, because those

comments are in effect the same as those that appeared in the TTA (Transport Ticketing Authority) annual report that was tabled in the last sitting week.

**Mr D. Davis** — But this was the Auditor-General.

**Hon. M. P. PAKULA** — Yes, the Auditor-General's comments in the TTA annual report, Mr Davis, which are basically the same comments and were dealt with three weeks ago.

Let us go back through some of the history of this, because all through January to July, when the opposition was asking, 'When is myki going to go live on tram and bus? Is it going to be today, Minister, is it going to be today?', we said consistently — I said, the TTA said and the government said consistently — that there were going to be a number of issues that the government and the TTA needed to iron out before we went live on tram and bus. The comments of the Auditor-General give an insight into the kinds of issues we were dealing with prior to the decision to go live on 25 July.

One of the things that the TTA board, through its internal auditors, was working on prior to making a recommendation to me to go live was the issue of data flow and reconciliation, and that was something I commented on. Every time I was asked about whether or not we were ready to go live, I said that one of the issues we were dealing with was data flow. RSM Bird Cameron, the internal auditors of the Transport Ticketing Authority, made a report in April and made a report in May and ultimately, prior to the decision to go live, was able to give the TTA board the assurance that all transactions were being recorded and retained by the myki system and that no transactions were being lost.

What the Auditor-General has identified is an issue that we were aware of. It was one of the issues that caused the 'go live' to be delayed. The board was not going to recommend going live until it was satisfied that that issue, amongst others, had been satisfactorily resolved. By July the board was satisfied with the system's improvements, as indicated to it by the internal auditor, and that was the point at which it recommended that we go live.

*Supplementary question*

**Mr O'DONOHUE** (Eastern Victoria) — I thank the minister for his answer, and I ask: given the cost blow-outs the myki ticketing system has experienced, what additional steps has the minister taken to ensure transparency and proper accounting to guarantee that going forward there is value for money for taxpayers?

**Hon. M. P. PAKULA** (Minister for Public Transport) — I suppose my first question is whether or not Mr O'Donohue, unlike his leader, the Leader of the Opposition in the other place, and the shadow minister for transport, actually has a myki and has started using it, like tens of thousands of other Victorians have.

In response to his question, I have just gone through, I would have thought, in some detail the level of scrutiny and the level of transparency that both the Transport Ticketing Authority and its internal auditors have applied to this process and this system since I became the minister, which enabled us to make the decision to go live.

When we appointed Bernie Carolan as the new CEO and Patricia Faulkner as the new chair of the Transport Ticketing Authority, one of the things I said at the time was that we wanted the TTA to apply more rigour and more scrutiny to the kinds of information that we were receiving from Kamco. I was quite unabashed about that, and that is exactly what has occurred: we have had a board and a CEO who, in their dealings with Kamco, have applied a level of scrutiny and rigour to the information being provided to them by Kamco which has meant that the improvements in the system since December, when we went live on trains, to today are there for everybody to see. They are the reason we were able to make the decision to go live on tram and bus in July. That is why there is an ever-increasing number of people using the system, and not just using it but enjoying it.

**Rail: regional link**

**Ms PULFORD** (Western Victoria) — My question is to the Minister for Public Transport, Martin Pakula. Can the minister update the house on the alignment of the regional rail link tracks through Wyndham Vale?

**Hon. M. P. PAKULA** (Minister for Public Transport) — I thank the member for the question. This is one that I anticipate Mr Finn might at least pay some attention to. Last week I was out at Manor Lakes in Wyndham Vale to visit the site of what is going to be the full-depth cutting of the \$4.3 billion regional rail project that will go through that community. The cutting will be up to 8 metres in depth. It will mean that to the naked eye the trains will seem to run below ground level between Lollypop Creek and Ballan Road in Wyndham Vale.

I think it is fair to say — and I am sure they will not mind me saying so — that John Eren, the member for Lara in the Assembly, as well as Tim Pallas, the member for Tarneit in the Assembly, have been beating

down my door on this matter for a period of months. They have been dealing — —

**Mrs Peulich** — How about the poor old members of the Socialist Left? They never get a look in.

**Hon. M. P. PAKULA** — Your obsession with our factional internals, Mrs Peulich, is something else! Four years in, I am still amazed — and by the way, you are almost always wrong.

Mr Pallas and Mr Eren have been working very closely with their local communities. They have been advocating very strongly for a full-depth cutting, and that decision to provide a full-depth cutting was made after a great deal of community consultation with the Manor Lakes Residents Association, Our Lady of the Southern Cross Primary School and other members of the local community. We undertook a huge amount of engineering design work to ensure that the cutting was achievable, so we did listen very carefully to the views of the local community.

Building that full-depth cutting through Manor Lakes will preserve road connectivity. It will reduce or remove the need for an elevated overpass where the rail line intersects with Manor Lakes Boulevard. It will mean that we do not need to compulsorily acquire what would have been a small parcel of land from Our Lady of the Southern Cross Primary School. The regional rail link project team will be holding community information sessions at Tarneit and Wyndham Vale today and on 9 and 12 October to provide the community with more information and to get further feedback on the alignment through Manor Lakes. The team will work very closely with that community to minimise disruption through the construction period.

I should also mention that last week I announced the release to market of a major regional rail link works package. It invites expressions of interest from prospective tenderers for the Deer Park to West Werribee section. That will include two new stations — one at Wyndham Vale and one at Tarneit — as well as the track alignment through Manor Lakes that I have spoken about.

These are very important milestones for section 2 of the regional rail link project, and I look forward to continuing to work with the members for Lara and Tarneit, the Wyndham council, in particular the mayor, Heather Marcus, who also joined us on the day, and all the local residents as this exciting and very important project progresses.

## **Minister for Finance, WorkCover and the Transport Accident Commission: comments**

**Mrs PEULICH** (South Eastern Metropolitan) — My question without notice is directed to Mr Lenders in his position as minister representing the Minister for Finance, WorkCover and the Transport Accident Commission, and I ask: the professional indemnity master insurance policy of the Victorian Managed Insurance Authority (VMIA), of which Minister Holding's former employer, Senator Robert Ray, is chairman, under the heading 'Definitions' on page 5 states:

1. Insured

Each of the following is an insured to the extent set forth hereunder:

...

- (c) any minister ... serving in an official capacity of the insured designated ... but only whilst acting within the scope of their duties in such capacities ...

Does the Treasurer believe Minister Holding's false accusations against Ms Lovell, which clearly came from the Premier's secret dirt unit, of which at least one member of the Treasurer's staff is a key member, were made within the scope of Minister Holding's ministerial duties or responsibilities, or were they Labor Party dirty tricks? And would this not be a clear conflict of interest, given that Mr Holding administers the VMIA?

**Mr Viney** — On a point of order, President, clearly this question has absolutely nothing to do with the Treasurer's portfolio responsibilities. I could not fully follow the logic of the question, but it seems that there were allegations in it, and if there were, that should only be done by substantive motion.

*Honourable members interjecting.*

**The PRESIDENT** — Order! I am prepared to rule on the point of order. Correct me if I am wrong, but the question was to the Treasurer in his capacity as the representative of a minister in the other place. However, there was one part of the question that concerns me. Mrs Peulich asked, 'Does the minister believe', which is seeking an opinion, and I ask Mrs Peulich to rephrase that part of the question.

**Mrs PEULICH** — Can the Treasurer inform the house whether Minister Holding's false accusations against Ms Lovell, which clearly came from the Premier's secret dirt unit, of which at least one member of the Treasurer's staff is a key member, were made

within the scope of Minister Holding's ministerial duties or responsibilities, or were they Labor Party dirty tricks? And would this not be a clear conflict of interest, given that Mr Holding administers the VMIA? I am happy to provide the guidelines to the Treasurer.

*Honourable members interjecting.*

**The PRESIDENT** — Order! Having heard the question again, I do not believe the question relates to the portfolio responsibility of certainly the Treasurer or Minister Holding, and I am inclined to rule Mrs Peulich's question out. But in the spirit of this being the last question time, I am prepared to give Mrs Peulich an opportunity to rephrase the question so that it complies with the guidelines for questions in the minister's direct responsibility.

**Hon. J. M. Madden** — Twenty-five words or less!

**Mrs PEULICH** — Yes, thank you very much! The Premier did indicate in the Assembly that Minister Holding would be indemnified within the insurance policy wording of the VMIA. I am asking the Treasurer whether he concurs with the Premier that this indeed falls within the policy guidelines of the VMIA. And how can he justify such a diversion of funds for the indemnification of a minister acting outside his duties?

**Hon. J. M. Madden** — What are you talking about? It is nonsensical.

**The PRESIDENT** — Order! What is nonsensical is some of the interruptions we are getting across the house. I now accept the question and ask the minister to reply.

**Mr LENDERS** (Treasurer) — Mrs Peulich partly asked a question and partly reached into her regular bucket of filth to throw dirt at individuals — unnamed, unclaimed. She has reached into her bucket of filth and besmirched unnamed members of my staff for activities — —

**The PRESIDENT** — Order! I am not comfortable with the reference to a member reaching into their bucket of filth, and I ask the minister to withdraw that description.

**Mr LENDERS** — I withdraw.

We have a member who scurrilously uses cowards castle to besmirch unnamed people for activities which she describes and which are based on about as much foundation and credibility as the accusations routinely made by her leader. What I would say to the house in response to the question is that Mrs Peulich has raised

in the house part of an indemnity policy for the Victorian Managed Insurance Authority which would be a discretionary issue, as would always be the case, that would require that authority's chief executive and assessors to make a decision. I do not think that my forming an opinion as a minister representing another minister about what a statutory authority would do when exercising its discretion is particularly helpful in this house today.

**Mr Viney** — On a point of order, President, after you made your ruling on the supplementary question Mr David Davis made comments which I am not inclined to repeat. They were comments that in my view could be interpreted as reflecting upon the Chair, and I draw it to your attention because I think at the time you were talking to the Clerk. I certainly heard them, and I think they were inappropriate and showed quite a significant degree of disrespect in this chamber.

**The PRESIDENT** — Order! Whilst I admire and thank Mr Viney for his attempt to support me, I too heard those remarks. However, I am convinced — unless Mr Davis wants to convince me otherwise — that they were not in fact directed at me or my ruling but at the opposite side of the house, and on that basis I do not uphold the point of order.

### **Economy: performance**

**Mr RICH-PHILLIPS** (South Eastern Metropolitan) — My question is to the Treasurer. Can the Treasurer explain to the house why real growth in Victoria's standard of living — gross state product per capita — has lagged behind that of Queensland, South Australia, Western Australia, Tasmania, the Northern Territory and the Australian Capital Territory over the life of this government?

**Mr LENDERS** (Treasurer) — I notice Mr Wells has left, so clearly Mr Rich-Phillips waited till he was gone to ask, and frankly I cannot blame him. It was obviously his own question.

Mr Rich-Phillips has asked me to comment on real growth per capita and how Victoria stacks up vis-a-vis other states. I welcome his question, because these can be quite interesting discussions. I can recall that Mr Wells and Mr Rich-Phillips, during the depths of the global financial crisis, when Victoria's gross state product was growing and when Treasury forecast that it would grow as part of the 2009 budget, they were saying, 'It's not growing. It's not growing. Per head of population it's declining', like Henny Penny running around in a frenzy, trying to find a way to talk down Victoria.

I realise Mr Rich-Phillips is not far off from an election and is under some obligation to be part of the routine of trashing the state. I understand that; he is carrying out a brief. But if what Mr Rich-Phillips wants to do is talk about what makes Victoria strong, I could reach into my notes and get him multiple statistics, which I am tempted to do, given that we do not have time limits, but I will make this a succinct response to his question about a selective form of data.

In the last four years — if we are talking about the quality of life in this state and go to the core issues of what matters in state governments — if we go to education, we see that we invested more than \$1.7 billion in modernising or rebuilding 550 schools above and beyond what federal Labor has done in Building the Education Revolution. Contrast \$1.7 billion to rebuild or modernise 500 schools with the previous government, the Kennett government, which flogged off 300 schools, many of them through the company of the then president of the Liberal Party, Baillieu Knight Frank.

If we talk about education, we have brought in a blueprint in education, we have record year 12 retention rates and we are seeing strong growth in Victoria, and that is an investment in the future, whether it is in education or skills. If we talk about the health system, we have had a record investment in health. As Mr Kavanagh often reminds me, we should not measure this in dollars. We should measure it in service delivered, which is more people going through hospitals more frequently for better treatment, no matter how the opposition wishes to besmirch that.

If we go to community safety, we have a record number of police in this state and the crime statistics are reflecting that in community after community. If we go to transport, during the life of this government the Brumby Labor government has released the Victorian transport plan for 12 years into the future, which has already delivered more than \$10 billion of \$38 billion in expenditure for the trams Mr Pakula announced earlier this week, the extension of the South Morang rail line, the extension of bus routes, the extension of roads and the extension of transport services for more people, more often — delivering services.

There is more to be done, but if Mr Rich-Phillips wants to portray Victoria as going backwards, and particularly if he wants to reflect on that versus the states he mentioned — if Mr Rich-Phillips genuinely believes we should aspire to a metropolitan transport system like Sydney's and if he genuinely believes we should aspire to services like those in other states — then I truly think

he has become obsessed by his party's mantra of talking down the state and has lost touch with reality.

There is more to be done in this state. This government is an action government that is delivering to make Victoria the best place in Australia to live, work and raise a family.

*Supplementary question*

**Mr RICH-PHILLIPS** (South Eastern Metropolitan) — I thank the Treasurer for his response. While the Treasurer may like to talk about the individual activities of his government, the question was about the results achieved by those activities. It was not about a point in time but about the 10-year life of this government. I ask: can the Treasurer confirm that Victoria, having had the highest standard of living of any state or territory in 1999, now ranks third lowest in the nation?

**Mr LENDERS** (Treasurer) — Mr Rich-Phillips and I can spend hours selectively quoting from whatever statistics Mr Rich-Phillips wishes to draw upon, but I responded in my substantive answer about four key areas of state government responsibility and what this government has delivered that affects the lives of our citizens. Mr Rich-Phillips may have missed the point that our citizens use the education system; it is probably the single largest service that our citizens draw on from the state.

I have given Mr Rich-Phillips a series of statistics on what this government has done to bring Victoria from the very sad state of schools being flogged off by the president of the Liberal Party's company, teachers being sacked and all the other things we talked about. The state education system was trashed as useless by the Kennett government. We have restored respect in the system. We have invested in infrastructure, invested in curriculum and invested in teachers. Through the Shine campaign we have actually put some money behind the system to restore confidence in it.

I have said to Mr Rich-Phillips that, after education, health is probably the single biggest area that citizens of the state use. We have invested heavily by investing in infrastructure. We have built hospitals. We have not flogged off 12 hospitals like the Kennett government did — I will stand corrected if it was not 12, but I think it was about 12 that the Kennett government flogged off. We have invested in thousands more nurses, in thousands more doctors and in thousands and thousands more treatments for patients per year.

Mr Rich-Phillips might say that is not important. I think to citizens that is more important than his statistics. If

he wants to refer again to transport, then I say we have invested in public transport. We have reopened the Bairnsdale line and the Ararat line and we will restore services to South Morang by building the South Morang line — and there is the Maryborough line. We are doing these things. When Labor promises, it delivers, unlike the Liberal Party and the former Bolte government, which promised a railway station at Monash University on 30 September 1958. Mr Mulder, the member for Polwarth in the Assembly, has just reannounced it. That is 52 years after Henry Bolte first promised it.

**Mr Viney** interjected.

**Mr LENDERS** — Yes, Mr Viney, it promised the Scoresby freeway in 1968, and it was Labor that delivered. My dear friend Sir Henry Bolte promised it in 1968, and it was Steve Bracks, John Brumby and Peter Batchelor who delivered. I am happy to have this discussion with Mr Rich-Phillips, but I refer to all those people who live to the east of Melbourne who have had their transport times slashed and saved by 10, 20, 30, 40 or 50 minutes, depending on what time of day it is and where they are going. I say to Mr Rich-Phillips that a Labor government which delivers — unlike Liberal governments which made promises every year from 1968 onwards and then whinged about the outcome — is more likely to affect the quality of life of Victorians than a Liberal government full of hot air, promises and failures to deliver.

I could spend time talking about law and order. In 1992 Mr Kennett promised to boost the police force. By 1999 he had cut 1000 uniformed police out of the force, after promising to deliver.

I welcome having a discussion about statistics from the Australian Bureau of Statistics or any other statistics with Mr Rich-Phillips. We on this side of the house acknowledge that there is more to be done. That is why we have an action plan to deliver going forward. We rely on action and plans, not on hot air. Mr Mulder should be ashamed. Henry Bolte promised a Monash railway station on 30 September 1958, which was before I was born — and Terry Mulder is still promising it.

**Ordered that answer be considered next day on motion of Mr D. DAVIS (Southern Metropolitan).**

### **Respect agenda: government initiatives**

**Mr LEANE** (Eastern Metropolitan) — My question is to the Minister for the Respect Agenda, Justin Madden. I refer to the Brumby Labor government's

commitment to make Victoria the best place to live, work and raise a family, and I ask: can the minister update the house on recent action he has undertaken to implement the Brumby Labor government's respect agenda?

**Hon. J. M. MADDEN** (Minister for the Respect Agenda) — I thank Mr Leane for the opportunity to return to my feet to answer a question in the chamber on the respect agenda. I know Mr Leane is very interested in this subject and has been for many years.

The respect agenda is about addressing a number of antisocial behavioural elements in our community — that is, stemming alcohol-fuelled violence; reducing bullying, including cyberbullying; and preventing violence against women. As well as that, our actions support respectful behaviour — that is, promoting diversity, helping parents build self-respect in their children and getting people involved in the community.

I have three priorities in this portfolio: first, to raise the issue of respect in the community; second, to support positive and innovative work, in partnership with the community, that builds respect; and third, to coordinate work across government that builds respect. Last month the Premier and I released a policy statement entitled *Building Respect*. That is complemented by a range of materials to foster discussion across the community about the respect agenda.

The respect agenda website is now live and active. This provides an important tool for the community in relation to the issues we are promoting around the respect agenda. The website acts as a gateway to information on a wide range of actions and initiatives taking place across various portfolios, departments and agencies. It features all the respect agenda publications, including the statement *Building Respect*, a summary brochure, fact sheets and posters, which can all be downloaded. I recommend that the opposition take the opportunity to download a lot of this information, because the issue seems to not have had any resounding impact on the opposition. The website also features news and events in this area.

I am continuing to engage with groups across the community on their views about building respect. Last month I joined the Prahran community and the member for Prahran in the Assembly, Tony Lupton, who is a very good local member, to discuss the respect agenda with association representatives from the gay, lesbian, bisexual, transgender and intersex communities. We opened the discussion by — I have the opposition's attention now — highlighting the importance of

building understandings of difference and diversity whilst noting the challenges of tackling discrimination.

Earlier in September I joined the Premier, the Minister for Education and the member for Richmond in the Assembly, Richard Wynne, at Fitzroy High School for a discussion with students covering issues such as cyberbullying, cyber danger, the respectful use of the internet and the importance of building relationships within and outside the internet. During that visit we announced funding of \$10.6 million to the Alannah and Madeline Foundation to roll out the eSmart initiative to help to protect school students, particularly against cyberbullying.

In August this year I met with planners, developers, banks, builders, utilities, community organisations and the Growth Areas Authority to discuss how to build respect and respectful communities in those growth areas. I joined the member for Narre Warren South in the other place, Judith Graley, players from the Melbourne Football Club and members of local sporting teams in Narre Warren South to talk about respect more broadly in the community. I also addressed the Bridge Project breakfast in support of the YMCA, with Mick Malthouse as patron — —

**Mr Finn** interjected.

**Hon. J. M. MADDEN** — You could learn a bit from him, Mr Finn. It helps prevent young offenders from returning to prison. This is an example of how this program builds respect. I worked with David Hille, an Essendon Football Club ruckman, to unveil jumpers supporting the Transport Accident Commission's new initiative and campaign to mark the 40th anniversary of seatbelt laws. These events follow on from a range of activities that complement works earlier in the year, whether in Nillumbik, Geelong or Yarra Glen in conjunction with community cabinet meetings or discussions with students in Footscray around the respect agenda.

I have as well been involved in launching three exciting new sporting initiatives that also complement the respect agenda. They include GLoBALL, which assists international students by introducing them to sport and cultural aspects, thereby enabling them to be included in much of Victorian culture. There is also Championship Moves, an initiative that has sent SMS messages predominantly to 50 000 amateur football players after each of their games encouraging them not only in terms of their participation but also to take care and look after their friends if they are socialising on a Saturday night after their football games. In addition I have met with a wide range of community groups

which have contacted me to discuss the respect agenda in terms of what they do.

This is broadly about working in partnership with the community and building links. As part of building those links we have worked in partnership with Mission Australia and a number of building industry partners, including the Master Builders Association, Bunnings and AV Jennings, to help disadvantaged young people take up apprenticeships in the building industry. That training — simplified training initially — will help them build self-confidence and self-esteem to get them back into employment and reduce the negative impacts they might have been on the receiving end of, such as either bullying or alcohol-related violence. The project is also supported by the Minister for Skills and Workforce Participation through Workforce Victoria. This is another great example of how the respect agenda can build new and exciting partnerships.

As well as that I announced the second — —

*Honourable members interjecting.*

**Hon. J. M. MADDEN** — There is more, and there is more to come. I also announced the second of these partnerships in July. This is called Club Respect, a joint project with the South Barwon Football and Netball Club and Leisure Networks. This is about including up to about 1000 young sportspeople in the Barwon region and taking them through workshops with their local sporting clubs around respect-type initiatives.

As well as that, as reported in today's *Herald Sun*, last night I had the pleasure of joining members of Step Back Think, an organisation which came together because of their friend, James Macready-Bryan, whose life was devastated by street violence, basically through one punch. Last night I announced a \$50 000 Respect Partnership grant to assist Step Back Think to upgrade its website and employ a part-time coordinator to assist it to build those relationships, communicate the message to its specific target audience and reinforce to young people the catastrophic consequences of one bad decision, potentially one punch, and the effect that can have on many people's lives — specifically this young person, but others as well.

I congratulate members of the Step Back Think board on their commitment and their loyalty to their friend, James Macready-Bryan. I congratulate those outstanding young people and other individuals who not only promote respect but also manifest and represent it in their organisations.

By reaching young people and by working proactively in partnership we want to stem the tide of many of these problems and promote and develop — —

**Mr Finn** interjected.

**Hon. J. M. MADDEN** — Over a long period of time, Mr Finn, we want to develop ways people can work together within the community to promote a safe, respectful environment.

I will continue to work with my colleagues across government, and I look forward to the implementation of plans such as Victoria's Alcohol Action Plan, such as A Right to Respect — Victoria's Plans to Prevent Violence Against Women, such as Respectful Relationships Education in schools and such as Victoria's volunteering strategy. All these initiatives reflect the work that is being done across government in partnership with the community to build a more respectful community — it will not happen overnight, but it will happen — and make Victoria the best place to live, work and raise a family.

**Election campaigns: government resources**

**Mr KAVANAGH** (Western Victoria) — My question is to Mr Lenders as Treasurer and as Leader of the Government in this house, and I thank him for the nice mention he made of me before. The question is about the use of government resources in election campaigns. With the election looming I refer to an apparently inadvertent release of documents to the media from within a government department in February of this year. Most attention regarding that has focused on the planning matters that were contained in the documents, but I wish to ask the Treasurer and Leader of the Government about the draft of a press public relations campaign which was also released and which was intended to help the relevant minister in his campaign for election to a new seat. The question is: what is the government's policy in respect of using non-political staff who are paid by the taxpayer to help ministers or members of the government to gain seats in elections?

**Mr LENDERS** (Treasurer) — I thank Mr Kavanagh for his question and his ongoing interest in government advertising and appropriate standards. We received an Auditor-General's report — I cannot recall exactly when, but I think it was probably about 2007 — which the government responded to, on the criteria that would be used for campaigns and government advertising. The criteria go through exactly the issues Mr Kavanagh is raising. What is it normally

appropriate for a minister to do in certain circumstances?

We had a similar discussion in question time in the chamber previously when the Premier wrote a letter to the Victorian community last year, about this time, on bushfire prevention and we discussed whether the appropriate person was the Premier or the chief fire officer or the Governor or ultimately someone else. The guidelines are quite clear that a minister acting as an agent of the state certainly is required. Having the Premier in that case being the person who was alerting people to fire prevention raises the gravity, urgency and importance of the situation. There are appropriate times for that, and there are clearly times, such as during a caretaker period, obviously, where you would have no sign or sight of a candidate for Parliament in those particular communications in any form.

There was a series of criteria which, following the Auditor-General's report, were responded to at the time, I believe, by the Secretary of the Department of Premier and Cabinet, and those guidelines are in place. I believe they are on the Department of Premier and Cabinet website, although I would stand corrected on that. They are guidelines that every department is required to follow. There will always be a judgement issue. In my particular case as the Treasurer of the state or as the Minister for Information and Communication Technology I will put out publications to the industry and the like which will have a foreword from me in them. I would say that is an appropriate use of resources, because we are saying to our own information and communications technology industry and to interstate and overseas investors that this is Victoria, where we are serious about encouraging jobs. But that would not be something done in a caretaker period. I hope that helps Mr Kavanagh in response to his question, and I look forward to his supplementary.

*Supplementary question*

**Mr KAVANAGH** (Western Victoria) — I thank the Treasurer for his answer. The Treasurer indicated that the situation I described would be a breach of guidelines or policy. What are the consequences of breaching those guidelines or policies?

**Mr LENDERS** (Treasurer) — I will have to take on notice what the formal consequences would be, but the reality is that a government is under unbelievable scrutiny in this jurisdiction, as it is over any form of government advertising. We have had big debates in this place on the issues of what government does or does not do. I will take on notice the formal consequences of a breach of the guidelines.



Unequivocally there would be an adverse Auditor-General's comment, there would be adverse media commentary, there would be adverse parliamentary commentary and there would be scrutiny, and I would imagine that the Premier would come down pretty hard on any individual minister who breached those guidelines.

**Employment: government initiatives**

**Mr ELASMAR** (Northern Metropolitan) — My question is to the Treasurer, John Lenders. Can the Treasurer inform the house on how this year has been a year of action for the Brumby Labor government, with job creation and good economic management, and can he identify any risks to Victoria's strong economy and budget position?

**Mr LENDERS** (Treasurer) — I thank Mr Elasmarr for his question. Mr Elasmarr has raised an issue — almost a project — about what has happened in the last year in Victoria on the job front. It gives me pause for reflection on what has happened in jobs in Victoria in the last year.

*Honourable members interjecting.*

**Mr LENDERS** — Ms Darveniza is listening; she is interested in jobs. Mr Elasmarr is listening; he is interested in jobs. Let us reflect on the job numbers in Victoria. Mr Elasmarr's question is very timely, because at 11.30 this morning the Australian Bureau of Statistics (ABS), which Mr Rich-Phillips loves to quote, released job figures for Australia. Mr Rich-Phillips may well have been doing other things, so he could not raise these job figures in the house; perhaps that is what was happening. Those job figures show employment growth in Victoria — another 6000 new jobs in the last month.

While we need to take the job figures in context — month-by-month figures move around — in 10 out of the last 12 months Victoria has seen job growth. The ABS figures today show that the unemployment rate dropped from 5.5 to 5.3 per cent. Did we hear a peep from those across the chamber on that? No. But if that figure had gone up, we would have heard a cacophony of glee. If we had had some bad job figures, we would have heard a cacophony of glee from those opposite.

Let us look at what makes these figures come forward and what these 116 000 net new jobs in Victoria in the last 12 months mean. Firstly, we know that on average the people in these jobs are working 3 per cent longer hours than they were a year ago, which was during the global financial crisis when hours were being shrunk.

Slowly they are expanding again, and people are starting to work longer hours, going back to the sorts of hours they want to work rather than what was the case a year ago. We also know that more than three-quarters of these jobs are full-time jobs in Victoria that were not there 12 months ago.

We know these jobs are here, we know they have not grown by this extent in any other jurisdiction in Australia and we know there is something unique about Victoria that encourages our businesses to employ more people and encourages interstate and international companies to invest in Victoria and create jobs. It is no coincidence that part of this is that businesses respond well to a state government that has action plans going forward to generate jobs that go beyond the day-to-day media cycle and into the short term, the medium term and the long term to deliver jobs.

Some of these jobs are interesting when you look at what they are. My colleague Ms Pulford is a great generator of jobs in her role as parliamentary secretary. She was with the Premier at Vertex in Ballarat earlier this year when this large international information and communications technology (ICT) company announced 600 new jobs in her home town of Ballarat. When you say '600 jobs in Ballarat' the number rolls off the tongue quite easily, but for 600 Victorians and their partners, their loved ones, their families and those around them those are jobs that was not there until Vertex decided it was going to invest in Ballarat. For all those people that is a job. It is also a job for the teacher in the school, the nurse in the hospital and the retailer in the small business. These are jobs and opportunities that grow.

Vertex not only decided Ballarat was a good place to put 600 jobs, it also then decided to move its Asia-Pacific headquarters to Melbourne and create another 400 jobs.

**Ms Huppert** — In the Southern Metropolitan Region.

**Mr LENDERS** — In the Southern Metropolitan Region, Ms Huppert; that is correct. What you suddenly see is an example of a company that has confidence in the Victorian economy, confidence in our regional strategy and confidence in our ICT industry, which creates jobs in Victoria. Vertex is but one of many examples.

We have issues like the national broadband network (NBN), which federal and state Labor campaigned passionately for and delivered. The national broadband network will deliver 700 jobs at its national operating

centre in Melbourne. It will deliver thousands of jobs for sparkies in its establishment, as it is rolled out across the state — already in Brunswick and Bacchus Marsh — and as it goes further. It will provide opportunities for businesses to thrive and generate jobs in Victoria because it is there.

Both of these are examples of plans that the state has delivered and the business community has responded to, and they are delivering jobs in Victoria. It is interesting that our ICT strategy was trashed by the opposition and the NBN proposal was trashed by the opposition, but these plans deliver jobs.

Mr Elasmар asked about threats to these jobs going forward. Anybody who follows job growth, who follows business and who follows these matters will know that the one thing that antagonises business, instils fear and drives away jobs is uncertainty and lack of policy.

**Ms Huppert** — The opposition.

**Mr LENDERS** — Ms Huppert used the word ‘opposition’. I did not, but Ms Huppert is a very perceptive individual.

Businesses trying to make a decision can look to no policies from those opposite. They look to those who would get rid of the transport plan, get rid of the national broadband network and get rid of all the policies that are in place. They look to those who cannot cost to save themselves and to those who make Paris Hilton’s shopping sprees look modest when the compared to opposition spending. On Mr Baillieu’s promises to date there are \$17 billion — —

**Mr D. Davis** — On a point of order, President, there is no doubt that the minister has now strayed well beyond the brief of the question. He is into a general debate about the opposition and this and that and the other thing. The list is long. This is question time, not the opportunity to carry on.

**The PRESIDENT** — Order! Mr David Davis is debating the point of order. The question was clearly a very broad-ranging question about the whole of the state. I consider the minister to be well within the scope of the question.

**Mr LENDERS** — I take on board Mr Dalla-Riva’s question yesterday asking me to comment on opposition policy and costings. I take on board his interest in that matter and the house’s interest in the matter yesterday.

**Mr D. Davis** — On a point of order, President, clearly a question asked today is well beyond the scope of responding to a question yesterday. I think the Treasurer should come back to the question.

**The PRESIDENT** — Order! I think Mr Davis, in part, is right, but the question asked yesterday still relates to the subject of the question that was asked today. I am sure the minister is more than aware of the boundaries in what he can do in answering the question.

**Mr Jennings** — He was talking about shopping.

**Mr LENDERS** — As Mr Jennings reminds me, I said the only thing more reckless than Paris Hilton splurging on a shopping venture is Mr Baillieu and Mr Wells.

**Mr D. Davis** — On a point of order, President, I think a discussion of Paris Hilton is probably going beyond the parameters of the question.

**The PRESIDENT** — Order! Mr Davis may well think that, but I do not.

**Mr LENDERS** — Mr Elasmар asked me about what has happened in the last year in Victoria, and I can say to Mr Elasmар that 116 000 jobs have been created, and that is more than anywhere else in Australia, which is one of the leading economies in the world. These jobs are being created because the government has been focused on plans and focused on delivering jobs, it has been disciplined and the business community has responded, our workforce has responded, investors have responded and jobs have been created. The biggest threat to that is the uncertainty you get from a recklessly spending opposition that makes Paris Hilton look modest.

## QUESTIONS ON NOTICE

### Answers

**Mr LENDERS** (Treasurer) — I have answers to the following questions on notice: 9579, 10 688, 10 689, 10 991, 11 365, 11 550, 11 551, 11 739, 11 781, 11 791, 11 839, 11 908, 11 923, 11 924, 11 926, 11 940, 12 024–33, 12 103, 12 104, 12 168, 12 253, 12 255, 12 263, 12 286, 12 290, 12 291, 12 343–421.

**RULINGS BY THE CHAIR****Adjournment: admissibility of matter**

**The PRESIDENT** — Order! Last night in raising an adjournment matter Mr Kavanagh raised a matter for the third time since 29 July this year — the second time was 12 August and there was last night. The matter relates to a problem a Mr John Howard has with regard to radio broadcast towers in his backyard, literally. I made comment at that time that I felt it could well be ruled out on the basis that it was a matter that was brought on and debated within the previous six months. On reflection, and on reading the standing orders, I am pleased to say that my ruling now would be that the matter is in order. I do so on the basis that neither question time, where it was raised initially, nor the adjournment are considered to be debates. Therefore the matter is in order. I am pleased that is Mr Kavanagh's parting gift.

**Sitting suspended 1.10 p.m. until 2.18 p.m.**

**MEMBERS STATEMENTS****Housing: Rosebud family**

**Ms LOVELL** (Northern Victoria) — I want to raise the issue of Dean Ludlow, who is a constituent of Martin Dixon, the member for Nepean in the other place. Mr Ludlow and his family have been on the Office of Housing waiting list for 15 years now. He has a 16-year-old daughter who suffers from leukaemia and has been in remission. She has now left the family home because of the cramped conditions in the private rental property they are in in Rosebud. She has gone to live with her mother. Mr Ludlow has been left with his three young boys. He cannot sustain the private rental cost anymore and is desperate to get into public housing. As I said, he has been on the list for at least 15 years. He has also suffered from cancer himself and is in remission. He is a decent guy who deserves a break from this government. This government has failed to help him.

Mr Ludlow appeared in an article that was published in the *Herald Sun* just prior to Christmas last year, in which a spokesman for the government said the Office of Housing was working with him on his housing options. It is now October, so it has been 10 months and nothing has been done to help Mr Ludlow. I call on this government to provide assistance to Mr Ludlow and his three young boys to get them into a public housing property and secure accommodation.

**Parliament: staff and members**

**Ms PENNICUIK** (Southern Metropolitan) — In this last sitting week of the 56th Parliament I would like to take the opportunity on behalf of my colleagues Greg Barber and Colleen Hartland, and all Greens members and supporters, to say that it has been a privilege to serve as Victoria's first Greens MPs and to be able to advocate in this Parliament on behalf of so many community groups and for Greens policies on justice, education, the environment and many other issues.

We would like to extend our thanks to all the parliamentary staff who work so hard to support all MPs in their work: Wayne Tunnecliffe and Matt Tricarico and their staff, Linda and Andrea; Andrew Young and all the staff of the papers office; Stephen Redenbach and the staff of the committee's office; Russel Bowman and the parliamentary attendants — Michael, Greg, Patrick, Peter, Philip, Graham, Chris and Quentin; Joanne Truman and the Hansard staff; Marion King and the library staff; all the catering staff; and the parliamentary security officers. We would like to wish all our fellow upper house colleagues a happy and restful break and to extend our best wishes to John Vogels, who is retiring.

**Marine parks: opposition policy**

**Mr HALL** (Eastern Victoria) — Today I want to make it clear to one and all that the Liberal-National coalition will not be supporting any new marine parks or extensions to marine parks in the next term of government. One of the reasons for this is that there have been marine parks in Victoria for the best part of eight years, and during that time there has been no review or assessment as to the environmental benefits of such parks despite a promise to do so being made by the government when it introduced these parks. The government suggested that a review would be appropriate a few years down the track; that has simply not been undertaken.

There has been a push — and I know this is a matter of concern to many of the people in Eastern Victoria Region whom I represent — particularly by the Victorian National Parks Association for more marine parks. While the government to this point in time has said that more marine parks are not on its agenda, who knows? Beyond the next election it is quite likely that the Labor Party will need the support of the Greens if it forms government, and who knows what pressure will be on the government to create more marine national parks?

Let me make it very clear: there is only one major party in Victoria that will say quite categorically, without question, that it will not support more marine national parks in Victoria.

### **Donald Netball Club: funding**

**Ms DARVENIZA** (Northern Victoria) — Last week I was pleased to announce a funding boost of \$60 000 to the Donald Netball Club as part of the latest funding round of the country football and netball program. This program acknowledges the important role that clubs like the Donald Netball Club play in getting communities together and promoting a healthy lifestyle. The funding will go towards improving the club's facilities, which are regularly used by local players to play and train as well as attend matches. The funding will be used to extend and resurface two concrete netball courts with acrylic and to install additional lighting and fencing. Our government is very proud to work with councils on behalf of clubs to develop and upgrade football and netball facilities. We want to see everyone — players, coaches, umpires, kids and club supporters — stay involved in the game.

### **Libraries: Wodonga**

**Ms DARVENIZA** — On another matter, I was delighted to announce that the Wodonga City Council was successful in receiving a \$100 000 Living Libraries grant to redevelop the Wodonga library. Our government is committed to ensuring that all Victorians have access to good quality library facilities, and Living Libraries grants help to renew public infrastructure so that libraries can offer new and expanded services to growing and diverse communities. Given that almost half of Victorians belong to a public library, it is essential that this infrastructure meets the increased demands for these services. Visits to Victorian libraries are at a record level, highlighting the need for good quality libraries and services.

### **Parliament: staff and members**

**Mrs PEULICH** (South Eastern Metropolitan) — I would like to extend my very sincere gratitude to all the staff, from the gatekeepers through to the ivory tower of the clerks, for their assistance in service of the 56th Parliament and to say what a privilege it has been to serve here and to represent South Eastern Metropolitan Region.

I also acknowledge the retirement of colleagues John Vogels in this house and Helen Shardey and Ken Jasper, the members for Caulfield and Murray Valley in the Assembly, and wish them well in their retirement.

Without pre-empting, I wish Mr Peter Kavanagh, the solitary member of the Democratic Labor Party in the Parliament, all the very best for his re-election. I would like to say how much we have enjoyed his friendship, involvement and participation in this Parliament.

### **Anton Dosen**

**Mrs PEULICH** — I also place on record my thanks to members on all sides of the house who have expressed their condolences to me and my family on the recent passing of my brother, Anton Dosen, on 30 August 2010. He left his daughter, Sarah, his son, Andrew, his mother, Nina, and my son, Paul, bereaved and missing him terribly. This is one way of squeezing something in that is personal, which often members are reluctant to do.

### **Commonwealth Games: Australian athletes**

**Mrs PEULICH** — I also commend to members and congratulate the efforts of our Commonwealth Games athletes, not only those who pulled out because of concerns about their ability to perform under fairly difficult circumstances but also those who actually got there, including Gabrielle Neighbour, a Mentone athlete who qualified second in the hammer throw last night.

### **Peter Temple**

**Ms PULFORD** (Western Victoria) — I congratulate Ballarat author Peter Temple on taking out top honours at the Victorian Premier's Literary Awards. Peter Temple's novel *Truth* was awarded the Vance Palmer Prize for Fiction. This is a major award for fiction writers in the Australian literary community. Earlier in the year *Truth* won the Miles Franklin Literary Award. This crime novel is set during the Black Saturday bushfires in Victoria.

### **Parliament: staff and members**

**Ms PULFORD** — I also take the opportunity, as my first term in this place nears its conclusion, to thank ALP members of Parliament, members, friends and colleagues in the union movement, and family and friends for the support that they have provided to me on what has been an interesting journey. I also take the opportunity to thank the parliamentary staff for their assistance throughout the last four years and to wish well a number of colleagues in the Assembly who are retiring: Bob Cameron, the Minister for Police and Emergency Services and member for Bendigo West; Peter Batchelor, the Minister for Energy and Resources and member for Thomastown; Karen Overington, the member for Ballarat East; Judy Maddigan, the member

for Essendon; Carlo Carli, the member for Brunswick; and George Seitz, the member for Keilor.

I also thank those who have served in my electorate office and worked for me during the last four years for their endeavours over that time, including Brett Collett, Elizabeth Mynes, Jan Winter, Mish Meade, Romy Moclair, Julieanne Giles and Tully Smith.

### **Telecommunications: Hepburn and Moorabool shires**

**Mr VOGELS** (Western Victoria) — Today I rise to represent the views of residents living in the Hepburn and Moorabool shires — bushfire-risk areas — who are in Telstra drop-out zones. Some 840 people who live or own property in or are frequent visitors to the communities of Blackwood, Bullarto, Little Hampton, Lyonville, Musk and Newbury have signed a petition urging their state Labor MP in Ballarat East to ‘act now to address the inadequate mobile phone and broadband coverage to our townships and surrounding areas’. The nearest Telstra tower for these communities is located at Trentham, and it provides inadequate, nil or patchy coverage in these areas.

Community members are concerned about the safety risk impacts of a lack of mobile phone coverage, especially in case of a bushfire emergency. These communities are located in a recognised high-fire danger area. I understand this is a federal issue; however, I also understand that state MPs can achieve positive outcomes by lobbying their federal colleagues. I commend the Liberal Party candidate for Ballarat East, Ben Taylor, who has been proactive on this issue and has requested that I bring the matter to the attention of the Parliament. Ben has also met with Telstra officials to seek to influence the telecommunications provider to invest in local mobile wireless infrastructure.

### **Regional and rural Victoria: workforce development**

**Ms TIERNEY** (Western Victoria) — On 27 September I had the pleasure of representing the Minister for Skills and Workforce Participation at the announcement of a \$150 000 project to address shortfalls in skills and workforce development in the south-west. The Brumby Labor government has funded the great south coast industry workforce development strategy team to investigate and address the labour supply and workforce development needs across the region. By addressing these issues our government is ensuring that people in regional Victoria can identify employment opportunities and that local industry has

skilled staff to sustain economic growth. This new stage of funding will assist in attracting and retaining local people by matching skills with local jobs.

### **Bulla Dairy Foods: 100th anniversary**

**Ms TIERNEY** — On another matter, I congratulate Bulla Dairy Foods in Colac on its 100th anniversary. This is a fantastic achievement for rural industry in Victoria. I also commend the company for its role in employing over 50 people in the last three years, some of whom have been long-term unemployed. This again reinforces that local people and local jobs mean strong and sustainable local communities into the future.

### **Warrnambool: Climate Communities funding**

**Ms TIERNEY** — I also congratulate the Warrnambool Community Garden and the Warrnambool Coastcare Landcare Group, which have recently received funding under the Climate Communities program that the Minister for Environment and Climate Change talked about in question time. The Warrnambool Community Garden received \$50 000 for its health urban living project, and the Warrnambool Coastcare Landcare Group received \$48 500 for the Story of Warrnambool — Land Between the River pilot project. The environmental leadership of these groups in their communities is extremely valuable in our fight against climate change. Funding of \$105 million has been allocated by the Brumby — —

**The PRESIDENT** — Time!

### **Election campaigns: government resources**

**Mr KAVANAGH** (Western Victoria) — With the election looming I would like to express concerns about the use of government resources in election campaigns. It should be acknowledged that in certain respects the Australian political system is quite fair to small parties; for example, through allowing preferences and proportional representation, as in this chamber. However, in other respects our political system is grossly unfair to minor parties. I have spoken before about the way the press, especially the electronic media, can ignore the smaller parties and not allow people to even know they exist, let alone what they stand for.

The misuse of government resources by governments for their own purposes is very unfair to the opposition and other parties. Incumbency has many benefits in an election; some of them are inherent, but some of them also come from misusing resources. Recently in this house we had a debate about political advertising by the

government. As I mentioned in question time, the release of a document by a public servant included an election campaign media plan for the relevant minister. This aspect of the affair has been largely ignored, but it seems to me to represent an abuse by the government of its office. Unless they are employed in a political capacity it seems to me that people who are being paid by the taxpayer should not be helping or hindering anyone in an election campaign.

### **Rail: Williams Landing station**

**Mr EIDEH** (Western Metropolitan) — On Friday, 1 October, I had the pleasure of joining the Minister for Roads and Ports, Tim Pallas, the Minister for Public Transport, Martin Pakula, and the member for Altona in the Assembly, Jill Hennessy, to mark the start of works on the new railway station and road overpass at Williams Landing. This vital project will deliver infrastructure around Williams Landing town centre and will service the growing community, which is expected to double in the next 20 years. This project will improve the city of Wyndham's transport network and will include a new railway station as well as an overpass in Palmers Road, which will provide easier access to the new station.

The new railway station is part of a \$220 million Brumby government investment to expand Melbourne's rail network. I am pleased to say this new station will provide integrated public transport services as well as a customer service centre, sheltered waiting areas, toilets and approximately 500 car parking spaces. The Palmers Road overpass will provide direct access to this new train station and the town centre and will extend beyond the Princes Freeway, providing better connections for train commuters, motorists, pedestrians and cyclists.

I am proud to say that the Brumby Labor government is taking action to support sustainable population growth in areas like Point Cook and Williams Landing and helping to provide better transport links and access to schools, work and community facilities.

### **Planning: government policy**

**Mr GUY** (Northern Metropolitan) — On the last sitting day of this Parliament I could not resist making some comments about where planning in Victoria has been over the past four years. It is important to note that Victoria's population is growing strongly, as I can attest to after the last 24 hours. What we have had in Victoria over the past four years is a failure of planning policy and a failure of certainty in planning policy. We have had terrible legislation for the growth areas

infrastructure charge, which was a plan from a tired, old, arrogant, incompetent government to tax people 100 per cent of the growth areas infrastructure charge up front, to destroy Victoria's competitive advantages. We have had a terrible plan in amendment VC71 to try to make Melbourne into Sydney, ruin our urban neighbourhoods and destroy the neighbourhood character that has been built up in this city over many decades.

This government has run out of steam, and this minister has run out steam. He is leaving this chamber. He should leave the portfolio, and the government should leave office. Victorians are looking for vision. They are looking for certainty. They are looking for a breath of fresh air to come into this Parliament. They are going to get that on 27 November with a Baillieu coalition government with a vision for planning policy that will bring certainty and transparency back to our planning system.

### **Parliament: staff and members**

**Mr ATKINSON** (Eastern Metropolitan) — I want to take this opportunity to extend on behalf of my colleagues appreciation to the staff of the Parliament for their service in this Parliament. I have had the privilege of serving as Deputy President in this Parliament. I thank members for the confidence they placed in me at the start of the Parliament and for the courtesy and support they have shown to me throughout the term of the Parliament. I extend that appreciation also to the staff of the Parliament. It is obviously too early for felicitations at this time of the year and there is the uncertainty of not knowing who is coming back and who is not, apart from the retirements — and I extend best wishes to those who are retiring. It is certainly true that this Parliament is very well served by the staff.

The people in this chamber share a camaraderie that has a history to it, in the sense of what has taken place in this chamber. It occurs to me that in this particular Parliament debate has been more robust. The fact that there has been a need for both the major parties to convince by way of intellectual debate rather than simply by sheer numbers other members of the Parliament to support their propositions has contributed to a better quality of debate. I appreciate that, and the people of Victoria are well served by that. I certainly look forward to a coalition majority in this house going forward but hope that we will treat the house with the respect that is necessary in those circumstances.

### Trams: new fleet

**Mr SOMYUREK** (South Eastern Metropolitan) — I rise to congratulate Dandenong-based company Bombardier on obtaining the contract to design and construct 50 new low-floor trams for Melbourne. Melbourne has the world's largest tram network, which carried 175.6 million passengers in the past financial year. The order is a boost to our tram fleet and a fantastic endorsement of our local manufacturing industry with major components built at Dandenong as well as being assembled and tested there. The new trams will be approximately 33 metres in length, able to carry more than 210 passengers, fitted with closed-circuit television and fully accessible for passengers in wheelchairs and the elderly.

The new order will include 50.3 per cent local manufacturing content, with the tram shells to be constructed at the company's Dandenong plant. More than 500 jobs will be generated when production is at its peak, and there will be major flow-on benefits for the local supply chain, thus reinforcing Dandenong as the nation's manufacturing hub.

### Peninsula Health: clinical school

**Mr SOMYUREK** — On another matter, I would also like to congratulate the government on the official opening last week of the \$1.95 million expansion of the Peninsula clinical school in Frankston, which will boost access to world-class training facilities for medical students.

### Alfred Health: funding

**Ms HUPPERT** (Southern Metropolitan) — I was delighted last month to join Janice Munt, the member for Mordialloc in the other place and the Parliamentary Secretary for Health, on a visit to Sandringham Hospital to announce a funding boost for Alfred Health. The grant of \$38.5 million for new capital works will fund new facilities at the Alfred, Caulfield General Medical Centre and Sandringham Hospital. It will include an expansion of the emergency department at Sandringham Hospital, which will be increased by 7 cubicles, from 8 to 15.

The expansion of the Sandringham Hospital emergency department will improve the hospital's capacity to meet growing demand for emergency services. The expanded facilities will improve performance against emergency department key performance indicators.

### Glen Eira Chinese Senior Citizens Club

**Ms HUPPERT** — On another matter, on Sunday I had the great pleasure of attending the Glen Eira Chinese Senior Citizens Club in South Caulfield. The club, which also has a group which meets in Ormond, put on a concert to celebrate China National Day and the Moon Festival. The club, which is supported by the Victorian Multicultural Commission, plays an important role in providing activities for older Chinese residents of the Glen Eira area.

### Parliament: staff and members

**Ms HUPPERT** — Finally, as we draw to the end of the 56th Parliament, I would like to thank my Labor Party parliamentary colleagues and some people opposite who welcomed me when I joined this Parliament at the beginning of 2009. I would also like to thank all the staff of the Parliament, who have made me feel very welcome as I joined the Parliament during the term. It has been a wonderful experience, and I look forward to returning here in the next Parliament.

### Planning: amendment VC71

**Mr D. DAVIS** (Southern Metropolitan) — I rise to put on record my concern about the government's amendment VC71, the Minister for Planning's approach to providing for high-density, high-intensity development along transport routes that will be largely uncontrolled and his defiance of the chamber's wish regarding the changes that were made with amendment VC67, only to bring this matter back as a planning scheme amendment.

This will be the death of many of the suburbs of Melbourne as they are overrun by uncontrolled, unplanned, unthought-through and badly designed developments. They will lead to great density changes that will not be in the interests of the community in electorates like Burwood in the Assembly, where the Labor member, Mr Stensholt, came to power wanting to protect suburbs. Instead on each and every occasion he has supported densification and high-rise developments as of right, as pushed by Mr Brumby and Mr Madden. It is simply disgraceful the way this is being pushed into our suburbs.

Last night we sought to push through a planning scheme disallowance — the VC71 disallowance. Unfortunately it was not passed in time, and that leaves us in a very difficult position. I express my disappointment that Mr Barber did not move to a vote at the end of that process. Unfortunately it is going to leave the community very exposed to uncontrolled

development that can occur through to the end of this Parliament and beyond to the vagaries of what happens with the next Parliament. Mr Brumby must be thrown out. That is the only way we can protect the community.

## STATEMENTS ON REPORTS AND PAPERS

### **Family and Community Development Committee: adequacy and future directions of public housing in Victoria**

**Ms LOVELL** (Northern Victoria) — I rise to make a statement on the *Inquiry into the Adequacy and Future Directions of Public Housing in Victoria* report undertaken by the Family and Community Development Committee and tabled in this house yesterday. This report is basically a report card on the Brumby government's failure in the housing portfolio and delivers a damning critique of the government's poor management of public housing in this state over the past 11 years. Under Labor public housing waiting lists have grown, waiting times have blown out and an overly arduous application process and massive maintenance backlog have made it harder for vulnerable families to access a home.

The report shows that 11 years of traditional Labor values have left thousands of Victorians sleeping under bridges, in cars or tents because of the Brumby government's inability to manage public housing effectively. The report found there was no growth strategy for public housing in Victoria; that the Victorian government should develop a strategic framework for the provision of social housing, including a clear vision for the provision of the future; and that it should review its public housing eligibility processes and publish annual waiting time data based on region, segment and broadband. We get very little information on the waiting list itself, let alone the waiting time for people who are on it.

The report found that the Victorian government should review its policies and procedures relating to housing offers to create greater choice and flexibility. The report also found that the government should improve its maintenance contract arrangements in public housing and report annually on quality assurance measures, including the number of urgent priority and non-urgent repair requests not completed within the required time frame. We hear this time and again from people who have reported urgent maintenance issues that should be repaired within 24 hours — things like hot-water services, heaters and stoves that are not repaired, sometimes for many days and sometimes weeks.

Families are suffering in Victoria because of Labor's incompetence, which has led to 2000 public housing properties lying empty while the Victorian public housing waiting list has grown to more than 41 000 families. The report highlights that the 41 017 figure only refers to those on the general waiting list. It recommends that the figure for the general waiting list and the transfer list be combined. This would bring that number to 50 674 families waiting to be housed in this state. That is the way former governments have reported the housing waiting list, with the transfer and the general lists combined. It was this government that separated them, and now a Labor-dominated committee recommends that one figure should be published.

After 11 years of Labor the waiting time for families needing urgent housing — that is, those most at risk of homelessness — has blown out from 2.8 months in 1999 to 8.5 months in 2010, and that is only the average waiting list. I have spoken to two families in the last fortnight who told me they are on the early waiting list but have been told it will be at least four years until they are housed. Because of Labor's incompetence and mismanagement, families cannot get into public housing, rental affordability has declined in Victoria and the dream of home ownership is receding even further into the distance. It is time Premier Brumby and his government realised that they are making it harder for Victorian families, and it is time we changed the government in this state to allow for competent government, competent management of public housing and better housing policies.

### **Department of Sustainability and Environment: report 2010**

**Mr BARBER** (Northern Metropolitan) — This being the final sitting week of the International Year of Biodiversity, I would like to reflect on the Department of Sustainability and Environment (DSE) annual report in light of its role as the guardian of Victoria's biodiversity stocks. While it is the guardian of its own finances and operations, one is hard-pressed to get information about the state of biodiversity in Victoria. We can read the DSE report against other reports, such as the Auditor-General's findings that there is insufficient spending on pests, plants and animals and the protection of biodiversity; the review of the Flora and Fauna Guarantee Act; the landmark *State of the Environment Victoria Report 2008*, with its comprehensive recommendations; and even right here today a new report from the Auditor-General on the fate of environmental flows during drought conditions.



We are completely unable from reading DSE's report to understand either the state of our biodiversity or where the effort is being put in in order to maintain it. For example, in response to the 2009 Victorian Bushfires Royal Commission's report, \$403 million is going to be made available for fuel reduction burning, but within that amount we will not know what will be the ecological component of that burning. The Greens think at least 10 per cent of that money should be spent on specifically targeted ecological burning programs alongside research about their impacts.

The 2008 state of environment report, the recommendations of which the Greens fully endorse and would like to see implemented, gave us frank and fearless advice on the situation in relation to biodiversity. Among its recommendations it said that:

The Victorian government should restate the role of natural forests in climate change mitigation in light of recent findings ...

I think that is a role that should be taken off VicForests and given to DSE.

Also relevant to DSE's operations is the recommendation that both VEAC (Victorian Environment Assessment Council) and the Victorian Catchment Management Council retain their funding levels and, most importantly, their independence.

The broader DSE land management function and biodiversity protection does play a role in private land through stewardship and market-based programs. We believe there should be more funding made available to those programs. In summary, what I would like to see is that next year's DSE annual report, if at all possible, includes — and if it is a Greens government I will certainly ensure that this occurs — the development of statewide targets for biodiversity and land health and that recovery plans for threatened species are fully funded to the tune of at least \$10 million per year for the coming years.

We need to increase investment in on-ground protection of restoration ecosystems. Stewardship payments trialled by this government should be expanded, perhaps to \$40 million. One-off loans to Trust for Nature could assist it to deliver its function. Support for local community coordinators and community capacity through targeted programs is also necessary.

We need to strengthen our public institutions by retaining VEAC and the Victorian Catchment Management Council and a comprehensive review of that most important piece of legislation, the Flora and

Fauna Guarantee Act, to ensure that we have a much stronger framework in place. At the moment it is not even compulsory in all cases on DSE's own operations.

The annual allocation for parks and reserves, as highlighted by the Auditor-General, must be increased. I would suggest at least \$50 million per annum should be added onto the budget if we are to have a chance of protecting the biodiversity that we hold so dear.

Relating specifically to the Auditor-General's review of DSE's performance in the area of managing water, which just landed on our desk today, we also need to improve the Water Act, under which DSE operates, to provide greater security for rivers and wetlands — —

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

### **Swan Hill District Health: report 2009–10**

**Ms BROAD** (Northern Victoria) — Today I wish to make some remarks on the annual report of Swan Hill District Health for 2009–10. I would like to take this opportunity to acknowledge and thank the president, Don Logan, and members of the board of Swan Hill District Health, the CEO Ted Rayment and staff, and the volunteers who make such a valuable contribution to meeting the health-care needs of communities in the Swan Hill area.

On 23 September I had the privilege of visiting Swan Hill hospital in my capacity as a member for Northern Victoria Region and representing the Minister for Health in the Brumby government, Daniel Andrews, to mark the commencement of celebrations for the 150th anniversary of Swan Hill District Health. The commencement of celebrations was marked by the opening of a display of memorabilia collected from the community reflecting historical events and items, including some truly intimidating medical equipment from the hospital which is thankfully no longer used.

I would like to acknowledge members of the community and the Swan Hill newspaper, the *Guardian*, for their efforts in mounting this outstanding display and the president, Don Logan, for his formidable knowledge of the history of the hospital as a result of his lengthy service.

Following this event there was an opportunity to tour the hospital facilities and to discuss the needs of the health service. I hasten to add for members who are not familiar with the Swan Hill hospital that the hospital is not 150 years old. The original hospital was funded by local graziers and established on another site in 1860. It then moved to the current site in 1889, where a

magnificent building was erected. This building was sadly demolished due to a redevelopment in 1981, which was when the current building commenced operation.

The hospital has grown significantly over time to meet community needs. Funding by the Brumby government has doubled so that more patients can be treated. Swan Hill District Health is recognised as an innovative health service. It was my pleasure to congratulate everyone associated with it on its 150th anniversary on behalf of the Brumby government.

Some recent achievements are outlined in the annual report, including the agreement reached with the Bendigo Anglican diocese and local Anglican church to purchase church land from health service reserves to make space for a new aged-care facility pending government funding.

The Department of Health has agreed to update the master development plan, incorporating new and planned services. The health service has received funding for a four-chair public dental health service on health service land opposite the hospital and the health service has purchased the land.

I wish to acknowledge the outstanding effort that is being made to deliver high-quality care to residents in the extended care unit, as well as recognising that the extended care unit is outdated and requires replacement in order to meet community expectations. I look forward to working with Swan Hill District Health to assist it to achieve that outcome.

### **Department of the Legislative Council: report 2009–10**

**Mrs COOTE** (Southern Metropolitan) — I want to speak on the annual report of the Department of the Legislative Council for 2009–10, and in doing so I would like to reflect upon the 56th Parliament and the people in this place.

First of all from the government, Nazih Elasmr is one of life's nicest people, almost too nice to be an MP; Khalil Eideh is the quiet achiever of this place, dedicated and committed; Jaala Pulford is a great example to young women across our country — she will have a very successful parliamentary career; Brian Tee and Gayle Tierney are both dedicated politicians; Adam Somyurek — I admire his political acumen; Matt Viney has been like a terrier rounding up reluctant cats. He has done an outstanding job, and I thank him for his sense of humour. Johan Scheffer — our bond will always be Monash Province but I have been so

impressed at how he has been able to take to a country electorate with such aplomb. I thank John Lenders for being so passionate about the Legislative Council and for his deep commitment to the people of Victoria. I admire Gavin Jennings for taking up my suggestion regarding Mark Stone and for his wicked sense of humour, and I want to thank Martin Pakula for taking such a great interest in my shopping habits.

On the opposite side of the chamber, Bruce Atkinson has done exemplary work as the Deputy President. We have all learnt a huge amount from him in this Parliament, and he has reinstated respect into this chamber. Bernie Finn is my friend and office colleague. We do not always see eye to eye on social issues, but we are the greatest of friends, and it was inspiration to put us together, as many of our communal friends would agree. Philip Davis has one of the best political brains in this chamber, and hopefully he can restore intellect, serious debate and proper procedures to the chamber in the 57th Parliament.

Gordon Rich-Phillips has a brilliant mind and has done more heavy lifting for the Liberal Party than anyone else in the 56th Parliament. Richard Dalla-Riva is a developing entrepreneurial talent; no suburb is safe from his investment attack. David Koch is quiet and dignified, and I thank him for his friendship and ongoing assistance. I say to David Davis and Wendy Lovell that I know personally what an arduous job leadership is. Damian Drum's work on behalf of the disability sector is admirable. I say to my back row buddies, Inga Peulich and Donna Petrovich, that I promise I will lose weight so they can get into their seats easily in the next Parliament — or, better still, the next Parliament might spend money to refurbish this chamber so we can come out of the 19th century and into the 21st century. I am impressed with Jan Kronberg's hard work, diligence and compassion for her constituents.

The Greens have punched above their weight in this Parliament. They have been very impressive and professional. Sue Pennicuik is the queen of committees. With her hard work and dedication it is amazing to think she has only been here for four years. I will be watching with interest Greg Barber's carriage of the transport portfolio in the 57th Parliament. I will come to Colleen Hartland later.

Peter Kavanagh arrived with great political heritage and will have made his grandparents proud. He has managed under difficult circumstances to raise the profile of the Democratic Labor Party in this state and can be justifiably proud that there is now a Victorian DLP senator. I have not always agreed with his

approach on many issues, but I respect him utterly for his passion and professional debate on issues that are dear to him.

Candy Broad was professional, dedicated, honest and showed huge integrity and courage in relation to the conscience vote on the abortion bill. Women in Victoria have a great deal to thank her for.

In terms of the conscience vote on the dying with dignity bill Colleen Hartland had an extraordinary partnership with the member for Bass in the Assembly, Ken Smith. She established her poignant, thoughtful approach and reinstated the element of dignity in the debate on dying with dignity in Victoria.

I worked with Shaun Leane and Jenny Mikakos on the Drugs and Crime Prevention Committee. Sometimes the issues were difficult. With her legal brain, Jenny was terrific, and Shaun had a pragmatic and sensible approach.

We have had several babies in this place: four Liberal babies and one-and-a-half Green babies. Because of Matthew Guy and Edward O'Donohue, both from the Liberal Party, the future of this place will be outstanding. I suggest we watch these two young men as they go from strength to strength.

There are two people in this place whose personal challenges have been an inspiration to us all; they are Peter Hall and Kaye Darveniza.

We have had comings and goings. We said goodbye to Evan Thornley, who went off to not such a better place, and hello to Jennifer Huppert. As I share representation for the Southern Metropolitan Region with her, I know how highly regarded she is.

I have much to say, but I would like to say something about John Vogels in particular. Every so often this place throws up a genuine article. In this case, John has been exactly that. He has been a gifted member of Parliament with rare skills, and he restores faith in our profession. He has shown us all that this is indeed a noble profession.

Finally, President, with your indulgence, in the 15 seconds I have left, what can I say? Watching you in the position of President has been like watching a chrysalis emerge. From the depths of the back bench, slightly chubby with a beard, you have become a style aficionado. It is a pleasure to reflect on your multicoloured shirts, tone-on-tone ties and Barry Humphries kerchiefs on a daily basis. But your sense of fashion and style camouflages a steely resolve and a will to rule this chamber with an iron fist. All of us have

been recipients of your tough decisions, biting comments and deadly rulings. The era of the Right Honourable Robert Smith has indeed been memorable. There is a song that is dedicated to you. It was written in 1812, and the lyrics are by Albert Gamse. With some modifications, I would like to read it, with your indulgence:

Hail to the chief we have chosen for the chamber,  
Hail to the chief! We salute him, one and all.  
Hail to the chief as we pledge cooperation  
In proud fulfilment of a great, noble call.  
Yours is the aim to make this grand chamber grander.  
This you will do, that's our strong, firm belief.  
Hail to the one we selected as commander.  
Hail to the President! Hail to the chief!

We will play your theme song courtesy of Mr Dalla-Riva. I thank one and all, including the staff. I thank everybody very much for helping us make this Parliament so successful.

### **Film Victoria: report 2009–10**

**Mr ELASMAR** (Northern Metropolitan) — What a wonderful contribution from Mrs Coote. I do not know the name of the report she was speaking on, but her contribution was excellent.

I am delighted to speak on the Film Victoria annual report 2009–10 to the Victorian Parliament. I read this report with great interest because, as some members may know, I am a great supporter of the Australian, and particularly the Victorian, film industry. I like nothing more when I have the time than to relax with my family watching a good locally produced film or television show.

We have a wealth of local talent, and I am pleased to see that Film Victoria is leading the way in Australia by having more films and TV shows made here than in any other state in this country. My daughter Adele is presently studying fine arts at university, and she hopes one day to be a successful film and stage producer using Australian talent, content and actors.

I easily understand why the US and the UK, both with massive audiences for their productions, manage to generate billions of dollars at the box office while in the past we in Victoria have struggled to gather sufficient viewers to make projects worthwhile. Not anymore. In the last financial year we in Victoria invested approximately \$233 million. This is the second-highest spend on record, producing 88 films, television and digital media products. Of the top 10 Australian films, 5 were supported by Film Victoria. This demonstrates the commitment by the Brumby Labor government and

Film Victoria to invest in our entertainment industry and in our own local rising stars.

Television production of programs in Victoria has increased its participation in the local viewers market and at the same time created 5371 full-time jobs. We are a first-choice location for many screen productions from the USA, as our locations are places of great beauty and, importantly for filmmakers, they are unspoiled. Our actors and writers are more than ready to take on the challenge of working to increase their skills for the enhancement of the Australian film industry. We are now in a position to develop and market our own productions that are recognised in overseas award ceremonies. We have much to be proud of in Victoria.

I pay tribute to the board of Film Victoria. These men and women have contributed so much of their time and energy to ensuring that the Victorian film industry continues to grow and flourish and become even more significant as the Australian viewing public's first choice in entertainment. I admire and fully support Film Victoria for its heartfelt commitment to the ongoing promotion and support of our performing arts, particularly in the motion picture, television production and digital industry, and for its strategic leadership, which continues to provide the organisation with excellent support staff who are improving the chances of future generations enjoying Victoria's productions by offering options and training to the home-grown stars of the future. I commend the report to the house.

### **Auditor-General: Access to Ambulance Services**

**Mr D. DAVIS** (Southern Metropolitan) — I am pleased to rise to make a contribution to the debate on statements on reports and papers, and in particular to the debate on the Auditor-General's report on access to ambulance services, which was tabled yesterday in this chamber. Of course this chamber was the originator of that reference through a motion that was carried here some months ago.

I pay tribute to the Auditor-General and his staff for the work they have done and in particular for the speed with which they have done it. They have worked assiduously and have been able to cover an enormous territory. Whilst this report does not cover every aspect of ambulance services in Victoria, it does a great job in getting to the bottom of a number of serious problems at Ambulance Victoria.

As we said at the time that reference or request to the Auditor-General was passed by this chamber, we sought this action from him because of a developing

crisis — a crisis that was seeing Victorians not getting ambulances when they needed them. Paramedics were trying to do their jobs and were doing everything they could to the very best of their ability, but they were not getting the background support they needed from the government. Indeed the management of Ambulance Victoria was in a very difficult position. It was clear that response times had blown out. Case after case came into the public domain where lives were at risk, and in some cases far more than at risk. Families and communities deserve much more than that. It is worth putting on the record a number of key things the Auditor-General said:

Performance data shows that ambulance response times have worsened in both metropolitan and regional areas over the last six years.

He went on to say:

The effectiveness of emergency ambulance services directly relates to patient outcomes.

He made the point that response times have increased. The Auditor-General found in particular that the average time from a 000 call to admission of a patient to hospital had increased by 39 per cent from January 2006 to July 2010, or from less than 55 minutes to more than 75 minutes. That is an enormous length of time; it is simply too long.

The government has a terrible record on its failure to deliver ambulance services. The report says Ambulance Victoria has received a funding commitment for a number of areas, but the funding areas do not align with Ambulance Victoria's priorities. The department's priorities have run roughshod over the more thoughtful planning that has occurred at Ambulance Victoria. That thoughtful planning has been focused on delivering the best quality services to the community.

We know that the Minister for Health, Daniel Andrews, and Premier John Brumby ordered the merger of Rural Ambulance Victoria, Alexandra District Ambulance Service and the Metropolitan Ambulance Service. It is now clear that they botched that merger, that any efficiencies they hoped to gain were not gained and that the performance of the service has declined both in the country and the city over that time. Certainly no advantage has been captured as the response times have blown out.

As I said at the time of the motion, Minister Andrews has to carry the blame fairly and squarely for the deterioration of the ambulance service under his watch. It is true to say that he has blood on his hands, as people have died because of his mismanagement, because of his failure to deliver proper services. People have died

and families have suffered because of the minister's incompetence and failure to manage his portfolio and the ambulance service. Whether it be in Geelong, Ballarat or Bendigo, wherever you look around the state performance has declined.

In metropolitan Melbourne performance has declined. Just two days ago eight ambulances were photographed ramped outside the Monash Medical Centre. Transfer times are not published in this state; the opposition had to fight to get that transfer time data. If a critically ill person is in the back of an ambulance, unable to get into an emergency department, that is a terrible outcome for which Premier Brumby and Minister Andrews are fairly and squarely to blame. They manage both the hospitals and the ambulance services, and they have to take responsibility for their mismanagement of the ambulance services.

Now what we see is a decline not just in the city but also across country Victoria. Ambulance officers are doing their best, and at the same time the Premier and the Department of Health are cutting funding to the ambulance service. The minutes from Ambulance Victoria show cuts in the last financial year. There were cuts to recruitment as waiting times went up and people were dying. It is a disgrace, and Minister Andrews should go.

**Ms Hartland** — On a point of order, President, I was on the list for statements on reports. It is listed on the business paper.

**The ACTING PRESIDENT (Mr Finn)** — Order! Ms Hartland has 21 seconds on the clock.

**Mr D. Davis** — On the point of order, President, we could give Ms Hartland leave to continue for 1 or 2 minutes more which would give her some time to say something.

**Ms Hartland** — No, it is not enough time.

## EDUCATION AND TRAINING REFORM AMENDMENT (SKILLS) BILL

### *Council's amendments and Assembly's amendments*

**Message from Assembly agreeing to some Council amendments, requesting agreement with Assembly amendments and disagreeing with the remaining amendments considered:**

**Council's amendment 1 as follows disagreed with:**

1. Clause 3, lines 15 to 21, omit all words and expressions on these lines and insert —

“(ii) the student is 20 years of age or older on 1 January in the year the study is undertaken, and the study is required by the student in his or her current or prospective employment or to re-enter the workforce, whether or not the study leads to the same or a higher level of vocational education and training qualification already obtained by the student — “.

**Council's amendments 2 to 4 agreed to.**

**Council's amendments 5 and 6 as follows disagreed with:**

5. Clause 55, page 77, lines 1 to 4, after “consistent with,” omit all words and expressions on these lines and insert “and is designed to facilitate, the carrying out of the functions referred to in subsections (1) and (2).”.
6. Clause 55, page 77, after line 4 insert —
  - “(4) The board of an institute must use any revenue generated by engaging in the type of commercial activity referred to in subsection (3) for the purposes of carrying out its functions under subsections (1) and (2).”.

**Council's amendment 7 agreed to:**

Clause 57, omit this clause

**Assembly amendment:**

Insert the following new clause to follow clause 56 —

#### **'AA Board directorship**

(1) In section 3.1.16(1) of the **Education and Training Reform Act 2006** —

(a) before paragraph (a) **insert** —

“(aa) the chairperson of the board who must be appointed by the Governor in Council;”;

(b) for paragraph (a) **substitute** —

“(a) a number must be appointed by the Minister that together with the chairperson is more than one-half of the directors of the board;”.

(2) In section 3.1.16(3) of the **Education and Training Reform Act 2006**, for “referred to in” **substitute** “appointed by the Minister under”.

**Council's amendment 8 agreed to:**

Clause 58, omit this clause

**Assembly amendment:**

Insert the following new clause to follow clause 57—

#### **'BB Removal of directors**

In section 3.1.18(1) of the **Education and Training Reform Act 2006**, after “remove” insert “the chairperson or”.

**Council’s amendments 9 to 14 as follows disagreed with:**

9. Clause 70, lines 24 to 34 and page 89, lines 1 to 22, omit all words and expressions on these lines.
10. Clause 70, page 89, line 23, omit “(6)” and insert “(4)”.
11. Clause 70, page 89, line 23, omit “60” and insert “58”.
12. Clause 70, page 89, line 30, omit “60” and insert “58”.
13. Clause 70, page 89, line 32, omit “(7)” and insert “(5)”.
14. Schedule, line 2, omit “71” and insert “69”.

**Mr LENDERS** (Treasurer) — I move:

That the Council does not insist on amendment 1 with which the Assembly have disagreed.

**Mr HALL** (Eastern Victoria) — If my recollection is correct, amendment 1 relates to the proposed extension to the training guarantee. I will make some overall comments before I go to each of these amendments. As members who have been part of this debate would realise, a negotiation has taken place between the government and coalition, and there is a position to which there is some agreement now. In commenting on some of the particular points I needed to make that statement to give a broad overview.

In respect of the first amendment and the motion that we not insist upon it, I indicate reluctantly that the coalition is prepared to support that position the we not insist on this amendment. I say ‘reluctantly’ because it is abundantly clear that this is not an issue which the coalition is just simply discarding by way of its agreement to agree to this particular amendment.

The extension to the training guarantee was an amendment moved by Ms Pennicuik on behalf of the Greens. The coalition supported that amendment because our view is that the current training guarantee, particularly as it provides only for a government-funded place to those who are upskilling — that is, people over the age of 20 who are upskilling — advantages many people over the age of 20 who seek to obtain an additional qualification of an equivalent or lower level. Most of us in our lives will probably at some time or other need to go back and acquire formal qualifications at a level lower than the one we currently hold to maintain employment or change employment in some instances. I fully understand there is a significant cost associated with the change in the definition of eligibility for a government-funded position.

In terms of progressing this bill, and because there are elements of the bill which we support — and we have indicated our support in the past — and in the interests of at least getting through the majority of this bill, which we think is good and acceptable, coalition members have come to a position to agree not to insist on this particular amendment. However, I make it clear that this will become a policy matter for the forthcoming election. So it is that today the coalition reserves its right to talk about this and frame policy around this particular issue of eligibility. Reluctantly we agree not to insist on this amendment. However, I am telling the people of Victoria that this is still an issue of vital concern and will no doubt be a strong issue when debate occurs on policy prior to the election.

**Ms PENNICUIK** (Southern Metropolitan) — The Greens will not be agreeing with the government’s position of not insisting on this amendment. I moved this amendment on behalf of the Greens. It is probably the most important amendment to the bill. It is an issue of great importance from our point of view, and from the point of view of many people in the community, including people who are looking to go to TAFE to gain further skills.

Since the bill was debated some two weeks ago and these amendments were on the table and known to the government, I know Mr Hall has had some discussions with the minister. However, I put on the record that the minister has made no attempt to speak to me about any of the amendments to this bill that I moved in committee. She chose to discuss with Mr Hall not only his amendments but my amendments. The minister thought it best to just talk to one person, but not the person who actually moved the amendments. I put that on the record.

The Greens strongly support this amendment. Mr Hall was kind enough to convey to me some information that was given to him by the minister about my amendment, the principle of which Mr Hall said he supported and still supports. Part of the discussion about this amendment was on how it might or might not affect people and what it might or might not cost. In terms of the costs that the training guarantee might or might not incur for the government if it is for any place or only for an upskilling place, it is all a matter of speculation and estimation based on the current numbers of people who go back to TAFE and gain a skill at the same level or at a lower level, which may be a requirement of their job. The employer may say, ‘You have certificate III in such and such, but I would really appreciate it if you had a certificate III in something else as well’. If they want to do that after this provision

is inserted into the act, they will have to pay the full fees.

The government has said that about 27 per cent of the people in TAFE have gone back to gain a skill of an equal or lesser certificate level — at a certificate level when they hold a diploma, for example. That is a significant minority of people, so the way to look at it is it could incur a cost but the other thing is that over one-quarter of the people who would like to reskill in TAFE will not be able to do that now. This is going to adversely affect a significant number of people. For the life of me I, and so many other people, cannot understand how the government's claim that this is going to make TAFE more accessible to people and increase the skill level in the community fits with the provision it is putting in the bill. To me they are completely contradictory, so the Greens will not be supporting the motion the government has put forward — that is, that the house not insist on the amendment. We would insist on this amendment.

**Hon. M. P. PAKULA** (Minister for Public Transport) — Given the comments made by Mr Hall and Ms Pennicuik, let me just make a couple of very brief comments. Obviously the government is grateful for the fact that we have been able to reach an agreement with the opposition, notwithstanding Mr Hall's comments about the ongoing views of the coalition. I should make the point that the guarantee is not a cap on government-supported training — it is a floor, not a ceiling, and we can provide more than the guaranteed minimum to strengthen vocational education and training in Victoria. Whilst we are sympathetic to the motives that were behind the original amendment, we do not believe the government is or should be in a position where it effectively writes a blank cheque for taxpayer-funded vocational training for all time, and on that basis the government will be obviously supporting the motion that the Council not insist on its amendment.

**House divided on motion:**

*Ayes, 34*

Atkinson, Mr	Lenders, Mr
Broad, Ms	Lovell, Ms
Coote, Mrs	Madden, Mr
Dalla-Riva, Mr	Mikakos, Ms
Darveniza, Ms	Murphy, Mr
Davis, Mr D.	O'Donohue, Mr
Davis, Mr P.	Pakula, Mr
Drum, Mr	Petrovich, Mrs
Eideh, Mr	Peulich, Mrs
Elasmar, Mr	Pulford, Ms
Finn, Mr	Rich-Phillips, Mr ( <i>Teller</i> )
Hall, Mr	Scheffer, Mr
Huppert, Ms	Smith, Mr

Jennings, Mr	Somyurek, Mr
Koch, Mr	Tierney, Ms ( <i>Teller</i> )
Kronberg, Mrs	Viney, Mr
Leane, Mr	Vogels, Mr

*Noes, 4*

Barber, Mr ( <i>Teller</i> )	Kavanagh, Mr
Hartland, Ms	Pennicuik, Ms ( <i>Teller</i> )

**Motion agreed to.**

**Hon. M. P. PAKULA** (Minister for Public Transport) — I move:

That the Council does not insist on amendment 5 with which the Assembly have disagreed.

**Motion agreed to.**

**Hon. M. P. PAKULA** (Minister for Public Transport) — I move:

That the Council does not insist on amendment 6 with which the Assembly have disagreed.

**Mr HALL** (Eastern Victoria) — Amendment 6 relates to the omission of clause 57, which related to a proposed new appointment process for TAFE boards. The amendment that was moved in the Council and agreed to by the Council basically meant that the appointment of TAFE boards will revert back to the current process described in the Education and Training Reform Act, where the minister will appoint 50 per cent plus one of the board members, others will be coopted and there will be a staff member and a student member as well as the chief executive officer forming the composition of the TAFE board. Importantly, from a coalition perspective, we saw it as imperative that local cooption should still be enabled, and that is the case with amendment 6.

**Hon. M. P. PAKULA** (Minister for Public Transport) — Just to assist Mr Hall, I get the feeling from reading my notes that he might be dealing with amendment 7.

**Mr HALL** (Eastern Victoria) — I thought the motion was that we agree to clause 57.

**Hon. M. P. PAKULA** (Minister for Public Transport) — I moved that the Council not insist on its amendment 6, which deals with clause 55. It is the amendment dealing with the board of an institute using revenue generated by engaging in a type of commercial activity et cetera.

**Ms PENNICUIK** (Southern Metropolitan) — It is very confusing because we have several documents here, and I am not quite sure we all know which document we are working from. There is the document

showing the original amendments, which I presume includes all the amendments, but the numbers do not seem to correspond with the numbers in this new document. There are also some amendments on my original sheet which do not seem to appear in this document.

**Hon. M. P. PAKULA** (Minister for Public Transport) — There is a bit of confusion. According to my notes the Council amendment which sought to omit clause 57 was amendment 7. I can see that Mr Hall's notes suggest that that was Council amendment 6. It appears that we have different paperwork.

**The ACTING PRESIDENT (Mr Finn)** — Order! Is there any chance we can all start singing from the same hymn book here so that we might be able to get a satisfactory result before lunchtime tomorrow?

**Ms PENNICUIK** (Southern Metropolitan) — Perhaps it would assist if the minister read out what the amendment is, instead of just identifying it by a number, so that we actually know what we are talking about. We seem to have different numbers.

**Hon. M. P. PAKULA** (Minister for Public Transport) — Council amendment 5 was:

5. Clause 55, page 77, lines 1 to 4, after "consistent with," omit all words and expressions on these lines and insert "and is designed to facilitate, the carrying out of the functions referred to in subsections (1) and (2)."

Council amendment 6 was:

6. Clause 55, page 77, after line 4 insert —
  - (4) The board of an institute must use any revenue generated by engaging in the type of commercial activity referred to in subsection (3) ...

I have those as amendments 5 and 6. The note Mr Hall has handed me shows as amendment 5 what I have described as amendment 6 and seems to have no reference to what I referred to as amendment 5.

**The ACTING PRESIDENT (Mr Finn)** — Order! Just to clarify the position for the benefit of the house — and the Chair, too, I might say — my understanding is that the motion we are currently debating is that the Council does not insist on amendment 6 with which the Assembly has disagreed; is that correct?

**Hon. M. P. PAKULA** (Minister for Public Transport) — That is correct, but Mr Hall believes amendment 6 is a different amendment to what I believe it to be. I believe we are debating what we have

described as amendment 6, which is what I think Mr Hall believes is what we have already just agreed to.

**Mr HALL** (Eastern Victoria) — Acting President, the note I gave to the minister was for the insertion in the bill on the table, as distributed to members. For the rest of us in this chamber this is the document to which we are referring. Having had a look at the minister's notes, I can see that his notes do not correlate exactly with the notes provided to members in the chamber. That is where the confusion exists. I suggest that either Mr Pakula needs to be able to adapt his comments to agree with the list in the document distributed to members or we need to take a little break and go back and sort this out so that we are, as the Acting President has said, all singing from the same hymn sheet.

**The ACTING PRESIDENT (Mr Finn)** — Order! I think, Minister, we might take the opportunity to have a 5-minute break and see if we can sort this out.

**Sitting suspended 3:36 p.m. until 3.44 p.m.**

**Hon. M. P. PAKULA** (Minister for Public Transport) — I am pleased to report to the house that on this occasion the executive trumped the Parliament! By leave, I move:

That the Council does not insist on amendment 5 with which the Assembly have disagreed.

**Mr HALL** (Eastern Victoria) — I am happy to indicate our support for this motion because, as I said, this particular provision was subject to ministerial guidelines. Indeed by guidelines or directions the minister could prescribe the intent of the regulation anyway. But in respect of clause 55, as we are talking about clause 55, in terms of developing those ministerial guidelines and directions I make the plea that the government ensure that it consults with TAFEs and the Victorian TAFE Association because the clause provides for greater commercial activity on behalf of TAFE boards. I think the development of any guidelines or directions from the minister in prescribing this type of activity should be done in consultation with TAFE boards. I seek an assurance from the Minister for Public Transport, who is at the table, that that sort of consultation will take place in developing the guidelines.

**Ms PENNICUIK** (Southern Metropolitan) — I have listened to what Mr Hall has said and can see that in the strictest reading of the words it is possible to interpret the existing words as meaning the same as the wording of my amendment, although I think my proposed form of words is stronger. Given what



Mr Hall has said, I will not be insisting on amendment 5.

**Hon. M. P. PAKULA** (Minister for Public Transport) — I am happy to provide Mr Hall with the undertaking that he sought.

**Motion agreed to.**

**Hon. M. P. PAKULA** (Minister for Public Transport) — I move:

That the Council does not insist on amendment 6 with which the Assembly have disagreed.

**Mr HALL** (Eastern Victoria) — I thank the government for agreeing to this amendment. This was the one I started to talk about before, and it is in regard to the process for the appointment of board members. I am talking about amendment 7.

**Hon. M. P. Pakula** — On a point of order, Acting President, we are now on amendment 6, which Mr Hall previously believed to be amendment 5. This amendment is in relation to revenue generation.

**Ms PENNICUIK** (Southern Metropolitan) — This amendment, which is also one that I proposed in committee, is to insert a new subclause (4) into clause 55 so that it states:

The board of an institute must use any revenue generated by engaging in the type of commercial activity referred to in subsection (3) for the purposes of carrying out its functions ...

So the revenue will revert back into the functions and responsibilities of the TAFE institute. I believe that is important in terms of the governance of the TAFE institute and in ensuring that its commercial activities are to do with its functions and responsibilities.

**Mr HALL** (Eastern Victoria) — In response to what Ms Pennicuik said, it is my belief a that TAFE institute would be required to do this in any case — that is, spend any revenue gained on what its functions are. Regardless, the minister, by direction or ministerial order, from the contents of clause 55, could direct that anyway.

**Ms PENNICUIK** (Southern Metropolitan) — Just quickly, Acting President, I would prefer it was in the statute rather than the minister — —

**The ACTING PRESIDENT (Mr Finn)** — Order! I am afraid this is not committee. We cannot have two bites of the cherry on this occasion.

**House divided on motion:**

*Ayes, 36*

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

*Noes, 3*

Barber, Mr ( <i>Teller</i> )	Pennicuik, Ms
Hartland, Ms ( <i>Teller</i> )	

**Motion agreed to.**

**Hon. M. P. PAKULA** (Minister for Public Transport) — I move:

That the Council agree to the amendments made by the Assembly to amendments 7 and 8 made by the Council.

In doing so, I will just briefly indicate that this is a compromise position reached by the government and the coalition. It is a compromise that involves a middle course. I could go on about it, but in effect it involves the chairperson of each board being appointed by the Governor in Council instead of being elected by the board and in making the appointment of chairpersons the government will consider the advice of existing boards. Also under this compromise the other categories of appointment under the existing act would remain unchanged except that one of the ministerial appointments would become a Governor in Council appointment. I commend the motion to the house.

**Mr HALL** (Eastern Victoria) — The coalition will be supporting this particular motion. Again I thank the government for agreeing in substantial part to accept the amendments which I proposed on behalf of the coalition to enable the current process for the appointment of boards and a variation to the appointment of the chair of those boards. Now, rather than being directly elected by the board, the chair, as the minister has said, will be appointed by the respective minister. I understand that will be done in a similar manner to the way in which other ministerial appointments to boards are made. Section 3.1.16(3) of

the principal act clearly provides that the ministerial appointments are made:

... by the Minister after considering the advice of the directors of the board who have been appointed.

Again I make a plea to the government on this. The process I consider appropriate in seeking the advice of the board would be to be proactive and discuss with the members of the board who they consider to be an appropriate person to be the chair. Rather than the minister choosing someone and then going to the board, there should be a cooperative approach, with the minister deciding in conjunction with the board and respecting the board's and the government's wishes, with a balance between them. I am happy that a compromise position has been reached on this.

On consultation and making decisions with the board, my plea extends to those provisions in clause 59, which I will not have a chance to speak on. It is the same matter of consultation. Clause 59, which provides for strategic plans, essentially gives the minister the power of veto over the strategic plans of the board. I hope the government will not put any restrictions on strategic plans without sitting down and consulting with the board. I hope the government can indicate that it will follow the process of consulting with the board on both the appointment of the chair and other matters.

**Ms PENNICUIK** (Southern Metropolitan) — It was with the support of the Greens and Mr Kavanagh in this house that these amendments to the structure of the TAFE boards that were originally proposed to the Education and Training Reform Amendment (Skills) Bill were passed and made their way to the Assembly. Since that time the minister has seen fit to speak to Mr Hall about his amendments, which is right and proper, but she has not run them by me, although I was in support of the amendments. I presume that she has not run them by Mr Kavanagh either.

Mr Hall was kind enough to sit down and explain the outcome of their negotiations on the appointment of TAFE boards. He explained that agreement had been reached between him and the minister. I am happy to support these amendments, given the explanations and the understanding of how they will work. I understand also that the TAFE association and other stakeholders who were concerned about the original provisions in the bill are also reassured by this new arrangement as proposed by the compromise amendments put forward here.

**Motion agreed to.**

**Hon. M. P. PAKULA** (Minister for Public Transport) — I move:

That the Council does not insist on its amendments 9 to 14 inclusive with which the Assembly have disagreed.

**Motion agreed to.**

**Ordered to be returned to Assembly with message intimating decision of house.**

## SENTENCING AMENDMENT BILL

### *Statement of compatibility*

**For Hon. J. M. MADDEN (Minister for Planning), Mr Lenders tabled following statement in accordance with Charter of Human Rights and Responsibilities Act:**

In accordance with section 28 of the Charter of Human Rights and Responsibilities (charter), I make this statement of compatibility with respect to the Sentencing Amendment Bill 2010.

In my opinion, the Sentencing Amendment Bill 2010, 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 Sentencing Act 1991 provides a regime for the sentencing of offenders and the imposition of penalties by Victorian courts. The act provides fair procedures for the imposition of sentences and for dealing with offenders who breach the terms or conditions of their sentence.

The bill will amend the act to:

abolish suspended sentences for serious offences;

provide credible sentencing options for the courts as alternatives to imprisonment (including suspended sentences).

The bill follows a series of reports and recommendations by the Sentencing Advisory Council and commences a phased abolition of suspended sentences while replacing, recasting or refining existing sentencing orders. These measures are intended to provide more sentencing options for courts other than imprisonment.

In this regard, new sentencing orders are to be established: an intensive correction management order (ICMO) and an intensive correction management order (drug and alcohol) (ICMODA). In addition, reforms are proposed to community-based order (CBO) and deferred sentencing. This also includes broader breach and variation powers of these orders by courts.

The sentencing scheme in the act, by its nature, engages charter rights as it contains strong powers that are primarily directed at depriving or restricting the liberty of people who break the law and allow the court to denounce the type of

conduct in which the offender engaged. The powers are a necessary measure to prevent crime and promote respect for the law.

However, the strong powers in the act are balanced by a range of appropriate safeguards designed to protect the individual rights of persons who may be subject to the scheme. Judicial discretion is maintained and enhanced by the new, more flexible sentencing orders created by the bill. The overarching effect of the bill will be to increase the range of options available to the sentencing judge. In addition, the act includes safeguards that apply generally to sentencing in Victoria, including the proportionate exercise of sentencing discretion and rights to appeal.

This statement does not include analysis of every clause in the bill, but focuses instead on reviewing the amendments that raise substantive charter issues.

### Human rights issues

The bill has been assessed against the charter.

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

The principal rights under the charter relevant to the bill are:

- Section 10: protection from compulsory medical treatment
- Section 12: freedom of movement
- Section 13: privacy
- Section 16: freedom of association
- Section 17: protection of families and children
- Section 22: humane treatment when deprived of liberty
- Section 25: rights in criminal proceedings.

Due to the nature of the amendments and the scope of the rights engaged, this statement will deal with the rights engaged by the conditions available for the new ICMO (including the ICMODA), before turning to the procedures relating to breach of the ICMO.

### Strict conditions under an ICMO

The bill provides sentencing courts with the new ICMO, a non-custodial order, which does not constitute a term of imprisonment and is a discrete sentencing option for a court. Unlike the intensive correction order (abolished by clause 10), the ICMO will be an intensive form of community sentencing by way of supervision by Community Correctional Services and/or the courts. It involves an offender being regularly monitored in the community by Corrections Victoria, and/or a court. The ICMO may be an offender's last chance to serve a sentence in the community before being subject to a term of imprisonment (including a suspended sentence).

In addition, unlike the CBO, the ICMO will have special conditions available to a court, which place significant restrictions on freedom of movement. These orders enable a court, in its discretion, to order that an offender not associate with certain persons or class of persons or not enter or live at a specified place for a specific period.

In this section, I want to first draw attention to the conditions on an ICMO that can interfere with an offender's privacy, particularly those that relate to treatment or rehabilitation

programs that the offender must attend, types of employment in which the offender must not engage, electronic and other forms of monitoring, and persons with whom the offender must not have contact.

In my view, the ability to impose these kinds of conditions is compatible with an offender's right to privacy because the conditions are made at the discretion of the court and sentencing safeguards generally apply to ensure proportionate exercise of discretion.

#### *Right to privacy — clauses 13 and 24*

##### *The nature of the right limited*

Section 13(a) of the charter protects a person's right not to have his or her privacy, family, home or correspondence interfered with in a manner that is unlawful or arbitrary. The secrecy of personal information (including information about a person's physical condition, identity, interpersonal relations, day-to-day activities and whereabouts) lies at the heart of the privacy right because of its direct relevance to the choices or circumstances of an individual's personal life over which he or she is responsible and autonomous.

##### *Section 7 analysis of the right to privacy*

The conditions of ICMOs may limit the offender's right to privacy in section 13(a) but do not interfere with it in a manner that is unlawful or arbitrary. When formulating these recommendations, the council considered Victorian precedents for supervision conditions. The act provides supervision conditions for ICMOs and CBOs, both as core conditions (such as reporting to corrections officers and obeying lawful directions from corrections officers) and program conditions (such as treatment conditions). For example, a court may impose a supervision condition for a CBO under section 40 of the act, 'to allow for the rehabilitation of an offender in the community and the monitoring, surveillance or supervision of an offender who demonstrates a high risk of reoffending'.

Furthermore, under sections 72 and 75 of the act, it is open to a court to impose conditions to an adjourned undertaking that the offender return to court at regular intervals to confirm completion of a certain program (such as that imposed under a justice plan), course (such as a road trauma course) or other requirement (such as medical assessment).

In addition, the Drug Court at Dandenong may attach program conditions to a drug treatment order (DTO), which restrict a person's freedom of movement and association. Under sections 18ZG(1)(e) and 18ZG(1)(f) program conditions that may be imposed include that an offender:

- must not associate with specified persons; and
- must reside at a specified place for a specified period.

In addition, under section 18ZL(1)(c), if the offender fails to comply with the order the Drug Court may take a number of different actions including ordering that a curfew, requiring the offender to remain at a specified place between specified hours, applies to the offender for a specified period.

Clause 13 of the bill provides that strict conditions of an ICMO may be imposed on an offender by a sentencing judge, provided the offender consents (new section 35D), including that:

the offender reports to, and receives visits from, a community corrections officer at least once a week in the first three months of the order, and thereafter at least once every 28 days and/or as otherwise ordered by the regional manager of Community Correctional Services (CCS) during the period of the order, or supervision period (if specified) (section 35N);

the offender reports to a specified community corrections centre within two clear working days after the coming into force of the order (section 35M(1)(b));

the offender must notify of changes to address or employment within two clear working days after the change (section 35M(1)(c));

the offender must not leave Victoria without permission granted generally or in relation to the particular case (section 35M(1)(d));

the offender must obey all lawful instructions and directions of community corrections officers (section 35M(1)(e)); and

the offender must perform unpaid community work as specified in the order (new subdivision 5 of division 2A)

the offender undergo assessment and treatment for alcohol or drug use, submit to medical, psychological or psychiatric assessment and treatment, and/or to drug or alcohol testing, as specified in the order or as otherwise directed by the regional manager of CCS (section 35W(1)).

New subdivision 7 of division 2A enables courts to include special conditions including that:

the offender attend at one, or more than one, specified prescribed program during the period of the order or a shorter period specified in the order for this purpose (section 35Y);

that the offender must not associate with a person specified in the order or a class of person specified in the order for the period specified in the order (section 35Z(2)(a)) (non-association condition);

the offender must not reside at a place specified in the order or must reside at the place specified in the order for the period specified in the order (section 35Z(2)(b)) (residence restriction condition);

the offender must not enter a place or area specified in the order for the period specified in the order (section 35Z(2)(c)) (place restriction condition).

The bill does not displace the important safeguard that applies to sentencing orders under section 5(3) of the act. A sentencing judge must not impose a sentence that is more severe than that which is necessary to achieve the purpose or purposes for which the sentence is imposed. This fundamental principle of Victoria's sentencing scheme applies broadly, in deciding the appropriate type of order, and specifically, in regard to the appropriate conditions to be imposed in the circumstances.

The strict conditions available to courts under the new ICMO are clearly prescribed in the bill and are proportionate to the objectives of ensuring an offender's compliance with the

sentencing order, to protect the community from the offender, to facilitate the rehabilitation of the offender and to deter the offender from similar reoffending. As such, the provisions are neither unlawful nor arbitrary. Restrictions on privacy imposed by other conditions are closely connected to the purpose of the proper administration of ICMOs. These restrictions to the right to privacy are necessary for, and proportionate to, that purpose.

In my view, the ability to impose these kinds of conditions is a justified limitation under section 7(2) of the charter with an offender's right to privacy for three reasons. First, the offender has consented to the conditions of ICMO, albeit in order to avoid a more punitive sentence of imprisonment. Second, the conditions are imposed by the sentencing judge at the discretion of the court and the underlying purpose of the bill is to enhance judicial discretion by providing more credible sentencing options. To the extent CCS may direct offender's subject to an ICMO, CCS is bound to act in accordance with section 38 of the charter.

Third, robust sentencing safeguards generally apply to ensure proportionate exercise of discretion, constituting the minimum interference with the offender's privacy. For example, section 5(3) of the act provides that the court does not impose a sentence that is more severe than that which is necessary to achieve the purpose or purposes for which the sentence is imposed. In addition to the general right to appeal a sentence, new section 35O enables courts to order judicial monitoring of conditions and subdivision 8 of division 2A provides for reviews of conditions which enable conditions to be cancelled or varied. Judicial oversight is a very important safeguard in ensuring that the interferences with privacy will not be arbitrary and will be no more than is necessary to achieve the legislative purpose.

In my view, the bill provides a reasonable and justified limitation on the right to privacy.

#### Right to freedom of association — clause 13

The right to freedom of association is potentially engaged by the following special conditions of an ICMO, namely conditions that relate to:

- non-association conditions (section 35Z(2)(a))
- residence restriction conditions (section 35Z(2)(b));
- place restriction condition (section 35Z(2)(c)).

A person may, for example, be banned from associating with members of an organised crime syndicate or a club that serves as a front for criminal activities.

The compatibility of those conditions with the right is set out below.

#### *The nature of the right limited*

Whereas the right to privacy in section 13 of the charter encompasses a right to individual identity and personal development as well as to establish and develop meaningful social relationships, the right to freedom of association in section 16 is arguably more targeted at protecting the freedom of persons to formally join together in groups to pursue common interests and goals. Some examples of such groups include political parties, non-government organisations, professional or sporting clubs, trade unions and corporations.

Although in New Zealand the right has been interpreted as going further to encompass the right of an individual to associate with another individual, New Zealand's Bill of Rights Act does not contain a right to privacy or autonomy like section 13 of the charter.

The authors Butler and Butler argue that 'in other human rights systems a narrow view of the ambit of free association is acceptable since the right to associate with other individuals in an informal, disorganised way would be likely to be protected by a right to privacy or autonomy (at paragraph 15.7.2). Consistently with this, the scope of the right to freedom of association in article 11 of the European Convention presupposes a voluntary grouping for a common goal (see for example, *Anderson v. United Kingdom* [1998] EHRR CD 172 and *McFeeley v. United Kingdom* (1980) 20 DR 44).

Accordingly, the special conditions that may attach to an ICMO have been first analysed against the privacy right instead of the right to freedom of association.

#### *Section 7 analysis of the right to freedom of association*

As with the right to privacy, the limitation is imposed for the important purposes of facilitating the rehabilitation of the offender, community protection and to deter the offender from similar reoffending. The special conditions might, for example, prevent the offender from purchasing illegal drugs from suppliers known to the offender, joining certain groups or co-offenders or consorting with people that the offender believes are a bad influence. The use of non-association conditions for the existing DTO indicates that these conditions usually work where the offender volunteers this information to improve his or her prospects for rehabilitation. The requirement that the offender consent to the ICMO is particularly relevant to special conditions.

In regard to the relationship between the limitation and its purpose, section 5(3) of the act will ensure that the court does not impose a sentence that is more severe than that which is necessary to achieve the purpose or purposes for which the sentence is imposed.

As set out above in relation to the right to privacy, and emphasising the voluntary nature of a special condition, I believe the limitation is within the range of reasonable solutions to the risk posed.

#### *Freedom of movement — clause 13*

Section 12 of the charter provides that 'every person lawfully within Victoria has the right to move freely within Victoria and to enter and leave it and has the freedom to choose where to live.' Freedom of movement recognises that persons are entitled to move from one place to another and to establish themselves in a place of their choice, irrespective of the purpose or reason for the person wanting to move or stay in a place.

#### *The nature of the right being limited*

The right to move freely does not require any particular purpose or intention in movement, and encompasses both physical and procedural impediments. The requirement that an offender reside only at an approved residence limits him or her choosing where to live and restricts the activities that a person can undertake outside of that residence.

#### *Section 7 analysis of the right to freedom of movement*

The purpose of a special condition under the ICMO is to allow a court greater flexibility to impose a less restrictive order than imprisonment where appropriate, potentially leading to a reduction in sentences of imprisonment with advantages such as the promotion of the offender's rehabilitation. This supports the broader purposes of the act to prevent crime and promote respect for the law through providing for sentences that achieve deterrence and allow the court to denounce the offending conduct; sentences that facilitate the rehabilitation of offenders; and ensuring that offenders are only punished to the extent justified by the offence, their responsibility and any other factors.

The special conditions restrict the movement of persons who have committed offences punishable by custodial sentences and allows their activities to be monitored to ensure their good behaviour and compliance with the order. Restriction of movement in this manner also affords appropriate offenders an opportunity to serve their sentence without the additional burdens of imprisonment, including isolation from family and the comforts of home. For ICMOs with special conditions, the restrictions on freedom of movement are both directly linked to the objectives of the community-based sanction and are an important optional feature of the sentencing order.

The bill appropriately balances the punitive, deterrent and rehabilitative aims of the sentence. Importantly, the offender must consent to the ICMO and the special conditions of an ICMO already constitute a less restrictive means than the next relevant sentencing alternative, being a term of imprisonment.

#### *Compulsory medical treatment — clauses 13 and 24*

Section 10(c) of the charter protects a person from medical treatment without his or her full, free and informed consent. The protection is modelled on article 7 of the International Covenant of Civil and Political Rights which prohibits subsection to medical or scientific experimentation without consent.

A condition governing ICMODAs is that the offender must submit to treatment programs (section 35W of the bill) which may limit the offender's right not to be subjected to medical treatment without his full, free and informed consent, as protected by section 10(c) of the charter. I nevertheless consider that any limit is reasonable and demonstrably justifiable in the terms of section 7(2) of the charter.

#### *The nature of the right being limited*

The right in section 10(c) of the charter provides protection from compulsory medical treatment without full, free and informed consent. An important purpose of the protection is to ensure that vulnerable persons, such as prisoners or other detainees, are not subjected to non-therapeutic medical procedures. The Human Rights Committee has noted in relation to the prohibition on medical experimentation under article 7 of the ICCPR that the consent of persons who are deprived of their liberty (such as prisoners) is inherently suspect because of their particular vulnerability. The prohibition on medical 'treatment' is considerably wider than the prohibition on medical 'experimentation' and ensures that vulnerable persons are protected from compulsory treatment, unless reasonable and justified.

*Section 7 analysis of the protection from medical treatment*

The requirement that offenders subject to ICMODAs undertake compulsory treatment programs directly addresses the shared interest of the community and individual offenders in the rehabilitation of offenders.

The court's discretion to impose an ICMODA will be exercised in accordance with the purposes of the Act, including the prevention of crime and to promote respect for the law by providing for sentences that facilitate the rehabilitation of offenders. The bill also provides (new section 35E(2)) that an ICMODA may be made for purposes including to take account of the offender's drug or alcohol dependency or abuse and to reduce the offender's health risks associated with drug or alcohol dependency or abuse. The sentencing principle in section 5(3) of the act ensures that a sentence is not imposed that is more severe than that which is necessary to achieve the purpose or purposes for which the sentence is imposed.

Further, the offender must give written consent or give an undertaking to comply with the conditions attached to his or her ICMO, including treatment or program programs. The offender can refuse to undergo a treatment program, but as a result may forgo the benefit of the ICMO and may be required by the court, on resentencing, to serve the remaining portion of his or her sentence in prison. Refusal to participate in a treatment program does not, however, comprise an offence, punishable by a further sanction.

The requirement that an offender subject to a ICMODA undertake treatment programs is narrowly tailored to addressing the purposes of his or her rehabilitation and the prevention of crime. The amendment alleviates the harshness of a prison sentence by enabling an offender to serve his or her sentence in the community while also supporting such offenders in their rehabilitation. In these circumstances, offenders who participate in treatment programs choose to do so as a condition of obtaining the benefit of the ICMODA and avoiding the more restrictive requirements of imprisonment. This also applies for program conditions that may attach to an ICMO.

In conclusion, therefore, to the extent that the treatment and program conditions in clause 13 of the bill limit section 10(c) of the charter, I consider that the limit is reasonable and proportionate to the objectives of supporting offender rehabilitation, to reduce health risks and address underlying causes of offending while also alleviating the harshness of serving sentences in prison.

*Protection of Families and Children — clause 13*

Section 17 of the charter provides for the protection of families and children. I have already concluded that clause 13 reinforces the privacy interests of offenders under section 13(a) of the charter in so far as the ICMO enables an offender to live in an approved residence of his or her choice and maintain domestic relations with partners and children. For the same reasons, I conclude that clause 13 respects the interests protected by section 17 of the charter.

**Breach proceedings for an ICMO***Rights in criminal proceedings — clause 13*

Section 25(2) of the charter sets out minimum guarantees in criminal proceedings, including the right to be tried without

unreasonable delay and to be informed promptly and in detail of the nature for the charge.

The procedure for dealing with breaches of ICMOs re-enacts the breach proceedings for intermediate sentencing orders implemented by the Justice Amendment Act 2010 (subdivision 9 of division 2A). An offender will still enjoy all the rights guaranteed by section 25(2) of the charter. The courts oversee the breach proceeding, including variations or cancellations of intermediate sentencing orders (sections 35ZD and 35ZN). Cancellation of an intermediate sentencing order will, in some cases, lead to a jail sentence. The bill states that the practice and procedure applicable to the hearing of a summary charge in the Magistrates Court applies to the determination of a breach proceeding (section 35ZO).

Section 25(4) of the charter provides a right to appeal a conviction and any sentence imposed. The right of offenders to challenge an alleged breach and appeal a resentencing following a breach is preserved within the sentencing scheme.

For these reasons the proceedings for a breach of an ICMO are consistent with the charter.

**Conclusion**

The bill is compatible with the charter.

Justin Madden, MLC  
Minister for Planning

**Ordered that second-reading speech be incorporated into *Hansard* on motion of Mr LENDERS (Treasurer).***Second reading*

**Mr LENDERS (Treasurer) — I move:**

That the bill be now read a second time.

**Incorporated speech as follows:**

This bill sets out significant reforms to the law of sentencing including removing the fiction of the suspended sentence for all serious offences. It will change the landscape of sentencing and create new options for judges and magistrates who are facing the challenging task of balancing punishment, deterrence and rehabilitation.

This bill is being introduced into Parliament during the last sitting week, and so will not be passed before the election later this year unless it proves to be possible to debate this bill today. Should the bill pass during this sitting of Parliament, the government will introduce a further bill in the next sittings, to address any consequential and technical issues in order to ensure a smooth transition when the bill becomes law.

If the bill is not passed in these sittings, the government intends to reintroduce and pass the bill in early 2011, together with the necessary technical changes, to ensure a smooth transition when the bill commences on 1 July 2011. The public will no doubt use the time from today's second reading of the bill until its return to Parliament to provide the government with its opinion on the significant reforms to the law of sentencing being proposed.

I now turn to the subject of the bill.

Sentencing an offender for a crime is a serious responsibility. This responsibility is shared between the government, which enacts the laws of sentencing, and the courts, who administer these laws.

A sentence may involve elements of punishment, deterrence and denunciation. But, to ensure an offender does not reoffend, it must also provide for the effective rehabilitation of the offender. After all, the aim of the criminal justice system is not just to punish, but to protect the community by preventing further crimes.

To help the courts meet this responsibility, the government must provide them with sentencing options that answer all of these needs.

Some sentences will require great weight to be given to punishment and deterrence, and very little to rehabilitation. For some crimes, a jail sentence is the only answer. If a court sentences an offender to a term of imprisonment, it should be understood that that offender is going to jail.

But, if sentences are going to contribute to addressing the causes of offending they also need to allow for rehabilitation, whether it be through supervision, counselling, treatment, work or other conditions.

This bill will address both these objectives. It will abolish the suspended sentence for serious offences. It will also provide judges and magistrates with new sentencing options that will allow them to construct sentences that rehabilitate as well as punish.

The abolition of the suspended sentence for serious offences will strengthen truth in sentencing. A sentence of jail will mean the offender will go to jail. However, as I said when I announced these reforms in May this year, the key issue for our government is that suspended sentences do not provide for any sort of monitoring, treatment or reporting requirements. Like many in the community, we find that unacceptable, particularly in relation to the most serious crimes. We want to ensure that for those cases where jail is not warranted, other tough sentencing options, with strict conditions, are available.

The public must have confidence in the criminal justice system. Sentencing is one of the most scrutinised aspects of that system. As the Supreme Court has recently said in the case of *WCB v. R* [2010] VSCA 230; if the public is to have confidence in the criminal justice system it must be provided with the necessary information to make informed judgements.

If we are to talk sensibly about sentencing, we must understand it. To understand sentencing it must be transparent.

### **Suspended sentences**

The government agrees with this. One aspect of sentencing that is not transparent and which does not help the public to understand a sentence is the 'suspended sentence'. This is the jail sentence that does not involve any jail time. It is the punishment that allows an offender to continue to live his or her life as before. It is the obligation to the state that involves nothing more than not committing another offence — which is an obligation we all share.

We have long considered the role of the suspended sentence. This government created the Sentencing Advisory Council to consult with the community on sentencing matters and to advise the government. Suspended sentences was the first issue referred to the new SAC and the government has received two reports from the SAC on the topic, and a monitoring report.

In 2006, the SAC released a report on suspended sentences that found that the suspended sentence was an inherently flawed order, and that confusion over what a suspended sentence is and what it is intended to achieve has not only affected levels of community confidence in sentencing, but was also evidence of the order's failure to satisfy its symbolic and communicative purpose.

In 2006 we acted on the SAC's recommendation from that report to reduce the availability of suspended sentences for serious offences. The Sentencing Amendment Act of that year stated that a suspended sentence would only be available for a serious offence in 'exceptional circumstances', and only then if it were in the interests of justice.

This reform took some years to be fully effective, and earlier this year the SAC released a monitoring report on suspended sentences. This report showed that the 2006 amendments had made very little change to the number of suspended sentences handed down for serious offences.

The report showed more than this. It highlighted a number of difficult cases in which prison was clearly not an appropriate disposition, but where it was obviously difficult for the court to find a sentencing option that properly provided that mix of punishment, deterrence and denunciation, as well as rehabilitation.

In this Sentencing Amendment Bill the government responds to both these problems. We are taking the tough step of removing suspended sentences for all serious offences. No offender convicted of a serious offence, including armed robbery, sexual penetration of a child under 16 or intentionally causing serious injury, will be able to receive a suspended sentence. For these offences, a sentence of jail will mean a sentence of jail.

However, that is not all we are doing. The repeal of suspended sentences for serious offences is not tantamount to a mandatory sentence of jail for these offences. Mandatory sentencing is a blunt instrument that does little more than create injustices, fill up expensive jail beds and create incentives to draw out criminal proceedings in any way possible. Not too many offenders will agree to an early plea of guilty if there is no hope of a sentencing discount in recognition of this.

It would have been simple to remove the suspended sentence for serious offences and claim that the job was done, but this government is committed to judicial discretion, and to providing judges and magistrates with the tools they need to construct sentences that rehabilitate as well as punish.

We have followed the recommendations of the SAC and created a suite of new sentencing orders. These orders will not be jail sentences, and neither will they pretend to be. The new intensive correction management order will allow judicial officers to create sentences that are onerous and do carry real obligations to the community, that are closely supervised by corrections and, in some cases, by the judiciary themselves.

but that do have the flexibility to address each offender's circumstances. These orders will be a real alternative to a suspended sentence.

If a person commits a serious offence but, due to (for example) youth, remorse, previous good character or other mitigating circumstances, jail is not appropriate, judges and magistrates can turn to these orders to find a different sentencing approach.

The question of what is a serious offence is under consideration. Next year the SAC will complete its work on the review of penalties for criminal offences. As part of its response to this, the government will look again at the question of which offences should be defined to be serious offences, and carry the consequences that flow from that classification.

Also under consideration is the balance of the suspended sentences. In line with the SAC's recommendations, we will abolish suspended sentences for serious offences and create the new sentencing orders, and then evaluate the success of this reform before we proceed to abolish suspended sentences completely.

#### **The new intensive correction management order**

This bill will abolish the old intensive correction order. This order was a serious sentencing option that required supervision and community work, but it was too inflexible to be useful. The statistics show that it is used in about 3.5 per cent of cases in the higher courts, and lawyers report that they do not seek it because it is too inflexible to be performed by any offender with work or educational commitments.

It will be replaced with the new intensive correction management order (ICMO).

The ICMO will not be a sentence of imprisonment, but it is targeted at those who are at risk of going to jail. If the court considers that an offender may commit further offences and, if this order were not available the court would consider sending that offender to prison, then the court can instead order an ICMO.

There will be two variants of this order, the general ICMO, and an ICMO, drug and alcohol.

The general ICMO is an order that allows for up to 600 hours of community work to be ordered to be served over up to three years by the higher courts. In the Magistrates Court the limit will be 500 hours over two years. The court can decide the appropriate number of hours within these limits but the reform is clear: some amount of unpaid community work will be mandatory. However, the ICMO is more than a community-based order.

This order will require close supervision by community corrections (CC) — at least once a week for the first three months, and then every 28 days for the remainder of the order. This is a stark contrast with the suspended sentence, which does not require any contact with CC at all. The ICMO's requirement of supervision creates an obligation on the offender to report to corrections and provides an avenue to deliver assistance through appropriate programs and education to aid rehabilitation.

The court will also have the option of imposing place and association restrictions on the offender. These tough

conditions will ban an offender from associating with a named person or class of people. They may also require a person to live at a particular residence, or to not enter a particular place or area. This will allow the court to consider the individual circumstance of an offender, and what it might take to assist him or her to break away from a previous style of living. Any breach of these conditions will be a breach of the order itself, and leave the offender vulnerable to being re-sentenced and potentially jailed.

The ICMO will also give the court the unique ability to order that the most onerous conditions of the order be concentrated at the start of the order. An ICMO could provide that the offender was sentenced to a two-year ICMO, with a supervision period of nine months and 250 hours of community service. That community service would have to be served within the supervision period of nine months. This will concentrate the obligation, making it more significant, and keeping it close to the actual sentencing proceeding. During this period the offender will be under close supervision from CC. It could also be that during that period the offender was subject to a special residence condition that required him or her to live at a certain address.

Once that nine-month period has been served successfully, the obligations on the offender reduce to the core conditions of the order, which include obeying the directions of CC and not committing further offences.

#### **Abolition of the CCTO**

The combined custody and treatment order (CCTO) is abolished by this bill. Like the ICO, this order has been criticised for its inflexibility and has rarely been imposed by the courts. In fact, the SAC found that it was used only twice in 2006–07.

This order has not done what it needed to do, so it is being repealed and replaced by an intensive community management order — drug and alcohol.

The ICMO, drug and alcohol has all the features of an ICMO plus some special variations designed to deal with drug and alcohol abuse. It recognises the link between offending and the use of drugs and alcohol. If a court finds that an offender's dependence on or abuse of drugs and alcohol contributed to the offence, then it may impose this order.

The most significant aspect of this order is that it extends some of the principles of the Drug Court of Victoria into the general criminal cases heard before all courts. The Drug Court uses an intensive model of monitoring of offenders by the court, paired with treatment for drug and alcohol dependence, plus vocational and educational training to achieve the goals of reducing drug use and offending behaviour. The 2005 evaluation of our pilot of this court found that this court was working. Reoffending was reduced, the lives of the offenders improved, and it was demonstrated that this approach was both less costly and more effective than a jail sentence.

We are taking these lessons and applying them to the mainstream courts. Judicial monitoring of an ICMO, drug and alcohol, will be available in all Victorian courts. It is not mandatory, but if the court imposes an ICMO, drug and alcohol, it can choose to remain involved in the offender's sentence. It can make an order that the offender return to the court in a certain time or at certain intervals so that the judge



or magistrate that imposed the sentence can check to see if the sentence is being complied with. Is the offender attending at the programs that were ordered? Is the community work being performed? Are the conditions still appropriate or should they be altered?

The ongoing involvement of the judge or magistrate who made the order, and the discipline of reporting back in to the court, provides a strong incentive for an offender to comply with an order. The Drug Court has demonstrated that judicial involvement in a person's sentence has a significant effect on an offender's rehabilitation.

Another important variation is that unpaid community work is not mandatory, but program conditions are. An offender sentenced to an ICMO, drug and alcohol, must be ordered to complete some hours of training, education or assessment and treatment for alcohol or drug use. In this way the order will attack the cause of the crime — dependence on or abuse of drugs and alcohol. Again this is unlike the suspended sentence, which offered no treatment, support or education for offenders. They were merely left to their own devices and warned not to reoffend on threat of an immediate jail sentence.

When these targeted conditions are linked to the power to order restrictions on residence or association, it is clear that the ICMO, drug and alcohol, will be a tough, onerous sentence, but one which has a real chance of addressing the underlying causes of crime.

#### **Breaches of an ICMO**

If these orders are breached, the offender will return to the court. It will be presumed by the court that the appropriate response will be to re-sentence the offender for the original crime. An offender who breaches these orders then will be at real risk of being sentenced to a term of imprisonment.

The ICMO, however, is innovative: as well as providing a stick it provides a carrot. We all know that reward is a very effective way of changing behaviour, and these orders have the scope for the courts to provide that reward in appropriate cases. The ICMO can be reduced by the court, on application by Community Corrections, as a reward for good behaviour. Where a reduction of an ICMO would assist a person's rehabilitation and it is no longer in the community's interest to continue the sentence, the order can be cancelled or varied. This gives offenders a real incentive to comply with the terms of their order.

#### **Intensive correction management orders in addition to jail**

In serious cases it may be appropriate for a court to jail an offender for a short period and subject them to further supervision and treatment on their release from imprisonment. Currently, under the Sentencing Act, a community-based order (CBO) may be imposed in addition to a period of imprisonment of up to three months. An important feature of this bill is that a court will have the same discretion for an ICMO. Such an option did not exist for courts under the intensive correction order. This not only provides more flexible options for courts but is tougher on offenders where short, sharp jail terms are warranted.

#### **Community-based orders**

The sentence of a community-based order will remain. However, to make it clear that it is a lower-order sentence and not appropriate for those who commit more serious offences, the amount of hours of community work that can be ordered to be served under a CBO will be capped at 300 hours.

The SAC has shown that the average number of hours of community work ordered to be served as part of a CBO is 100 hours. Only 1.5 per cent of offenders on a CBO are required to work 300 hours or more.

Capping the CBO at 300 hours will reflect the current practice of the courts and ensure a clear distinction between the more onerous ICMO and the community-based order.

Although CBOs will be limited to 300 hours of unpaid community work, there will be no reduction in the hours of unpaid work that will be imposed on those who fail to pay a court-ordered fine.

The Sentencing Act already provides that if a person fails to pay a fine, then this fine can be required to be worked off as unpaid community work, up to a maximum of 500 hours. The change to the CBO will not result in fine defaulters getting an easier ride.

#### **Youth CBO**

The SAC recommended that there be a particular variation of the CBO for young offenders. Young offenders have different needs from older offenders, and responding to those needs can make the difference between that young offender staying out of trouble or graduating into an older offender.

Although it does not feature in this bill, the government intends to continue to develop a new CBO targeted at young people. It will be aimed at offenders aged under 25 who are sentenced in adult courts. The order will have a maximum length of 18 months, and the unpaid work component will be capped at 200 hours.

A greater emphasis will be placed on the inclusion of conditions on the order that respond to young offenders' needs for education, training, and drug and alcohol intervention. This order will be a useful tool for judicial officers when they consider cases where there is a pressing need for a young offender to receive an order that allows for rehabilitation and reintegration into society.

#### **Deferral of sentence**

Sometimes the best decision the court can make is not what sentence to impose, but simply to delay imposing a sentence for a set period. This delay, known as deferral of sentence, allows an offender time to demonstrate to the court that he or she has taken independent steps to address his or her offending behaviour. When offenders return to the court able to show that they have made genuine effort towards rehabilitation, then the court can reflect that in the sentence that is ultimately imposed.

At the moment this can be done in the Children's Court and the Magistrates Court if the offender is aged under 25. The Neighbourhood Justice Centre has a broad power to defer sentencing for any offender, no matter how old they are. A sentence can be deferred for up to six months.

Deferral is a useful tool for judicial officers. It allows offenders the chance to demonstrate that they are a good candidate for a sentence that provides the opportunity for rehabilitation. It also creates a good incentive for offenders to address the factors that lead to their offending before they are sentenced, in the expectation that the court will impose a sentence that recognises their genuine efforts.

For these reasons, in this bill we accept the recommendations of the SAC to broaden the ability to defer a sentence. The ability to defer a sentence will be extended to all of the Magistrates Court and to the County Court and will apply to all offenders, regardless of their age. A sentence will be able to be deferred for up to 12 months.

The bill also provides the courts with the power to review an offender's progress during this period of deferral. This will provide the offender with an incentive to continue to comply with the terms of the deferral. If an offender does not respect the opportunity that a period of deferral provides, the court may cancel the order deferring the sentence and proceed to sentence the offender immediately. This failure to comply with the conditions of a deferral will be reflected in the sentence imposed.

The expansion of deferral of sentence gives judicial officers another tool to assist them to construct a sentence that balances the need to condemn the offence and to punish the offender with the need to encourage the rehabilitation of the offender and prevent further crimes.

#### **Drive while disqualified**

The offence of driving while disqualified or suspended carries a mandatory jail sentence of one month for second or subsequent convictions. The distortion that this mandatory jail sentence causes is proven by the fact that that in 2008–09 suspended sentences for this offence accounted for 35 per cent of all suspended sentences in the Magistrates Court. In that year the court found that despite the mandatory jail sentence 2426 people should not go to jail immediately but should receive a suspended jail sentence.

The suspended sentence provides no mechanism for addressing any of the factors that lead to the repeat offending. There is no power to order counselling, treatment, or to punish by imposing any requirement that the offender complete unpaid community work.

This bill will abolish the mandatory jail sentence for this offence. The courts may still sentence a person to jail. The offence still carries a maximum penalty of two years imprisonment. However, if jail is not appropriate, rather than being restricted to imposing a suspended sentence, the courts may use any other sentencing tool, including the new ICMO. This will allow courts to create a sentence that both punishes the offender and requires the offender to comply with conditions to address the behaviour that led to the offending.

#### **Procedure for this bill**

This bill contains significant reforms to the law of sentencing. It removes the fiction of the suspended sentence for all serious offences. From now on, a jail sentence for a serious offence will mean that that offender goes to jail.

It will change the landscape of non-custodial sentencing orders and create new options for judges and magistrates who are facing the challenging task of sentencing offenders who

should not necessarily be jailed, but who do need a sentence that provides the appropriate balance of punishment, deterrence and rehabilitation.

This bill will also clarify the position of the CBO in the sentencing hierarchy, and expand the ability to defer sentences to all courts, dealing with offenders of all ages.

I commend the bill to the house, and I now invite the house to debate the bill without delay.

**Mr RICH-PHILLIPS** (South Eastern Metropolitan) — In rising to speak on the bill this afternoon I note that the coalition parties will not oppose the Sentencing Amendment Bill 2010. We are surprised to see this bill coming before the Parliament, given the comments made by the Attorney-General and the Premier earlier this year. In mid-January the coalition parties released our policy position on abolishing suspended sentences. The position was to abolish the availability of suspended sentences for any offences across the Victorian statute book. When that position was announced the Premier said that it was a ridiculous position, that it could not possibly be done and that it would be too expensive because it would cost hundreds of millions of dollars.

Now we jump forward 10 months to the end of this session only to see introduced into the Parliament a bill which states — —

**Mrs Peulich** — At the 11th hour.

**Mr RICH-PHILLIPS** — At the 11th hour, Mrs Peulich. The bill states in its explanatory memorandum on clause 1 that:

... the main purposes of the bill are to amend the Sentencing Act 1991 to repeal suspended sentences for serious offences, provide for new intensive correction management orders and to amend the Road Safety Act 1986 to remove the mandatory term of imprisonment for a subsequent offence of driving whilst disqualified or suspended.

We have yet another example of the government, having said an opposition policy could not be implemented and would cost hundreds of millions of dollars, subsequently moving to introduce legislation to adopt a form of that policy.

While the bill goes to a couple of other matters with the establishment of the intensive correction management orders and the abolition of the combined custody and treatment orders, the former of which I understand are broadly supported by the Sentencing Advisory Council, the matter I wish to focus on in this debate is the partial abolition of suspended sentences.

In our view this bill was brought forward purely for the government to be able to say that it was doing

something about this issue. In our view also the Victorian community is sick of a revolving-door system of justice, a system whereby people can be convicted of serious offences and sentenced to a term of imprisonment and subsequently have that term of imprisonment suspended and be released back onto the streets in a very short time.

Members of the community have made it very clear they do not regard this as an acceptable way for our courts when enforcing legislation introduced by this Parliament to deal with serious offenders. That was the message heard very clearly by the coalition parties and by the shadow Attorney-General, Robert Clark, the member for Box Hill in the other place, and led to us developing a policy that would lead to the abolition of suspended sentences across the statute book.

As I said, when that policy was announced in January, the Premier said, 'It could not be done. It would be too expensive. It would cost hundreds of millions of dollars'. I will come to what the Premier said the policy would cost, because we had a situation not more than a couple of days ago with the Treasurer saying, 'The coalition parties should submit their policy costings to the Treasury for independent costing'. No sooner had the Treasurer said, 'The opposition must allow an independent costing et cetera' than he completely contradicted his own position by announcing his own costing of opposition policies.

The Treasurer was not content to have opposition policies costed independently by Treasury. He wanted to put his own spin on what those policies would cost, which just highlights what a sham any proposed costing mechanism put in place by the Treasurer is going to be. It throws into doubt the figure thrown around by the Premier in January, when he said it would cost hundreds of millions of dollars to abolish suspended sentences in the criminal jurisdiction in Victoria.

Given the way we have seen wild figures thrown around by the Treasurer in recent days, it calls into question the basis on which the Premier came up with that figure and how much confidence the Victorian community can have when this government is throwing around numbers on costings. It was only a short time ago. I said it was 10 months ago, but it was around 4 months after the coalition announced its position on suspended sentencing, a position supported by the community that wants to see an end to a revolving-door system of justice.

In mid-May, 10 days after the budget was brought down, lo and behold, notwithstanding the government having ridiculed the abolition of suspended sentencing,

having said it was too expensive, the Attorney-General came out and said, 'We the Labor Party are going to abolish suspended sentences'. At that point in time we saw a completely contradictory decision taken by the government as to what the cost of delivering on the Attorney-General's commitment to abolish suspended sentences was going to be.

Not surprisingly, the question was asked of the Attorney-General during estimates hearings that given the Premier had said that abolishing suspended sentences was going to cost hundreds of millions of dollars, what allowance had been built into the estimates to cover the new policy? At that time the Attorney-General conceded there was not any; nothing had been built into the budget to allow for the new policy announcement of abolishing suspended sentences. The Attorney-General, who is also the Deputy Premier, said it would have to be dealt with in the budget update that came out later in the year. That was the position put to us by the Attorney-General.

When the same question was asked subsequently of the Treasurer in this place, as to whether funds had been budgeted for the newly announced abolition of suspended sentences, he said, 'Yes, they were in the budget. Funds had been built into the budget for the expansion of prison capacity and upgrades for prison resources in order to deliver the new policy on suspended sentences'. We had completely contradictory positions taken by the Attorney-General, who is also the Deputy Premier, and the Treasurer of this state as to whether this policy was costed or not, and whether funding was built into the budget or not. Yet the Treasurer now says the opposition party should be submitting its policies to Treasury for costing, when within government it cannot even get its story straight as to whether the announcement on suspended sentences was costed in the May budget or whether it needed to be costed in the budget update.

Turning to the substance of the change with respect to suspended sentences, I noted with my opening comments that the explanatory memorandum to the bill states that the intent is to:

... amend the Sentencing Act 1991 to repeal suspended sentences for serious offences ...

This is where we believe the government has got this bill wrong. The bill does not go far enough. Our position is quite simply to abolish suspended sentences across the board. We have concerns that the scope of matters which this bill covers is too narrow. There are a range of offences which will not be subject to the

removal of the options for suspended sentences. Offences such as recklessly causing serious injury, aggravated burglary, arson and drug-trafficking offences will still all be subject to a penalty of a suspended sentence being made available for them.

It is our view — and we believe this is the community view — that if someone is convicted of recklessly causing serious injury and given a term of imprisonment, that should mean a term of imprisonment not a suspended sentence. Likewise that should be the case with aggravated burglary and arson offences. It is completely inappropriate that offences of this scale are excluded from the range of offences for which suspended sentences are being removed. To that extent the bill does not go nearly far enough to delivering on the type of justice system that the Victorian committee expects the government to deliver.

We also have doubts as to the government's true intent with this legislation. The bill was introduced into the other house early this week — I think it was Tuesday — and it is our very clear understanding that it was not the government's intention to proceed with this bill. It was basically a case of its planning to introduce it, second read it and then let it sit on the notice paper until it expired with the dissolving of the Parliament before the next election. It was more about being seen to be doing something than actually about doing something.

The coalition has called the government's bluff and brought the bill on for debate in the Assembly and we are now happy to facilitate its passage through the Council this afternoon, but the challenge that we lay down to the government relates to the fact that the bill as drafted would come into effect from 1 July next year. We say to the government if it is serious about this legislation it should bring forward the operative date on this legislation before the Parliament is prorogued prior to the election. The government should bring forward the operative date from 1 July 2011 to demonstrate that it is committed to the abolition of suspended sentences, as laid down in the bill, and if it is genuinely committed to delivering what the community wants, it should be expanding the scope of offences for which suspended sentences would not be available.

We believe this bill goes some way to addressing the views of the community with respect to our current revolving-door justice system. We believe it should be passed expediently today and the government should ensure that it is brought into effect as soon as possible.

**Ms PENNICUIK** (Southern Metropolitan) — I believe it was pretty close to 22 hours ago, just before

the dinner break last night, when Mr Tee broke the news to me that this bill was going to descend upon us before the night was through, and it duly did at about 10.10 p.m. last night. It has been with us for about 16 hours. That is definitely a record.

I have taken the time to acquaint myself with the Sentencing Amendment Bill after I arrived home last night with my copy of the bill that I acquired at about 11.10 p.m. Mr Rich-Phillips is right; the Attorney-General did announce that the government would be doing something about suspended sentences way back in May. Certainly the Greens responded at the time by saying that the government should leave suspended sentences alone, which is what the Sentencing Advisory Council had advised.

The bill before us moves to remove suspended sentences for serious offences as defined under the act. It introduces things called intensive correction management orders and intensive correction management orders — drug or alcohol for drug and alcohol offenders based on the experience of the alcohol and drug courts. It abolishes combined custodial treatment orders. It broadens deferred sentences to all courts and all offences. It repeals the mandatory jail sentence for driving while disqualified, which in fact made up quite a large proportion of the suspended sentences that were handed out.

**Mr Tee** interjected.

**Ms PENNICUIK** — I thank Mr Tee. It was 35 per cent. I did not have the figure in my head, but I knew it was around one-third. It could be that some of those measures are very good measures. It could very well be that they are; on first glance they do appear to be so.

It is interesting to look at the Attorney-General's speech which was made in the Assembly only yesterday. The Attorney-General said:

This bill is being introduced into Parliament during the last sitting week and so will not be passed before the election later this year unless it proves to be possible to debate this bill today.

Not only was the Liberal Party willing to make it possible, it could not get it debated fast enough. It had to be debated forthwith, according to the Liberal Party. The Attorney-General also said:

Should the bill pass during this sitting of Parliament, the government will introduce a further bill in the next sittings to address any consequential and technical issues in order to ensure a smooth transition when the bill becomes law.

This implies that it is going to be a rocky transition unless we have these further technical amendments. I

can see the Department of Justice staff and the minister's adviser sitting over there. They gave me a very comprehensive and courteous briefing this morning and I thank them for it. I was advised that a lot of time has been put into this legislation in terms of consulting with parliamentary counsel, the courts and the Office of Public Prosecutions, and various other people could also have been consulted. Victorians know nothing about that because they have not been consulted on this bill.

It is described as being a significant bill, which it certainly is, and as completely changing the sentencing landscape, which it certainly will. Victorians at the moment are completely unaware of that except for my attempts to alert some of them this morning. Certainly I know people in community legal centres, et cetera, have no idea what is going on.

It is appalling to introduce a bill like this that is going to impact on the lives of so many people and expect it to be passed through the Parliament in less than two days without any public scrutiny or providing the ability for members of Parliament such as myself to have a proper look at it and to actually take it out and consult with various members of the community as to how they might feel about it. There is no report from the Scrutiny of Acts and Regulations Committee on this bill. Any bill that sentences people to periods of custody has human rights implications. Not only do we not know what they are, because all we have is the — —

**Mrs Peulich** — Where is the Scrutiny of Acts and Regulations Committee report?

**Ms PENNICUIK** — It has not done a report; there is no report. There is no report for me to look at. Often the Scrutiny of Acts and Regulations Committee will write to the minister requiring further information. It has not had a chance to do that. Nobody has had a chance to look at this bill.

Members would be aware that I will often propose an amendment or two to a bill. I have had no time to do that. I have had no time to consider whether this bill requires amending, whether people or groups in the community consider that it requires amending, whether there are mistakes in the clauses, which often happens. There has been none of that. There has been no time for that to be prepared in the time allowed, because there has been only 16 hours since the bill was introduced into this chamber.

I think that is appalling. Government members are forever standing up, like they did today, talking about

the transparency and accountability of government, yet they pull a stunt like this completely unnecessarily. This is not an urgent bill; there is no urgency here. This is not like the case of the bill we had at the end of last year — which Mr Barber and I were trying to remember the name of — which we had to pass urgently because apparently all appointments made by the Governor in Council were subject to not being legal and unconstitutional. There was some urgency with that, and we are quite happy where there is an urgent situation to assist.

**Mr Barber** interjected.

**Ms PENNICUIK** — We actually had a bit more time. That this bill appears in the Legislative Council after the adjournment debate on the second last day before the end of this Parliament, when the public has had no chance to have a look at it, is appalling.

Mr Rich-Phillips said he was of the understanding that the government was going to introduce the bill and that it would sit on the notice paper. I say hear, hear to that. That is exactly what should happen with a bill like this. It should sit on the notice paper as an exposure draft for everybody in the community to have a look at, because to change this regime —

**Mr Rich-Phillips** interjected.

**Ms PENNICUIK** — Not everybody in the community agrees with the position of the Liberal Party; some people have a completely different view and would like to make sure that the broadest range of sentencing options are available to the courts. It could be argued that this is narrowing it. It is definitely altering it.

Mr Rich-Phillips made the statement that the community expects that if people are sentenced, they should go to jail. Studies by the Australian Institute of Criminology show that when members of the community are presented with the same information as a court is presented with, they either agree with the court's decision or are more lenient than the court.

**Mr Rich-Phillips** interjected.

**Ms PENNICUIK** — That is not the case either. When people are presented with all the facts and someone has been awarded a suspended sentence, studies show that the community agrees in most cases with that. It is only when the community does not know the facts and is presented with a black and white, simplistic view of something that it may have a different view. When it is presented with the facts of a case, the same as those presented to the court, it usually

comes up with the same idea as the court. In cases involving serious offences we have a jury made up of 12 citizens. That is to be expected.

I am not going to spend too long on this, Acting President, you will be happy to know.

**Hon. J. M. Madden** interjected.

**Ms PENNICUIK** — Mr Madden is expressing disbelief. I turn to the second-reading speech of the Attorney-General. After he turns to the subject of the bill, he says:

Sentencing an offender for a crime is a serious responsibility.

This responsibility is shared between the government, which enacts the laws of sentencing, and the courts, who administer these laws.

A sentence may involve elements of punishment, deterrence and denunciation. But, to ensure an offender does not reoffend, it must also provide for the effective rehabilitation of the offender. After all, the aim of the criminal justice system is not just to punish, but to protect the community by preventing further crimes.

To help the courts meet this responsibility, the government must provide them with sentencing options that answer all of these needs.

But he is wrong in two of those statements because he says it is a responsibility that is shared between the government and the courts. It is a responsibility shared between the Parliament and the courts, not the government and the courts. It is not for the government, as he said in his other statement, to help the courts meet this responsibility. He says the government must provide them with sentencing options that answer all of those needs, but — I am sorry — the Parliament does that, not the executive government. Implicit in this issue is what the Attorney-General thinks: he thinks it is up to him and the government. It is not; it is up to the Parliament, and all its members, to make the laws, not the government. That was a bit of a Freudian slip by the Attorney-General.

People from the Department of Justice and a ministerial adviser gave me a briefing this morning. They did a good job. They credibly, comprehensively and truly outlined what is in the bill, except I was told that this implemented the recommendations of the Sentencing Advisory Council. I remember reading the Sentencing Advisory Council's report, and I referred to it in my May press release when I responded to the Attorney-General's announcement. The Sentencing Advisory Council has not recommended that suspended sentences be removed. The final page of its *Suspended Sentences in Victoria — Monitoring Report* released in May this year says:

In part 2 of its final report on suspended sentences, the council recommended that the final decision concerning the removal of the power to suspend should be deferred until the recommended reforms to other intermediate sentencing orders had been made and fully examined. The council was of the opinion that allowing suspended sentences to exist alongside the reformed intermediate sentencing orders would make it possible to assess the effect of those reforms and to determine whether additional changes to the sentencing hierarchy are necessary. The council stated:

While the council continues to be concerned with what we believe are fundamental flaws with the structure of suspended sentences, and the impact of suspended sentences on community confidence, we equally believe that any changes to other intermediate orders should be fully tested before any additional moves are made to restrict further sentencers' ability to make this order. To do otherwise would risk increasing the prison population substantially, resulting in a sharp rise in correctional system costs.

Once they have been implemented and available to sentencers for a sufficient period of time, an assessment can be made of the operation of the reformed intermediate orders. Such a review would provide an opportunity to examine any changes in the proportions of sentencing outcomes (for example, if the proportions of suspended sentences and intermediate orders have changed) and also how the reforms to intermediate orders are operating and whether refinements or modifications are desirable (for example, whether a one-year extension to the operational term of an intensive correction order is sufficient).

In fact what the Sentencing Advisory Council said was that if the government is looking at removing suspended sentences above and beyond what already exists under the act, it should wait a sufficient time for any other intermediate orders to work through the system and see how they work, and that is not what this bill does.

Primarily because of the complete and total abuse of the parliamentary democratic process that we are witnessing here with the introduction of this bill and the attempt to pass it some 16 hours later, the Greens will not be supporting the bill.

**Mr TEE** (Eastern Metropolitan) — I welcome the opportunity to speak on this significant reform, which really is in two parts. There is the truth in sentencing part, which is about getting rid of suspended sentences. That is important because they cause confusion to those involved and to the community, which sees them as a soft option. The bill addresses this issue. What it does is provide an alternative or additional option for courts — —

**Mr Barber** — Alternative or additional?

**Mr TEE** — Both, because sometimes it can be an additional option and at other times it can be an

alternative. It is a very flexible bill. Importantly — and this is the very progressive element — what the bill is about is recognising that imprisonment is often not a good option, because the system becomes a revolving door for many individuals, as we know. The bill provides the courts with the additional, or indeed alternative, option: the orders that have been referred to.

These orders provide the courts with the option of what is effectively a community work order, which allows courts to impose onerous sentences that provide obligations to the community in terms of community work and also ongoing supervision through corrections and sometimes through the judiciary itself. There is an onerous component in terms of the work in the community and supervision by corrections and judges, but it does not put people into the prison environment, with all the consequences that flow from that, unless it is appropriate in the circumstances.

Where there is a serious offence but because of a number of circumstances — they might go to the remorse of the individual, to their youth or to their otherwise unblemished record — imprisonment is not appropriate, other community-type work in a structured framework might be an appropriate mechanism. In those circumstances the higher courts can make orders for up to 600 hours of community work over a period that could be up to three years, and the Magistrates Court can make orders for up to 500 hours over two years.

The other type of intensive community management order relates to drugs and alcohol. That builds on the excellent outcomes we have found our drug courts have. They tackle the underlying causes of offending, which are often drug or alcohol addictions. If you tackle those causes, you reduce the recidivism rate.

Through the drug and alcohol version of the intensive community management orders this bill transposes the lessons we learnt in the drug and alcohol courts. It provides for a similar regime in terms of the orders that can be made but also adds to it requirements such as that an individual must return before a judge so that the judge can ensure that the individual is complying with the various orders that have been put in place — for example, attending drug and alcohol programs and performing community work — and that the conditions are still appropriate. We know that if offenders return regularly to courts as part of their supervision, their chances of reoffending are reduced. Intensive community management orders for drugs and alcohol provide structured supervision to ensure that any drug and alcohol programs are being met.

Other important issues include the deferral-of-sentence provisions, to which Ms Pennicuik referred, which are being extended, and the driving-while-disqualified issue, which as Ms Pennicuik suggested is a large part of the suspended sentence regime — some 35 per cent of such sentences are suspended. The bill abolishes the mandatory jail sentence for this offence. That is a broad summary of the important provisions in the bill.

In terms of Ms Pennicuik's concerns about consultation, as Mr Rich-Phillips said, the issue is not new. There have been a number of Sentencing Advisory Committee reports, a number of legislative changes that have seen the evolution of this process and there was the announcement by the Attorney-General in May. It is important that we pass this bill today in order to meet the commitment to the community in relation to suspended sentences and because the reforms in the bill will take some time to implement. There will be the employment of some 150 staff at a cost of some \$78 million and a number of other requirements in terms of getting our courts up to speed: ensuring there are appropriate practice notes and that the court practitioners — the lawyers and such — are up to speed with the range of options that will come into place in July 2011.

There will be a further opportunity for Ms Pennicuik to review the operation of the bill when further amendments are introduced. They will go to some consequential technical changes, and there might be some changes in relation to the range of offences that are considered serious.

I welcome this significant reform. It is about ensuring that only those people who must be and should be in our prisons are in our prisons. It is about ensuring that we try to turn the lives of individuals around by keeping them out the system where we can and that they have programs that assist with their rehabilitation, which really should be the driving force behind our justice system. I very much welcome this bill.

**Mr BARBER** (Northern Metropolitan) — I need to talk about why what is going on here is quite shameful. From my perspective it does not relate to the content of the legislation. We all understand sentencing in the justice system is a matter of great import and public interest. We understand there are views on all sides. When the Liberals announced their policy to abolish suspended sentences I think it was on the front page of the *Herald Sun* that day and possibly for several days afterwards. Brendan Fevola is on the front page too sometimes, but my point is that this is a matter of great public concern, and the greater the public concern the

greater the responsibility for us as MPs to deal with the matter properly.

I know there are members of both parties who are ashamed about what is going on here and the way this bill is being rammed through. There are good people in all those parties, but unfortunately collectively those people do not add up to one party good enough to stop what is being done. This bill was not known to anybody in the Parliament — or was known to only a select few; I am not sure if Mr Tee was one of them or not — and certainly no-one in the public knew until yesterday. That was when the bill was second read. Then followed 2 hours and 15 minutes of debate, most of which was taken up by the coalition crowing about the fact that the government was now moving in its direction.

I would presume that even the coalition has stakeholders in the community who support its position and would have an interest in this bill. Is it the case that those stakeholders have been calling up the coalition and asking what is going on? Have coalition members' phones been ringing, with people wanting to understand what is in the bill, what it does for them or whether it supports the position they have been pushing? Perhaps not, because I doubt the coalition hit the phones and the emails to tell their own stakeholder groups, those groups that support their position, that this debate was happening. It could be victim support groups or others with an interest who might have wanted to know what is in this bill and whether it approximates to their position or advances their particular cause. I somehow doubt the coalition alerted those groups to this bill, because it would not have wanted to take the time to explain to its stakeholders what was in it, assuming the coalition understands what is in it.

We are fundamentally just not doing our jobs as MPs under that circumstance. A bill came in yesterday, was debated for 2 hours and 15 minutes, was brought into this chamber and today, with probably even less debate, is going to be passed. We are simply not doing our jobs as parliamentarians. The Parliament itself is not doing its job if a bill is not properly considered and scrutinised.

Mr Tee can come in here with his briefing book and give a great little summary of what the government says is in the bill, but that is not his job. After people have elected him his job is to stand in their place and represent their interests for four years, and in order to do that he needs to give a bill proper scrutiny. It is always the case that bills come into the lower house and are read so they become public and known to anyone who wants to come to the papers office or go to the internet. There is then some consideration given, and

the following sitting week the lower house debates the bill and decides what it wants to do with it. Then it comes to the upper house, and if you are going to have a second chamber, you have to allow for the fact that there will be doubling up. The second chamber does its job, and the Greens are only in the second chamber, so it is our opportunity to earn our pay cheques. But that is not what has happened here. A bill has come out of nowhere. It has been introduced and on the same day has been debated for 2 hours and 15 minutes. That is typical of this government. It is in the extreme range of some of the things we have seen over the last four years, but it is still about a government which, as Ms Pennicuik pointed out, thinks it is the Parliament. It does not understand the difference between the government's role and the Parliament's role in making laws.

**Hon. M. P. Pakula** — We do understand the difference. You don't have to tell us.

**Mr BARBER** — The job of the government is to run the trains, the schools and the hospitals; the job of the Parliament is to make the laws and give them to the courts.

**Hon. M. P. Pakula** — Yes, we get that. We know that too.

**Mr BARBER** — The minister's colleague Mr Madden did not get it when one day he made a Freudian slip, referring to the Attorney-General as the chief law-maker of the state. He is the chief law officer of the state, and at least part of his role is to tell the government that it needs to obey the law. So much for the government.

The opposition, like most oppositions, likes to develop a reputation as a watchdog that keeps the government honest. Oppositions may even be promoters of policies that are about clean politics — keeping it clean; we have heard a lot on that from this opposition. Some oppositions develop a strong reputation for clean politics. But today what we are seeing is the true colour of the opposition: when it is expedient to do so it will pull a swiftie on the public in exactly the same way as the government will.

While there could be views on all sides about the right model for sentencing, I would bet that if 90 per cent of the people knew what was going on here in relation to this bill, they would oppose this mode of legislating. They would be opposed to the idea of a bill — and the more important the topic the more important the scrutiny — coming out of a clear, blue sky, receiving 2 hours and 15 minutes of debate and then being



brought up here and pushed through even more quickly. They would understand at some instinctive level what the majority of the members of this Parliament as we pack up and go off to an election seem to have forgotten.

Our job is to stand in the shoes of the public, of the voters, in between elections as only we can and do our jobs. I said there are some members of this Parliament who are ashamed about what is going on. I state that as a fact from my own knowledge, but the fact is there are not enough of them in either the Labor or Liberal parties to hold the day, and that is why we are seeing what we are seeing. It is a warning to the Victorian public about the way that either the government or the alternative government would operate.

**Motion agreed to.**

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

*Third reading*

**The ACTING PRESIDENT (Mr Eideh) —**  
Order! The question is:

That the bill be now read a third time and that the bill do pass.

**House divided on question:**

*Ayes, 36*

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

*Noes, 3*

Barber, Mr	Pennicuik, Ms ( <i>Teller</i> )
Hartland, Ms ( <i>Teller</i> )	

**Question agreed to.**

**Read third time.**

## FAIR TRADING AMENDMENT (AUSTRALIAN CONSUMER LAW) BILL

*Second reading*

**Debate resumed from 5 October; motion of  
Mr LENDERS (Treasurer).**

**Mr BARBER** (Northern Metropolitan) — I draw attention to a related issue concerning the cooling-off right for unsolicited electricity and gas contracts. As the name suggests, it is a right for a consumer to terminate an agreement during the cooling-off period. The associated law deals with matters like the things for which a supplier can charge during the period.

In Victoria the Electricity Industry Act and the Gas Industry Act provide that the general cooling-off right that applies to all these unsolicited sales does not apply to electricity and gas sales unless the industry-specific consumer rules provide for it. The bill retains these provisions. Those consumer rules currently provide for the cooling-off right. Consumers are safe for now, but as we move to a national uniform law for retail electricity and gas regulation, presumably in the next term of Parliament, it is imperative that this house sees to it that these consumer safeguards are not lost in Victoria, particularly with our highly deregulated industry, although I would argue it has only gone halfway down the track, and therefore we do not get the benefits of competition even though we do get the pestering people knocking on our doors.

I note the *Herald Sun* today is blaming on the Greens the fact that electricity bills are going up, with little or no analysis of the hash of it made by Labor and Liberal as they have tried to fiddle around with the original privatisation of the electricity industry. We have seen it again through smart meters and a whole range of other things that are still causing problems. If only the invisible hand of the market could cure us of all the ills we end up dealing with in Parliament.

That is a matter of considerable importance for Victorian households, as electricity and gas retailers become increasingly reliant on door-to-door sales and telesales to gain more customers and, worse, a phenomenon I am sure we are going to see with people going down the street looking to see who has got a great big air-conditioner on their roof and thinking, 'Right, I will target that person and sign them up to a deal that says they pay huge rates during peak and summer periods'. Those people will not realise what they are up for because they will not necessarily understand their own pattern of electricity use.

That is all I have to say about the bill. In my earlier contribution, which was interrupted, I outlined in a fair bit of detail the particular Greens amendment that we are pushing. I will deal with that as briefly as I possibly can in the committee stage of the bill.

**Motion agreed to.**

**Read second time.**

**Committed.**

*Committee*

**Clauses 1 to 19 agreed to.**

**Clause 20**

**The DEPUTY PRESIDENT** — Order! In my view Mr Barber's amendment 1 is also a test for his amendment 2.

**Mr BARBER** (Northern Metropolitan) — I move:

1. Clause 20, page 20, line 32, omit "the Director" and insert "a majority of the members for the time being of the Advisory Committee established under section 102F".

As I detailed during my second-reading contribution, the aim of this amendment is to set up an independent advisory committee to advise the minister on the disbursement of any additional funds available in the Victorian Consumer Law Fund. This is a close parallel to the consumer credit equivalent in a different bill, but in this case we are dealing, in part, with a large, new piece of law. I have copied directly from the other act the structure which appears under my second amendment, which proposes to insert new section 102F. The upshot of this amendment is that rather than the director of the department being the one who decides how the funds are to be allocated, there would be an independent advisory committee drawn from those with an interest in the industry.

**Mr TEE** (Eastern Metropolitan) — I acknowledge the need for oversight. We think the bill provides sufficient oversight. In fact the provisions in the bill provide a higher level of oversight than legislation in a number of other state jurisdictions like Western Australia, Queensland and Tasmania, which simply put these funds into consolidated revenue. The regime that we have in place will require a recommendation from the director. If it is acted upon, both the recommendation and the outcomes for the amount of money that comes in and where it is allocated to will be publicly reported upon each year in the Consumer Affairs Victoria annual report. We believe that there

will be sufficient public scrutiny under the regime put in place and there is no need for this extra advisory committee.

I should add that this is a new civil penalty provision. We anticipate that in some years there might be no money coming into this fund, and in other years there might be money coming into it. It is a new penalty provision. We do not anticipate that there will necessarily be a large volume of money in this account, but we do not know; it is early days. However, we think in view of the fact that these sorts of advisory committees cost quite a bit of money to set up — and we have a fund that may not have sufficient money in it — it is about where you draw the balance. We want to make sure that we do not invest too much money in setting up a bureaucracy. We want to try to make sure that there is some flexibility to do some of the research and the work that we would like that money to be spent on.

**Mr BARBER** (Northern Metropolitan) — Since there is no member of the opposition available to indicate whether they might support or otherwise my amendment — —

**Ms Lovell** — I am happy to indicate that.

**Mr BARBER** — I was about to call a division.

**Ms LOVELL** (Northern Victoria) — I am happy to indicate that the opposition will not be supporting this amendment. The opposition is satisfied that there is sufficient oversight in the bill. Given we are at this late stage, after 5 o'clock on the very last sitting day of this Parliament, the opposition believes the bill satisfies its requirements and will not be supporting the amendment.

**Amendment negated; clause agreed to; clauses 21 to 44 agreed to.**

**Clause 45**

**Mr BARBER** (Northern Metropolitan) — I have a question for the minister. It is pretty clear from the statements of the government that the intention is to further restrict the breadth of hours in which unsolicited visits can be made, yet in clause 45 we have a regulation-making power that prescribes hours, and theoretically that could be used to then expand the hours. Can the government tell me that I am wrong and that that is not how clause 45 works? If I am not wrong, can the minister give me an assurance that there is no intention to expand the hours when I thought the whole point of this bill was to contract the hours and give us a bit more of our weekends to ourselves?

**Mr TEE** (Eastern Metropolitan) — Under the bill regulations can be made to expand the hours. It is the government's policy and intention not to do so.

**Clause agreed to; clauses 46 to 49 agreed to; schedule agreed to.**

**Reported to house without amendment.**

**Report adopted.**

*Third reading*

**Motion agreed to.**

**Read third time.**

## ROAD LEGISLATION MISCELLANEOUS AMENDMENTS BILL

*Second reading*

**Debate resumed from 16 September; motion of Mr LENDERS (Treasurer).**

**Mr KOCH** (Western Victoria) — It is a pleasure to speak to the Road Legislation Miscellaneous Amendment Bill 2010. This is an omnibus bill that makes many changes to road safety and roads legislation. Consultation on the bill has been broad and across all road users and, as there was little opposition from the parties contacted, we will not be opposing these amendments or the bill.

The bill ensures the automatic suspension of drug-affected drivers, which parallels the situation for drivers found to be alcohol affected. The penalties for minimum licence and permit cancellations and disqualification periods will be aligned for the first time, and this is something that the opposition believes is overdue is very supportive of. The power of VicRoads to remove abandoned vehicles from freeways, including both CityLink and EastLink, has seen those relevant acts amended to reflect and clarify that suspended tollway billing accounts are no defence to alleged offences of driving unregistered vehicles on these tollways. The bill also establishes a fee structure for the return of vehicles to offenders who have been identified.

The main provisions include clauses 3 and 7, which amend the EastLink Project Act 2004 and the Melbourne City Link Act 1995 to require a driver charged with driving an unregistered vehicle in either toll zone and then relying on a defence that the same vehicle was covered by a tollway billing arrangement to

prove they were not suspended at the time of the alleged offence. Clause 11 amends a schedule to the Road Management Act 2004 clarifying the power of VicRoads in relation to seizing vehicles causing obstruction or danger on roads and its power to sell, give away or destroy such vehicles where retrieval fees are not recouped within a period of 60 days.

Clause 14 introduces a mandatory licence disqualification period of at least three months for a first drug-driving offence and six months for any subsequent offences. Importantly, this bill will not be setting any maximum disqualification period, compared with the present options for a court, which may impose cancellation periods of up to 12 months. Clause 15 goes on to introduce an automatic immediate on-the-spot licence suspension for refusing to provide an oral fluid sample at a roadside drug-driving testing station. Clause 22 allows VicRoads to pass on private personal information about the driver of a vehicle or trailer to a vehicle dealer, thereby severing the likelihood of these matters going on unnoticed either at the point of sale or their decommissioning.

Clause 24 amends the Transport (Compliance and Miscellaneous) Act 1983 to try to ensure the Governor in Council can make regulations regarding the processes involving myki ticketing and the resultant computer-derived evidence on ticketing offences connected to this outrageously expensive ticketing process that has been introduced in part of our public transport network. In saying that, clause 24 is one of the main areas of concern to the opposition in that it remains unclear whether the billion-dollar myki ticketing system seeks to capture the Transport Ticketing Authority's central computer system that has interaction with the computer system of the private contractor, Kamco. Perhaps the minister might clarify this in his summing up at the completion of the debate this afternoon.

This bill, although full of amendments that are a result of poor drafting of earlier bills brought to this house, demonstrates the importance of getting legislation to run in parallel so offenders are treated in a similar manner. Drug and alcohol testing is a clear example where parity should have been enshrined from the introduction of these road safety initiatives. As a member and the deputy chair of the parliamentary Road Safety Committee, the importance of growing road safety opportunities for the travelling public not only to save precious lives but also, and just as importantly, to limit injury and personal trauma has become very clear to me. When we see that after the introduction of on-the-spot drug testing a strike rate of positive tests approaching 2 per cent is being recorded, there is little

doubt that this has had a greater impact than many in the community would ever have considered possible.

Road fatigue on our roads is another area often underestimated and misunderstood. It remains a large contributor to road accidents and fatalities, especially in regional parts of Victoria. Through the deliberations of the Road Safety Committee during this Parliament alone we have seen important investigations into rail crossing safety — an area that has claimed far too many lives in recent years — and the introduction of side airbags and electronic stability control (ESC) in all passenger, off-road and forward control vehicles produced in Victoria from 1 January 2011. ESC alone is estimated to prevent up to 30 per cent of deaths on our roads. It is something that could see the loss of life drop from approximately 300 to closer to 200 per annum, hopefully with injuries following a similar pattern. This recognised Road Safety Committee continues to make a significant contribution to the safety and wellbeing of travelling Victorians, and indeed Australians, through its thorough investigations of the references that are forwarded to it and are so well researched.

One of the major disappointments over the life of this Parliament has been the financial waste associated with the development and introduction of the transport ticketing system now known as myki — more than \$1 billion over budget on a project that originally had a budget of \$350 million. The project is years late in being introduced and it does not have complete coverage of our public transport network. V/Line is yet to be accommodated, while the introductory period in the metropolitan area continues to be extended beyond the November election. We believe fare evasion will certainly continue through that period — at taxpayers expense. Recently we have all read that that is not the case. Minister Pakula has introduced a system by which authorised officers will be serving penalty notices on those who continue to abuse the opportunities afforded under this ticketing system that has been newly introduced by the Transport Ticketing Authority.

Regional road networks are regrettably falling into further disrepair. From a safety point of view that is also a major concern for everyone. It does not matter where you go in western Victoria at the moment, our roads continue to become more and more dangerous due to a lack of maintenance and reinstatement. VicRoads management refused to go on the record even after offering to receive rural press journalists and their questions at the Geelong regional office. This was brought to my attention recently by Hamilton *Spectator* staff who last week who made the effort to travel to Geelong at VicRoads invitation. This invitation from

VicRoads came only after people would not be interviewed in Hamilton or join the journalists on site at a number of the roads that are failing and obviously threatening road user safety.

It has now become customary for VicRoads to undertake road repairs with signage alone. What a joke that would be, if it was not so serious. The Minister for Roads and Ports, Tim Pallas, and our VicRoads regional manager should hang their heads in shame. It does not get any better for those whose vehicles are badly damaged on state-managed highways, as VicRoads will not even give consideration to repairs, unloading these responsibilities onto road maintenance contractors or local government bodies which undertake this work on behalf of VicRoads.

Anyone reading regional newspapers of recent times would have seen many examples of people whose vehicles have been damaged to a quite costly extent and in some cases been made unroadworthy. Many people in country Victoria travel long distances to work. VicRoads will not recognise that the damage has been caused through the lack of maintenance of our roads and highways where there is solely state responsibility. Often young people particularly have not been able to keep up their employment due to this happening.

There is little doubt that the argument should start moving from the Parliament to our transport corridors, especially in regional and rural Victoria. Cost shifting to local government has seen local government hung out to dry, unable to continue to afford doing this government's job. At the same time in the metropolitan area we see extraordinary monetary waste being afforded to projects that have no budgetary caps and certainly no construction time frames, and until very recently they have not had any exclusions for fare evasion. Is it any wonder Victorians are burdened with tax increases that families no longer have the capacity to pay?

In closing, this is an important bill as it aligns fines, recognises the shortfalls on both CityLink and EastLink and amends the Transport (Compliance and Miscellaneous) Act 1983 and Road Management Act 2004. As indicated earlier, the opposition will not be opposing the bill.

**Mr BARBER** (Northern Metropolitan) — The Greens will support the bill, which increases the penalties applicable to drug-driving offences under the Road Safety Act, amends the impoundment regime in the Road Management Act and makes minor amendments to the EastLink Project Act and the Melbourne City Link Act.

I want to raise a number of issues brought up by the bill, and the first of those is in relation to drug driving. Victoria was one of the first jurisdictions to introduce roadside drug testing. In 2003 the Road Safety (Drug Driving) Act was passed to provide for a trial program for random testing of drivers for prescribed illicit drugs, namely, cannabis and speed in the form of methamphetamine. At that point the principal act already contained offences relating to drug driving but they applied to driving when impaired by drugs. The 2003 offences, which this bill amends, are similar in nature to drink-driving offences in that they criminalise driving while an illicit substance is present in the driver's oral fluid or blood. Other offences introduced in 2003 revolve around refusing to provide fluid and so forth for purposes of analysis.

Unlike the .05 blood alcohol concentration limit, though, there is zero tolerance for illicit drugs in the system where technology allows them to be protected. In 2006 the sunset clause was removed by the Road Safety (Drugs) Act 2006 to allow testing for drug driving to continue on an ongoing basis. The act also provided for methylenedioxymethamphetamine or ecstasy to be included in the drugs that drivers could be randomly tested for. It is similar to the test for drunk driving in that you get pulled over, there is a random roadside test where you have to provide a preliminary sample and if that sample is negative you can go.

I understand the testing device is called the Securitech DrugWipe Twin or the Securitech DrugWipe II Twin, and the test takes about 5 minutes. If it is positive, the driver is required to provide a second sample, which is sent off to a lab. The driver is provided with a portion of the sample, which they can have independently tested by another possibly more complicated device, though of a similar type to the one used to test the sample. The driver is informed within a few weeks if the analysis confirms the original test, and then they get an infringement notice or are possibly prosecuted.

The bill does not change the offences, but it increases the level of penalties applicable to drug-driving offences. The government explained that as part of the first action plan, the 2008–10 Arrive Alive road safety strategy, it pledged to review the strategies for drug-driving offences. Apparently the review determined that the existing penalties for drug driving were adequate. I note that the proposed tougher penalties are similar to those which apply to drink driving. Drivers who refuse to provide a sample will now have their licence immediately suspended until the charge is determined, which is different from the current situation. That is what happens to people who refuse to take a breath test.

The bill makes it mandatory for a court to order that a drivers licence be cancelled and the driver disqualified from applying for a new licence for a minimum of three months for a first drug-driving offence and a minimum of six months for a subsequent offence where a person is convicted or found guilty. We now have mandatory penalties associated with this offence, which is interesting in relation to the bill we debated before and an earlier one we debated before that. Currently if a court finds a person guilty or convicts them of a drug-driving offence, the court has the discretion to cancel the person's licence or permit and to disqualify them for a maximum of 6 months, or 12 months in the case of a subsequent offence.

In terms of the situation for the equivalent drink-driving offence, the court must cancel the licence and impose a period during which the driver is disqualified. It is not mandatory sentencing in the sense that a person is going to be locked up. We are taking a person's car, and while some people would find that to be an impost on their freedom, I see it a little bit differently. You do not have a right to drive a car, much as it may be convenient and much as the world may be set up to make it convenient for you. Regular commuters will disagree with me, of course. We are suspending a licence here, which in itself is not an inherent right.

The disqualification period will be between 6 months and 14 months, depending on whether it is a first or subsequent offence and on the driver's blood alcohol content. I think this means that when this bill passes it is possible a court will have discretion to decide on the lesser offence for alcohol rather than the mandatory offence for drugs. I would have thought the court was the best place to make that decision, but that is simply my interpretation of reading the various bits of legislation.

Under the current legislation, if a person is issued with an infringement notice for drug driving and they do not pay the fine or object within 28 days, the notice takes effect as a conviction. In addition to that, clause 21 of the bill provides that failure to lodge an objection will result in the suspension of the person's drivers licence for three months. This mirrors the provisions that apply for persons issued with infringement notices for excessive speeding and possibly hooning as well, as we discussed earlier in this week's sitting of Parliament.

The Greens are supporting these provisions. But to be clear, we believe there are ongoing policy issues that the government, as the operator of this legislation, has to keep an eye on. No. 1 is the reliability of equipment. As the penalties have increased, the government should be confident of the reliability of the testing equipment.

We note that as part of the same action plan that led to this review and this bill, the government undertook to investigate the development of new drug-driving testing devices. We would like to be sure that means the government believes the current ones are sound and will not mistakenly detect other substances as illicit substances or false positives. I remember when this trial first took place. There was a lot of media and other interest around the very first instances of testing. One of the first tests on someone who was pinged for drug driving turned out to be a false positive.

It is our understanding that there is a drugs and driving research unit at Swinburne University of Technology which has been working with the government, the police and VicRoads to look at the effects of drug taking on driving ability. These offences depend not on detecting whether a person driving is affected by drugs, as it would be for alcohol, but simply the presence at detectable levels of a drug. I, for one, would be happier if we had some more scientific information, both in relation to the .05 blood alcohol content reading and in relation to these drugs, to help us get a better handle on what impairment might consist of.

There are other jurisdictions that have a lower than .05 blood alcohol content figure. When I started driving you had to have zero blood alcohol as a P-plater. At times we look at the tragedies we have on our roads and think, 'Is .05 enough, should it apply to all groups at all times or should we look at a tougher measure?'. We also know it is variable with different people according to their physiology and a range of other factors, so it is very important that we understand what impairment consists of when we talk about drugs and alcohol.

Then there are prescription drugs which are not covered as illicit substances under this bill. People's driving can be impaired because of non-illicit prescription drugs such as tranquillisers and so forth, and that can be a danger to other road users. One study published in the *Journal of Clinical Psychiatry* looked at the major results from all published studies from 1983 to 2000 on the effect of antidepressants on driving performance. It found that certain sedating antidepressants had a negative effect on driving performance depending on their dosage and other factors like driver age. It also found that the combination of some non-sedating antidepressants with other kinds of drugs could cause problems. According to the government's first action plan 2008–2010 there is a lack of data on the effect of prescription medication on road users' safety. For this reason the action plan states that more research will be undertaken in this area, and I hope it will. We look forward to learning the conclusions of that research.

I turn now just briefly to clause 20 of the bill and the operator-onus provisions in the Road Safety Act. Those are offences where a person issued with an infringement for an offence can avoid liability if he or she shows that they were not responsible for the vehicle at the time of the offence — 'I was not driving it, someone else was'. That is done by making a statement, which may involve dobbing in the other driver. The bill will extend the operator-onus regime to recipients of excessive speed infringement notices. It will allow the operator of a vehicle to apply for an extension where the operator is unaware that a notice had been issued.

There is a section on impounding vehicles subject to payment of a fee under the Road Management Act. State road authorities, generally VicRoads or a council, already have the power to impound vehicles that are parked unlawfully or illegally, are obstructing traffic or have been left standing in a way that constitutes a road safety hazard and may also return the vehicle to its owner on payment of a fee. Clause 11 provides that the road authority may keep the vehicle in addition to moving or impounding it — that is, take possession of it. They also have the authority to sell, destroy or give away a vehicle if the fee is not paid within 60 days, mirroring the provisions that apply to abandoned vehicles.

Similarly, the road authority has to take reasonable steps to notify an owner. We have been advised that as the road authority's powers are discretionary the authority may choose not to demand payment in its entirety or at all if an owner is in financial hardship. That is a concern. It has always been of concern to me the way fines and penalties operate differently upon different sectors of society according to their ability to pay. In fact if we go back to some of the oldest written laws, such as carvings on stone tablets, we learn that millennia ago these laws indicated that there were higher fines for rich people than there were for poor people because to give people the same fine would punish the rich person less and the poor person more.

I was always conscious of this at Yarra council, where we issued a lot of parking fines. We also had a lot of homeless people there, and sometimes those people were living in their cars. We could have fallen foul of the same provision if we had impounded a car that might have been abandoned or appeared to be abandoned but was in fact the place where a person was taking their only shelter. There should be, in my view, discretionary policies by the road authority to waive these costs if a person can demonstrate that they are in dire circumstances. We are advised that that is the practice.

Finally, there are the EastLink and CityLink amendments. Fines apply to users of EastLink and CityLink freeways who fail to register their vehicles with the operators of those freeways. People can register their vehicles by buying a pass. If they have problems with their account, they could fall foul of these provisions, so we are amending them. Then there are a number of technical amendments that are designed to get names, formulae and so forth right in these acts, and we are happy to support those. That is all.

**Motion agreed to.**

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

*Third reading*

**Motion agreed to.**

**Read third time.**

## **FIRE SERVICES COMMISSIONER BILL**

*Second reading*

**Debate resumed from 16 September; motion of Mr LENDERS (Treasurer).**

**Mrs PETROVICH** (Northern Victoria) — This bill was born out of the tragedy of Black Saturday, when 173 lives were lost. Many will carry the burden of this disaster for the remainder of their lives. Our thoughts continue to be with those families who lost loved ones and suffered injury and ongoing psychological trauma. Communities have rallied, and if red tape and paperwork had been reduced, they would be much further advanced than many of them are now.

Many of those who are considered community leaders are still volunteers holding the communities together. As shadow parliamentary secretary for bushfire response, I am dismayed at the lack of real solutions to everyday problems these communities continue to face. I have spoken in detail about the dilemmas facing these people, yet very little has changed over the last two years. Unfortunately the Labor machine and Labor philosophy lumber on and wreak havoc with their nanny approach to recovery.

I have heard so many times from these communities that they do not want charity. A common phrase in these affected areas is 'We want a hand up, not a handout'. Prior to the release of the Victorian Bushfires Royal Commission's final report and when it was

released it became clear that the state was not prepared. This government chose to ignore the many warnings about the fuel loads and failed to prepare. There were no warning systems, and it has become clear that no-one was in charge.

To compound this insult to the Victorian people, the person who was supposed to be in charge on the day was AWOL, or absent without leave. Then the Premier put her in charge — to add insult to injury — of the recovery process. I think that is unforgivable. There have been apologies from Christine Nixon; Russell Rees, the former CFA (Country Fire Authority) chief fire officer; Ewan Waller, the chief fire officer of the Department of Sustainability and Environment; and Premier John Brumby. As my gran used to say, a little bit of help is worth a lot of pity.

There was \$40 million involved in the bushfires royal commission, and 400 witnesses appeared before it. There were 67 recommendations made in the final report. The coalition responded with in-principle support for all the recommendations while the Premier played more politics regarding them. He rejected recommendation 27 in relation to powerlines and recommendation 46, which deals with the purchase of properties, out of hand.

The coalition and Peter Ryan, the shadow minister for bushfire response and Leader of The Nationals in the Assembly, consulted with the emergency services on this bill. Mr Ryan received responses from Mary Barry, the chief executive officer of Victoria State Emergency Services, and Mick Burke from the CFA, although they were received after this bill passed through the lower house. There were a number of pieces of correspondence from those two organisations.

I have to highlight that the elephant in the room is the difference between volunteer CFA firefighters and metropolitan firefighters. The issue of CFA paid firefighters versus unpaid firefighters needs to be considered in terms of the mix of how those brigades operate. I think members have to understand the culture of how the CFA operates. They are very proud to be volunteers; they do not want to be paid. What they want is a hand up, not a handout. They do not want to have to fundraise and fight like heck to get their training. They want to be able to have proper equipment and not be treated as beggars when they ask for the equipment they need to do their jobs.

There has been very little consultation about this bill with the CFA. I know it is very annoyed with the way this issue has been approached; its response is on the basis that it did not need the extra career firefighters

within the next four years. The royal commission into the Black Saturday fires made no such recommendation, yet this government has forced the CFA to take on extra firefighters and, to add insult to injury, enter into a new enterprise agreement with paid firefighters. This in effect is jobs for union mates. This gives the United Firefighters Union far greater control of volunteer training, employment and station management. This has been seen as a preselection sweetener for Labor people and an attempt to keep the United Firefighters Union happy and subdued in the lead-up to the November election.

I understand this culture of CFA volunteers; my family has been and is involved in the CFA — I am part of the fourth generation that has had an involvement with the CFA. The CFA has slammed the need for these firefighters. The CFA has said that this Labor government has breached the charter it signed with volunteers in relation to ensuring that volunteers were consulted before these deals were done.

The royal commission heard evidence and examples of successful management of resources across agencies on 7 February. I have to say that all of this is interwoven into how that day, other days and days we may face in the future are managed. We have to remember we have recently had the most rain that we have had in a number of years. We will have massive growth in the upcoming fire season. We may be facing a very bad season again because we had more growth in the late summer period than we have experienced in a very long time.

There were instances of existing arrangements that were hindering operational performance. The commission's report says:

Operational shortcomings dominated, followed by matters of policy, at times reflected in legislation, and governance, which in some cases diluted and confused the chain of command.

Further it says:

On 7 February there was no single person in charge of operational planning, tasking and accountability.

Whilst I commend the commission, in many respects that is a cop-out for those who were there on the day. There was ultimately someone in charge — there was the minister responsible and a former Chief Commissioner of Police was in the control room on the day. Her behaviour was nothing less than reprehensible. We all know about that; I have spoken about it many times.

The report says:

The chief fire officer is responsible for performing fire prevention and suppression activities on behalf of the secretary, as set out in section 62(2) of the Forests Act.

I will not go through all the provisions in the bill, because it is 5.40 p.m. on the last parliamentary sitting day and there are other things I would like to cover which relate to this.

However, I could go back to when I started in this Parliament. I made my inaugural speech at a time when fires were raging. I refer also to the work that was done by the Environment and Natural Resources Committee of this Parliament, an all-party committee that talked about fire prevention and increased fuel reduction burning, and the need for a tripling in the number of burns carried out. It did not talk about hot burns; it talked about cold burns — about cool mosaic burns and responsible forest management. We have taken a long time to get to this point.

I turn to something that is of particular interest to me in representing the Northern Victoria Region, and particularly the community around the office I currently occupy in Kilmore — that is the issue of powerlines, which was not addressed by the government. One recommendation of the 2009 Victorian Bushfires Royal Commission addressed the problem we have with powerlines and the state they are in across the state of Victoria.

I will read an extract from an article in the *Age* of 3 October that I think encapsulates a range of things:

The power company at the heart of Victoria's biggest class action is blaming three government departments for the deadly bushfires of Black Saturday, dragging taxpayers into a long and expensive legal battle.

If the company's tactic is successful, the government could be found liable for hundreds of millions of dollars in damages payments to victims.

Barely two months after the royal commission handed down its findings on the disaster, the Country Fire Authority, Victoria Police and the Department of Sustainability and Environment stand accused of contributing to the deaths of 119 people in one of the Black Saturday fires sparked by an electricity line failure.

More than 700 Black Saturday victims are suing the Singapore-owned power company SP AusNet in a class action over equipment failure at Kilmore East, alleging that the company was negligent in not fitting a \$10 plastic anti-vibration protector to guard against metal fatigue.

The article goes on to quote a government spokesman as saying:



The government will vigorously support our firefighters and police who so bravely worked to protect Victorians on Black Saturday.

I support them as well, as does the Liberal-Nationals coalition.

Unfortunately, because of poor governance, poor government and a lack of control over issues I have raised in this Parliament — the blackouts and brownouts — every time we get a hot spell the community is faced with power difficulties. There is a reason for that.

The article also mentions the company's claim that:

The DSE failed to provide 'factual and timely' advice to the Victoria Police to enable them to issue bushfire warnings.

The article goes on to say:

In its final report the royal commission found the Kilmore East fire, which destroyed 1242 homes and burnt 125 383 hectares, started when the live line, or conductor, came into contact with a cable stay. This caused arcing that ignited vegetation.

The commission found the line had broken due to fatigue caused by an incorrectly fitted component.

There is a bit of history with this that goes back to a range of circumstances around Mitchell Shire Council. As early as 2007 councillors were receiving agitated calls from the Country Fire Authority advising that a critical fire situation was emerging. At a special meeting the council passed a motion requiring the reduction of fuel loads on roadsides and private land to improve fire safety as represented in section 43 of the Country Fire Authority Act 1958. The mayor at the time, who is still the mayor, made unsubstantiated findings against another councillor at the next council meeting and no action was taken when the councillor requested a full investigation. This has proved to be very unfortunate.

Shortly after this the Kilmore East fire burnt slowly downhill until it reached extensive vegetation on both sides of Saunders Road. The fire was almost put out by residents, but it then escalated when a large adjacent pine plantation erupted, the fire crossed the Hume Freeway and Black Saturday commenced. The disappointing thing about all this is that the pine plantation site between the towns of Wandong and Kilmore has since been replanted with blue gums. The topography of that area is such that this is a very dangerous place to put a plantation. Hopefully in the next Parliament we can look at legislating to change how plantation timber is managed.

During the months of bushfire recovery people have continued to live in dangerous conditions. Some of them are still trying to clear their blocks and rebuild, seeking building permits and returning to their homes, sheds and — unfortunately, for a couple of families I know — tents.

A September letter addressed to 'the ones supposedly in charge' tells the story of how a burnt tree from a neighbouring property destroyed a new car and a shed that had been replaced after the bushfires, even though prior notice of the danger had been provided. Other trees with this dangerous potential remain on the site, with a family living in a tent only 10 metres away.

Blocks have not been cleared, and they now have 20 months of overgrowth, with fallen trees, temporary powerlines and phone lines strung through the trees — that is all happening now. Clearing services have been scaled back. Abandoned blocks remain uncleared, continuing an unacceptable safety risk and probably an unacceptable fire risk in the upcoming fire season. Case managers have been disappearing even though people still need them. Ongoing 24-hour counselling, medical and psychological services to help rebuild lives are still required, and this seems to be having an impact on the demographics of young people and men, although all are affected.

I call for a fully detailed report on the costs of all the functions, activities and projects of the Victorian Bushfire Reconstruction and Recovery Agency and government departments in the bushfire-affected areas to date. Nothing less will answer the questions of many Victorians as to where the funds have gone, where the balance is intended to go and why so many have not had the support and the facilities they need.

Natural leaders have emerged within communities and could be utilised to much greater benefit in the decision-making and recovery process, but unfortunately this opportunity has not been taken up. The Hazeldene community action group was formed with the aim of allowing its people to have a voice in the recovery process, and that was denied.

I asked the Premier to provide a report from the Victorian Bushfire Reconstruction and Recovery Authority on the issue of the probity process and the allocation of funding around the Flowerdale community. Businesses trying to re-establish or re-energise and employ others could benefit from greater resources and assistance for small business programs in the region to restore the business community. The balance of the money held from donations should be released to stimulate a

reconstruction economy. I was incensed yesterday when the Treasurer, John Lenders, talked about a visit to Yea 18 months on to talk about business recovery. What does he think those businesses have been living on in the preceding 18 months?

Right now the Victorian community urgently requires a report on the maintenance of powerlines and whether maintenance has improved during 2010. We must ensure trees are trimmed under powerlines promptly, and it is time to stop new trees being planted under or next to powerlines. Neighbourhood safer places in high-risk areas such as Macedon and Mount Macedon must be supplied without delay. Action to avoid fires this season is overdue, and the government is accountable for a lack of it. I would like to be satisfied that the Brumby government has ensured that its departments have taken protective action to avoid a Black Saturday recurrence, but I fear it has not.

In conclusion I would like to read out a letter I received from a constituent of mine which answers a lot of the rhetoric and spin that was produced by Mr Lenders yesterday in this house. He is obviously not in the house now, but I hope he is listening to this somewhere, because there are real problems out there. The situation is very bad for these people, and spin does not cut it for them; they are sick of it. It says:

My name is Rod Elwers, and I have lived in Pheasant Creek since 2001. I have been a volunteer firefighter since 2002 and was called out to duty on 7 February 2009. Whilst fighting fires my residence of nine years burnt to the ground ... As a CFA volunteer sometimes I feel I let myself and my community down. It was great to see so much support immediately after the fires and patriotic residents flying Australian flags over their blackened properties. Less than two years later ... I start to understand what a Vietnam veteran went through upon returning home. Like them I feel like a boat person in my own country and can't believe the un-Australian actions from the people in charge of the recovery. A promise from DHS to have a unit on my property whilst I rebuild my life and my house never happened. A promise from DHS to have a caravan on my property while I rebuild my life and my house never happened. Now I have been interrupted in my recovery by having to fight to keep my toilets and showers.

It goes on to say:

Rob Mitchell has said we are recovering at our own pace, but really we are going at the pace that government, VBRR, DHS tell us to — way too quick or not caring enough for me and many others. My community lost just as many lives as the Bali bombings, yet more ongoing assistance has gone to the family and friends affected by that than the Kinglake areas. I want to be close to my home and my friends that help me recover. Some people got units on their property before the Kinglake village was opened. I do not want to live in the village away from my property. With the village being disposed of soon I want a unit moved to my block so that I can rebuild my life and my house at a pace that I set, please.

I hope that resonates somewhere, because he is not the only one. There are many people who are in desperate situations. They have not recovered. We have seen the resignations, and we have seen the apologies. We have seen the resignation of Russell Rees, we have seen the resignation of Christine Nixon and today we have seen the resignation of the Minister for Police and Emergency Services. Who is left to go? I would have to say there is only one more person who needs to go; Premier Brumby's time has expired.

**Ms HARTLAND** (Western Metropolitan) — I will be speaking only briefly on this bill. The Greens consider that this is a straightforward but incredibly important bill. It is clear from the Victorian Bushfires Royal Commission that there was a lack of clear leadership on Black Saturday. I hope the fire services commissioner position will be part of overcoming that so an incident of that kind does not occur again. There is obviously a clear reform agenda within this role, and I hope the fire services commissioner will work closely with volunteers who have worked incredibly hard to protect Victorians and also work closely with the United Firefighters Union, which I have had a good relationship with. I have a high opinion of both these groups.

Interestingly I dealt with Craig Lapsley after the Tottenham chlorine fire when residents in my community felt completely abandoned by the emergency service, which just did not know how to deal with the situation. My feeling about Craig Lapsley was that he actually understood what had happened and what had gone wrong, and he was prepared to say mistakes had occurred and what could happen.

I know it is not directly part of this bill, but one of the things that has been lacking and that the government needs to address is the issue of community alerting. The federal government has blamed the state government, and the state government has blamed the federal government. There have been alerting systems around for quite some time, and it is time these two levels of government stopped blaming and started working with each other to bring in a community alerting system that can be used both for country towns during the fire season and city situations in the case of floods, chemical fires or accidents that are beyond the normal controls. With those few words I want to say this is a good bill. It is part of the government trying to redress the terrible things that happened on Black Saturday.

**Ms PULFORD** (Western Victoria) — I am pleased to also speak in support of this legislation. It is fitting that this is the last bill that this Parliament will consider, because the question of fire and recovery after fire has

been a topic of great significance to this Parliament. The fires of Black Saturday had a profound impact on Victoria. One hundred and seventy-three people lost their lives, and there were significant losses to property. All Victorians will carry for the remainder of their days the memories of those horrendous events.

We were heartened to see the strength of character and community that exists in Victoria, with our fire services volunteers and staff alike putting their lives and wellbeing on the line to contain the fires. There was an incredible outpouring of community spirit as the fires were contained and we moved to the recovery stage.

The government sought to ensure that we learnt from the experience of these fires that occurred particularly on Black Saturday but also during the days before and after that day in many locations in Victoria. The Premier announced that we would have a royal commission to look into all matters relating to these fires and provide advice to government so that we could learn every possible lesson there was to learn from those horrendous events.

The fires in January and February 2009 occurred after 12 years of drought and radically reduced rainfall compared to historical averages. Members will recall the incredible heatwave that occurred in the last days prior to those fire events. We know that with climate change come more extreme weather events, and this is something that we need to ensure never happens again.

The fires have been described as a 1-in-100-year event. I would certainly hope that it is a very long time before such tragedy is wrought on our state again. The royal commission undertook a thorough consideration of all issues relating to the fire. It presented to this Parliament an interim report which was debated at length. It then presented its final report in the middle of this year. The interim report was particularly focused around preparations that could be taken in advance of last fire season and that final report has now been provided to the government.

The royal commission made 67 recommendations and the government accepted 59 of them wholly or in part within days of the report being provided to the government. We then sought to have a rapid but thorough consultation with fire-affected communities over a handful of other recommendations, and ultimately determined to accept, wholly or in part, all recommendations apart from retreat and resettlement and, as we have previously discussed in this place, there was a part acceptance of the recommendation relating to the undergrounding of powerlines.

In this place and in other places we have expressed our concern about the Leader of the Opposition's decision to commit the opposition to fully implementing all of the royal commission's recommendations prior to knowing what they were. This legislation specifically deals with recommendation 63:

The state enact legislation designed to achieve two specific ends:

appoint a fire commissioner as an independent statutory officer responsible to the Minister for Police and Emergency Services and as the senior operational firefighter in Victoria;

make the chief fire officer of the Department of Sustainability and Environment a statutory appointment.

The recommendation goes on to say:

The fire commissioner should have responsibility for the following:

promoting and directing reform aimed at increasing the operational capability, interoperability and resilience of Victoria's fire services;

developing and building operational capacity to prepare for the days of highest bushfire risk and exercising control over level 3 fires as the permanent state controller;

providing to government periodic advice on the metropolitan fire district boundary on the basis of triggers, frequency and criteria approved by government;

representing Victorian interests on operational matters in national committees.

On 19 August the Premier announced the appointment of Craig Lapsley. Mr Lapsley, as a former deputy chief fire officer of the Country Fire Authority and as the current director of emergency management of health and human services, is certainly well qualified to fulfil this new role.

This is important legislation. It is also timely: the weather is warming and we are nearing another fire season. This will deliver action to implement the recommendations in chapter 10 of the Victorian bushfires royal commission's final report which relates to organisational structure and to issues of clear lines of responsibility and accountability — things that the royal commission said were areas where there was room for improvement.

If I could take the opportunity, on this day, through you, Acting President, to commend Bob Cameron, the Minister for Police and Emergency Services and the Minister for Corrections, who has today announced his retirement from politics. I would like to take the

opportunity to commend him for the work that he has done, particularly in the period immediately after the fire, and for the work that he has done in our government in leading the response to the royal commission and implementation of its recommendations. This legislation is part of that work and I would like to take this opportunity, in our last debate on our last piece of legislation on the last day of this Parliament, to wish Bob Cameron the very best for his retirement from politics, which I am sure will not be a retirement from community service and a life fully lived.

**Mrs PEULICH** (South Eastern Metropolitan) — I wish to make a few brief remarks on the Fire Services Commissioner Bill 2010, brought in at the 11th hour of the 11th year of this government. It took the misfortune and tragic circumstances of the 2009 Victorian bushfires for us to learn of the need for such a statutory appointment.

In the explanatory memorandum to the bill it is clear that the fire services commissioner will be an independent statutory officer responsible to the Minister for Police and Emergency Services and that he will have the very important responsibilities of promoting and directing reform aimed at increasing the operational capability, interoperability and resilience of Victoria's fire services; developing and building operational capacity to prepare for days of the highest bushfire risk and exercising control over level 3 fires as the permanent state controller; and providing to government periodic advice on the metropolitan fire district boundary on the basis of triggers, frequency and criteria approved by government.

In previous remarks on this important topic I have expressed disappointment at the absence of leadership and the failings of judgement and character of significant people who shared responsibility for the administration of our state when confronted with such a tragic emergency situation as the Victorian bushfires proved to be.

The Victorian Bushfires Royal Commission exposed this situation and exposed the fact that key leaders of our government and key people at the highest levels of public service failed to fulfil their responsibilities, failed in their judgements and failed in their capacity to put in place processes, policies and structures to protect Victorians. These responsibilities rested solely with the Victorian Labor government, and come the November election it must be held accountable for these very tragic failings. In her concluding remarks Mrs Petrovich clearly stated that we have had three resignations of people who shared that responsibility

and that there is another one to go, and that is of the Premier himself, whose time is up.

Now we have this legislation in the 11th hour of the 11th year, after the loss of too many lives on Black Saturday. The bill is an epitaph to the Brumby Labor government's performance in this very tragic chapter of Victoria's history. Today the Minister for Police and Emergency Services announced his resignation. He was appointed by the Premier and had, under legislation, the title and the role of the coordinator and chief of emergency management. He carried the title but he failed to execute the responsibility. Unfortunately that was demonstrated by the tragic circumstances of that day. While the most devastating fire in our state's history was gathering momentum, the Minister for Police and Emergency Services, Bob Cameron, failed to raise with the Premier the option of declaring Victoria to be in a state of emergency.

According to the royal commission's final report:

The circumstances clearly met the criteria for such consideration.

The commission also found that the Minister for Police and Emergency Services failed the people of Victoria and was partly responsible for a lag in the emergency response. The report found that such a declaration would have recognised the gravity of the situation and might have sharpened the emergency agencies' focus on community safety and warnings. Lives would undoubtedly have been saved, although perhaps the loss of all lives would not have been prevented.

The report states that responsibility for the failure of the chain of command must rest at the top. This is why Premier Brumby must go. The greatest failure in responsibility falls upon his shoulders, as it was his responsibility to implement sound policy and employ experienced personnel to perform the duties they are expected to carry out. The government failed to put in place policies to protect communities from bushfires. It failed to employ competent personnel. The soon-to-be-former Minister for Police and Emergency Services failed to fulfil his responsibilities; the Country Fire Authority chief fire officer, Russell Rees, remained operationally removed from the fires; and of course the then Chief Commissioner of Police failed to even show up when required.

There were failings of government policies and government-appointed personnel, resulting in the failure of systems and structures. This led to an unnecessary loss of life, stock and property and devastation of the environment. This government has failed to put in place the appropriate personnel and

adequate processes, policies and structures to protect Victorians. The appointment being provided for today will go some way to remedying that to make sure that there is absolutely no ambiguity about who is responsible should such a situation confront Victoria again, which will no doubt be the case.

**Ms BROAD** (Northern Victoria) — I rise to make some remarks in support of the Fire Services Commissioner Bill 2010. As members of this house are all too well aware, the February 2009 fires were the worst natural disaster in Australia's history. As a result, the Premier announced a royal commission following those fires. A key reason for establishing the royal commission was to learn lessons from the tragedies so that measures could be taken to ensure future bushfires do not cause the same catastrophic loss.

This bill delivers on the Brumby Labor government's support of recommendation 63 of the 2009 Victorian Bushfires Royal Commission. Passage of this bill will ensure that the fire services commissioner will be established and the chief fire officer of the Department of Sustainability and Environment will be established as a statutory position before the next fire season, which is fast approaching.

I would like to take this opportunity to note two recent visits I made at a more grassroots level to two Country Fire Authority brigades just a week ago on 1 October in my own electorate of Northern Victoria Region. I visited the Wedderburn CFA brigade on behalf of the Minister for Police and Emergency Services, Bob Cameron, to officially hand over a new four-wheel drive command and control utility vehicle. Following that, also on behalf of Bob Cameron, I visited the CFA at St Arnaud to officially hand over a new fire truck to that brigade. Both of those brigades were active on February 2009 in the Redesdale area. Those two new fire assets are all about ensuring that in the future those brigades will be even better resourced to fight fires they may be called out to.

Funding for these new firefighting assets is part of the Brumby government's response to the bushfires royal commission report. It is part of the government's commitment to improving Victoria's preparation for and response to future bushfires.

I am pleased to say that the Wedderburn and St Arnaud brigades are equally committed to improving Victoria's preparation for and response to future bushfires. These new assets will certainly help them to do exactly that. I would like to take this opportunity to thank them and to thank all volunteer members of CFA brigades across northern Victoria for their commitment, and to assure

them that they will continue to be strongly supported by the Brumby government into the future. With those few words, I commend the bill to the house.

**Ms DARVENIZA** (Northern Victoria) — I just want to make a few very brief comments on the Fire Services Commissioner Bill 2010. My government parliamentary colleagues have gone through this bill in some detail, and I certainly do not want to use this time to go through all the tragedies of the 2009 bushfires which, as Ms Broad said, affected a very large proportion of our electorate.

This bill deals with matters raised by the 2009 Victorian Bushfires Royal Commission, and specifically with recommendation 63, which was to establish the fire services commissioner and to make the chief fire officer of the Department of Sustainability and Environment (DSE) a statutory position.

The Premier announced the appointment of Mr Craig Lapsley as Victoria's first fire services commissioner on 19 August. Under the bill the position of fire services commissioner will be a Governor in Council appointment, but as an interim measure Mr Lapsley has been employed as a public service executive under a public service executive contract. The proposed functions of the fire services commissioner are essentially to act as the state's controller of the response to major fires and to drive fire services reform. The bill gives the fire services commissioner responsibility for, among other things, exercising control over major fires as a permanent state controller.

The bill also empowers the fire services commissioner to assume control from one of the chief officers of the response to a major fire or a fire with the potential to become a major fire. It also deals with a range of issues that were envisaged by the bushfires royal commission in regard to the standing delegations of the control function to the chief officers, and the chief officers retaining control over the response to level 1 and 2 fires — less than major fires — in their jurisdiction.

This bill also deals with fire services reform. The reform program will be driven by the development of performance standards for the fire services agencies, standard operating procedures applying right across fire services and a rolling three-year reform action plan developed by the fire services commissioner in consultation with fire agencies and approved by the Minister for Police and Emergency Services. Each of the three fire agencies — the Country Fire Authority (CFA), the Metropolitan Fire and Emergency Services Board and the Department of Sustainability and Environment will be required under this bill to use their

best endeavours to comply with the fire services commissioner's standards and to deliver their aspects of the reform action plan.

This is a very good bill. It is one on which there has been consultation with DSE, CFA, Metropolitan Fire Brigade, Victoria Police and the Office of the Emergency Services Commissioner. I will also take this opportunity to thank and congratulate Bob Cameron, the Minister for Police and Emergency Services, who today announced his retirement, for the excellent work he did not just over his whole term in government but particularly during and following the 2009 bushfires.

**Motion agreed to.**

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

*Third reading*

**Motion agreed to.**

**Read third time.**

## **ROAD SAFETY AMENDMENT (HOON DRIVING) BILL**

*Council's amendment and Assembly's amendments*

**Message from Assembly agreeing to Council's amendment with an amendment and seeking agreement with further Assembly amendment considered:**

**Council's amendment 1 agreed to:**

Clause 4, line 5, omit "7" and insert "30".

**Assembly amendment:**

'Omit "30" and insert "14".'

**Further Assembly amendment as follows:**

'Clause 16, line 28, omit "28" and insert "45".'

**Hon. M. P. PAKULA** (Minister for Public Transport) — I move:

That the Council agree to the amendment made by the Assembly to the amendment made by the Council and agree to the further amendment made by the Assembly in the bill.

As members will recall, this was dealt with in the Council earlier this week and an amendment agreed to which had the effect of changing the designated period in clause 4 from 7 days, which was in the bill, to a period of 30 days. When the bill was returned to the

Assembly it became the subject of negotiations, and as a consequence of those negotiations the Assembly further amended clause 4 and replaced '30 days' with the period of '14 days'.

As a consequence of those further discussions the Assembly also agreed that the period in clause 16 be amended from 28 days to 45 days, that being the period of impoundment or immobilisation subject to a relevant offence being before a court. Those amendments made by the Assembly reflect a satisfactory resolution of the disagreement between the houses and the parties in this Parliament. They are sensible amendments, and I commend them to the house.

**Mr KAVANAGH** (Western Victoria) — I did mean to make a comment when the bill itself was considered, and I would like to briefly make a comment that the idea of crushing cars seems to me to be a very wasteful practice that does not achieve very much. We are going to have to take cars away from hoon drivers. It seems to me we should be selling the cars rather than crushing them. This is an ostentatious display of waste in my opinion and is not very productive at all. When you consider how long people spend saving up to buy a car, it is something we should avoid doing.

**Mr BARBER** (Northern Metropolitan) — I thank the minister and congratulate him and his counterpart, the Minister for Roads and Ports, Mr Pallas, for demonstrating the wisdom of Solomon in this case.

**Mr KOCH** (Western Victoria) — The opposition's view is that this is a successfully negotiated outcome that we will certainly not be opposing. I thank all parties, including the shadow Minister for Public Transport in the Assembly, Terry Mulder, for taking part in these negotiations.

**Motion agreed to.**

## **QUESTIONS ON NOTICE**

### **Answers**

**Mr LENDERS** (Treasurer) (By leave) — I have answers to the following questions on notice: 11 942 and 12 252.

## **BUSINESS OF THE HOUSE**

### **Adjournment**

**Mr LENDERS** (Treasurer) — I move:

That the house, at its rising, adjourn until a day and hour to be fixed by the President, which time of meeting will be notified in writing to each member of the house.

In so moving this motion at the end of the 56th Parliament and the end of 194 days of sittings of the Legislative Council it is worth briefly acknowledging two members of this Council who will not be seeking re-election to this house at the 27 November election. They are my colleague Mr Madden, who is seeking election to the seat of Essendon in the Assembly, and Mr Vogels, who will not be seeking re-election to the Victorian Parliament.

I will speak very briefly of Mr Madden, because he is seeking to continue his political career, and I wish him well in the seat of Essendon. I have enjoyed working with him for eight years in this chamber. He is a most stoic individual. He has probably done more committee time than anybody I know, and he has actually enjoyed it. I wish him well. He has brought a lot to this Parliament and a lot to his portfolios. But I will not comment much further, because he seeks to continue his political career. I might say as well that I also farewelled Mr Madden four years ago and he came back, so I could probably leave that at what I said on the record then.

Regarding Mr Vogels, I would like to say a little bit more. Mr Vogels was elected to the Legislative Assembly at the same time I was in 1999. There was a bond of a year level or a class, and what I straightaway found interesting about Mr Vogels was that he is a very interesting character.

Firstly, he actually won a seat off The Nationals. He won a preselection, which I am sure was not easy considering who he was and when it was in the cycle. He won a preselection against the odds in his party and then he won a seat off another party at a time when his party lost government. I think that is a pretty impressive series of things that had happened where he got into the Parliament in the first place.

Mr Vogels is leaving the Parliament at a time of his choosing, which is not something that a lot of us have the luxury of doing. Often our parties or our electors decide it is time for us to go, and I am really pleased for Mr Vogels that he has the chance to leave at a time of his choosing.

I would like to make a few comments about Mr Vogels and what I think he has brought to the Parliament of Victoria. There would be no-one in this chamber who would not agree with the statement that John Vogels is a decent bloke. John is someone who has represented his community. I have a particular affinity with

Mr Vogels because I am a child of Dutch immigrants, and he came from Brabant in the Netherlands as an immigrant himself. We often forget how lucky and amazing this country is where people can leave the country of their birth, come to the other side of the world and have the opportunity to start a new life and become part of their new community.

Mr Vogels was a civic leader. He was elected to his municipal council and rose to the office of mayor. Then he was elected to this Parliament and not only was he elected — I said the circumstances in which he came here were interesting — but he is a survivor. Mr Vogels came here and, like Mr Viney and I, he had that horrible day when suddenly the Electoral Boundaries Commission put out a map and his Assembly electorate of Warrnambool was gone. His alternative was to go where it had gone, which was into the electorate of Portland. Who was the member for Portland? The leader of his party. They are the sorts of circumstances where with some trepidation you would ask, ‘What is going to happen?’. Mr Vogels survived; he ended up in the Legislative Council. He also survived the changes to the Council and came back as a member for Western Victoria Region. Mr Vogels is a survivor but he is also a symbol of Australia as a society where a Dutch boy can come here, become a successful farmer, a successful municipal leader and get elected to the Parliament of the state.

I also have an affinity with Mr Vogels because I discovered after I was elected to the Parliament that he used to play cards after church in the Scottsdale hall with my uncle and aunt. That brought an affinity that I had not been aware of until my uncle and aunt were walking through the building with me and we bumped into Mr Vogels and I found they knew each other quite well.

I wish Mr Vogels well. I think it is not too late for Mr Vogels to realise that if he does go home to the farm, he will be doing a lot more milking than he does at the moment.

**Mr Vogels** — No.

**Mr LENDERS** — He is shaking his head. I know you are not meant to disagree with someone at their farewell, but I suspect the family is going to expect a bit more of him in terms of milking the cows.

I recall quite vividly that on the last day of the last Parliament Mr Vogels, Mr Scheffer and I used our Dutch heritage as the three Johans and wore our clogs in. We failed to do it this time.

It has been great serving with Mr Vogels. I wish him well in his retirement. It has truly been a pleasure to work with him.

**Mr D. DAVIS** (Southern Metropolitan) — I join the Leader of the Government in wishing John Vogels well in his retirement. He has been a fantastic member of Parliament, first in the lower house, as the Leader of the Government said, when he was the member for Warrnambool. As was pointed out, that seat was abolished and he won preselection for an upper house province and was elected. His seat was again changed in the boundary rearrangements that came through and he was again successful. As a person from whom you can seek good advice, as a person who has a very grounded view of the community and as a fierce advocate for his electorate and his community, he has not been surpassed. I think John is a great credit not only to his heritage but also to his community. He has added a great deal to this Parliament.

**Ms HARTLAND** (Western Metropolitan) — It has been really interesting working with Mr Vogels because even though we often do not agree on a lot of things he has always been a gentleman and he has always been incredibly civil. I have often leant over the bench to ask him questions about what was happening and why it was happening. He has always given really good advice and I have always appreciated that over the past four years. Hopefully he is not just going to be milking cows. I am sure he will be having a really good time on lots and lots of good holidays.

**Mr DRUM** (Northern Victoria) — On my behalf and on behalf of Peter Hall I say that John Vogels is one of our true friends in this Parliament and it is sad that he is leaving us today. He is someone who is generous beyond means. If he has not bought you a red wine in the time you have known him, then you have not got to know him well enough. I agree with Mr David Davis that he is a man who understates his importance in the world, understates the work that he does for his constituents and understates his status in life, which is very rare in this profession. He is a very humble man who will work and will represent people if he thinks they need to be represented on any issue at all. I take my hat off to him, and I wish him well in his retirement. I am sure that we will catch up, and I am sure that anybody in this chamber who bumps into John Vogels will enjoy that time in the future.

**Mr KAVANAGH** (Western Victoria) — Last night I made a speech about Mr Vogels at a private function. I will not repeat that as it might bore some of the members here.

**Mr D. Davis** — You might need to censor it.

**Mr KAVANAGH** — Yes, it would have to be censored as well. I just observe tonight that, as Mr Drum said, I feel that Mr Vogels is a true friend. But he is not only that, he is a hardworking man — he has worked hard all his life. He is a humble man and an honourable man, and, as has been said by other speakers, a gentleman as well. I hope to be friends with John long after Parliament.

**Mr VOGELS** (Western Victoria) — What can I say? First of all I would like to thank the house for giving me the opportunity to say a few words on my final day in Parliament. I have had the honour of walking up the front steps of Parliament for 11 years to represent the Western District basically. As the Treasurer mentioned, the only thing that got in my way was the Electoral Boundaries Commission. It was the bane of my life.

I won the seat of Warrnambool in the Assembly in 1999, and I was very proud of that. I wanted to be the local member for Warrnambool and the area of Warrnambool. That is where I grew up, that is where I knew everybody, that is where I had played footy and I had been on hospital boards, councils and Apex for 20 years. I basically knew the electorate of Warrnambool back to front, and that is no doubt why I won preselection and then the seat. I must admit it was a huge shock for me and likewise for the Treasurer and the Government Whip over there as members of the Assembly when we opened a book one day in the middle of that term and found that our seats had disappeared. I was always of the belief that it would be Ripon that would go off the map down our end of the world, but no, it was Warrnambool. It was a big shock, but it was okay; I accepted it. I thought ‘I have had three years of Parliament — interesting place’. In those first three years I wrote lots of speeches; most were never made because being a new kid on the block as a backbencher you did not get many opportunities to say anything.

I accepted the situation, and then Bruce Chamberlain, the then President of this house, contacted me and said, ‘John, I am just letting you know that I am not standing again at the next election, so if you are interested in having a crack at Western Province’, which he represented, ‘you can’. He said, ‘I am just letting you know that I will not be standing, so keep that in the back of your mind’, which I did. As we all know, Bruce retired, and I stood for Western Province. Once again there was preselection and I happened to win, so here I was in this house. I thought, ‘This is an interesting place’. As I was thinking that it was an interesting



place, the Electoral Boundaries Commission got together again and decided to abolish Western Province. I thought, 'Okay, that's two gone. What's going to happen now?'

Preselections were held for the new seat of Western Victoria Region. Once again I was preselected by the party. Here I was back again representing the western region. When I won the Western Province seat I thought I had won an eight-year term, and in the end I did win an eight-year term. Other members thought they had won eight-year terms too, but those terms were cut in half. I have seen the end of every seat I have held. But that is okay.

In the 11 years I have been a member of Parliament I have seen three leaders of the opposition, starting with Denis Naphine, then Robert Doyle and for the last four or five years, Ted Baillieu. They have been fantastic leaders for me, all of them. They have helped me a lot, and I think I have given them some advice on things that I believe in. We have worked very well together.

I had the privilege of being the shadow Minister for Local Government for a couple of years. One of my policies, which I still hope that someone in government will at some stage pick up, relates to my having been an ex-councillor and mayor. Small rural councils cannot survive on the funding they are getting from the state and federal governments. They just cannot maintain their infrastructure; it is not possible. At some stage the state and federal governments are going to have to put more money into local councils. I was proud to take to the 2006 election a policy that said if we were to win government, we would match the federal government's Roads to Recovery funding, which would have given local councils across Victoria a huge fillip. Their biggest cost is maintaining local roads and bridges; those things cannot just be funded out of rates. I still hope that will happen one day, because without it some of our small rural councils will not survive.

As a past president of a small rural hospital I also thought the multipurpose services were fantastic news. I was a president of a small hospital which became a multipurpose service, and it was a pity that we did not continue developing that program. There were probably seven, eight or nine in this state, and that was an excellent outcome for small, rural hospitals and community health centres — from the cradle to the grave. I also hope that someone at some stage will fix that up.

I was a late bloomer. I did not get here until I was aged 53, and in one way I am grateful for that. It does not hurt if you learn a lot in your life and gain a lot of

experience before you come into Parliament. As the Treasurer said, my family arrived in Australia in 1953. I have looked up the National Archives of Australia and was able to read an interview with my mum and dad that took place in Holland; there were 38 pages. I learnt from that interview that they had no money and they were very poor. The recommendation from whoever was interviewing them said that 'Wilhelmus Vogels', my father, was 'slow on the uptake, not adaptable'. It goes on to say, 'I do not think he will be a very good migrant. However, seeing as he is paying his own way', which we did, 'we can just recommend him'. No-one would write a report like that these days because you would probably be sued, but that is what it says. I am proud of my parents, because here were these slow, unadaptable, hopeless people arriving in Australia, and within 11 years my father had bought his first farm. In all those 11 years he would not have got one cent from the government for anything. They just worked hard, as most migrants did in those days.

I am proud to be here. As everyone would know, I am not very good on my feet. I am not good at public speaking. I think that has probably got something to do with the fact that I started school at 7 and left at 14. When I went to school if someone got up to speak, the nuns that used to teach us — I used to call them the 'sisters of no mercy' — would basically say, 'Sit down and shut up!', and that is what we did. I know that I have been criticised regularly for using notes, but that is what I do. I made some notes because I need to thank people and I did not want to forget anybody.

The first one is you, President. It has been a pleasure working with you. You have got me out of trouble a few times. You and I will not repeat why or how or anything like that, but thank you for that and for your wise counsel and your support over the past four years as President and previously as a member of the upper house. I have always enjoyed your company.

I would like to thank the clerks also for helping me tremendously when I had problems about how to put together the response to a bill when I was the shadow Minister for Local Government and the shadow Minister for Agriculture. Thanks for all your help over the years, led by Wayne and Matthew; and thanks to Andrew, Stephen and others.

I would like to take this opportunity also to thank the library staff. If we win government, all the members opposite will find the library staff very helpful, because opposition members do not have the bureaucracy to help them. The library staff help you, or otherwise you are on your own. They do a fantastic job.

When I looked across before I realised that there are 19 members of government and not one of you guys has ever been in opposition. If you do go into opposition, you have a huge shock coming. Walk a mile in my shoes; you will find it very interesting. It is completely different.

I thank the people in the papers office. Any time you are looking for something the people in the papers office do a fantastic job.

I would like to thank Russel, Michael and the other red coats. Once again, they are always here and always helpful.

I thank all the protective services officers out the back, and I thank Bill, who is not at the gate any more, and Greg at the back door. They are all fantastic and wonderful. It is the same in the dining rooms. It is a pleasure to go in there. I think the meals in there are excellent — and the wine is beautiful.

I would like to take this opportunity also to thank Drummy, the chairman of the Rural and Regional Committee, which I have been a member of for the past four years. I thank him especially for his support. Lilian, thank you for your wonderful support on this Rural and Regional Committee over the past four years as well. I think we do a great job.

I obviously also need to thank my electorate office staff. When I was elected in 1999 and I walked into the office that had been John McGrath's and saw a computer, a fax machine and a printer, I thought, 'I need help'. I made a few inquiries, and I was lucky enough to pick up an electorate officer who had previously worked for the Parliament, Marlene Emonson. She has been with me for 11 years. She is fantastic and hard working. You could not get a better electorate officer; you could not get better support and help. She is a wonderful lady. I really want to thank her. Without her, I would have been in a lot of strife.

Lots of times people would be walking down the street and they would say, 'Oh, John, thanks for this' and 'Thanks for that'. I thought, 'What did I do?'. Then I would find out that Marlene had fixed it all up and sorted it all out through the electorate office. That has been fantastic. Since we were allowed to have a second electorate officer I have put on Simon Price, who has also been a great support and an excellent electorate officer.

To my colleagues: thank you. It has been a wonderful experience. I shared my first office with Terry Mulder, and we will always be great friends. We have shares in a couple of racehorses. They are not much good, but we

enjoy going to the races and that is fantastic. In my first term here I shared with Gordon, who is younger than my sons. I said to him, 'I'm the senior in this office. You can be a shadow minister, you can be what you like, but I am the senior in this office because you're younger than my two boys'. For the last few years I have been in with Wendy and David. Thanks for your company. I have always enjoyed the company of the people I have shared my office with.

I call this bench the coalition bench, because we have the Greens, the DLP, members of The Nationals and a Liberal, so we have a true representation of the coalition sitting in this little corner here. I reckon if they made those of us in this corner government, we would probably do a great job. Anyway, this will not happen either. Let me say once again: thank you. It has been a great experience. Opposition is difficult. I came to this Parliament hoping to make some big changes to country Victoria, but I have not been able to do that.

I thank the ministers of the Labor Party, both in this house and in the other house. There are a lot of small things you can do for your constituency. People come up to you and say, 'If only the school bus route came around here', 'I cannot get anything happening' and such things. A lot of little things happen in a member of Parliament's working life, and often you only have to go and see a minister. Often they say, 'John, I will have a look at it for you', and most of the time those smaller things get sorted out. I would like to thank the ministers in the other house and in here for doing those sorts of things. It has been a great experience. Democracy is strong and well!

Most importantly, I say to everyone here: look after your health. Spend time with your family at Christmas, but look after your health. I have been through periods of illness, so I know what it is like. I am 64 years old, and I am going to get out of here because I hope the next phase of my life will be just as enjoyable as my current phase — as well as my first, second, third, fourth and fifth phases — but I need to retire. I need to sit down, because I am going to get emotional.

*Honourable members applauded.*

**Hon. J. M. MADDEN** (Minister for Planning) — I will be very short and sweet. I do not intend to say too many words, because I know Mr Vogels has said plenty and I would like people to leave this chamber with fond memories of the words he said rather than anything I might have to say.

I have been a member for the seat of Dousta Galla and Western Metropolitan Region — in one form or the

other — in this chamber for the last 11 years. It has been a great privilege to be elected to those positions. I hope I have the chance to succeed in Essendon in the same way as I have been able to represent members of the community here.

I take this opportunity to thank my colleagues, including John Lenders, who has done a tremendous job as leader in this chamber, along with my ministerial colleagues and my upper house caucus colleagues, who have given me an enormous amount of support on difficult occasions and challenging times in this chamber. I also thank the whip, Matt Viney, who works tirelessly to get us all in order. I thank you, President, for the job that you do to try to make some sense of this place from time to time. I also thank the Deputy President and Chair of Committees for having the great patience to sit through some of my laborious committee occasions.

I compliment and thank Brian Tee for his most recent opportunities to supplement some of that work in those committees. I also thank Jenny Mikakos, the Parliamentary Secretary for Planning. Thank you very much for the great work you have been able to do in supplementing the opportunities that I cannot attend.

I thank Amanda, who works tirelessly in the parliamentary office.

I also thank the clerks — Wayne, Matthew, Stephen and Andrew — for their continued work. Some of them have been here for many years and some have come more recently, but I appreciate the fact that they work to a roster and have to sit through many of the speeches — some good, some not so good. I appreciate the fact that they are here to work through the legislation accordingly.

In particular I thank the red coats: Russel, Chris, Peter, Patrick, Philip, Michael, Graham and Greg. They are always there with a bit of a smile, even during the most tiresome and difficult occasions. Quentin has also been of great assistance.

To the opposition, I thank you for being the opposition, in many ways. I wish Mr Guy the best of luck as, I am sure, he assumes his ambition to lead the Liberal Party in this chamber at some stage. I cannot say I will miss him, but I hope he misses me.

To those members who are retiring or may not have the opportunity to return to this chamber, I wish you all the best. Thank you very much.

**Mr ATKINSON** (Eastern Metropolitan) — I note that the minister has moved that the Council at its rising

adjourn until a day to be set by the President, and I take this opportunity to move as an amendment:

That all the words after ‘at its rising,’ be omitted with the view of inserting in their place ‘adjourn until Wednesday, 13 October 2010, and that the resumption of debate on the motion to revoke item no. 8 of amendment VC71 to the Victoria planning provisions take precedence over all other general business.

**The PRESIDENT** — Order! Before I put that amendment to the house, there are a couple of other people who want to say a few words. Mr Atkinson will not be impeded in doing so because he can speak on the amendment, so we are not going to panic.

**Mr Viney** — I first want to speak on the amendment.

**The PRESIDENT** — Order! Mr Atkinson understands that.

**Mr KAVANAGH** (Western Victoria) — Although I am running for re-election, I am probably less likely to achieve that than anyone else here, so I would like to make a short comment this evening. I would like to thank the parliamentary staff for all of their help over the last four years, in particular the clerks, committee assistants, librarians, cleaners, caterers and security. They have always been courteous, helpful and professional.

I have attempted in this house to encourage respect for the lives of all people, both as a matter of justice to those particular people and because effective protection for each person depends on respecting the lives of all people. In the case of the unborn, some have suggested an antisex motivation. In fact my belief is that sex is an important prerequisite for most people, and the more fulfilled people are in their sex lives, the better.

As one of the ‘multitude of counsellors’ noted on the floor of the vestibule, I have tried to act in accordance with the Parliament’s motto, *honi soit qui mal y pense*, or evil on those who see evil. Very broadly translated it could mean ‘See the best in people’s motives where possible’. Indeed these words are the motto which adorn the shield of the President’s canopy in this chamber.

I would like to thank all of my fellow members. I have come to admire and respect many members from all sides of the chamber, to become friends with and even to love some of them. I have come to love the Legislative Council. This magnificent chamber with its ancient traditions and its recent democratic reforms combine to make it a great institution. Although it has been an experience full of challenges and with its share

of difficulties and disappointments, it has been the honour of my life to represent Western Victoria Region and the Democratic Labor Party here.

In my closing words I would like pay tribute to the house by taking up a tradition followed by Mr Pakula and one or two other members during the last four years of reciting a poem to the chamber. These are the last words from a love poem that I wrote decades ago:

When I come to breathe my last,  
Life ebbing away, failing fast,  
My mind will turn to my life's love true,  
When I joyfully remember you.

For the opportunity to serve here and for the trust placed in me I would like to thank again the people of western Victoria and the Democratic Labor Party. One of the greatest things for me was that it happened during the lifetime of my mother and it gave her great joy. That gives me some comfort three and a half years after her death. To all members who have been kind and considerate to me, thank you very much.

**Mr VINEY** (Eastern Victoria) — In the spirit of the valedictory addresses, I do not intend to speak for either too long or too passionately on the proposed amendment from Mr Atkinson, but I just say that this date, the final date of the sitting of the Parliament for this session of Parliament, the 56th Parliament, has been set for the better part of a year, and the government has been quite cooperative with the opposition in terms of how it wanted to plan opposition business on Wednesdays. We have always said to the opposition that under the sessional orders Wednesday is its day and the opposition is free to organise its day as it sees fit.

We were all agreed that we would debate the new proposed standing orders and we all understood that that would take some time, but there was a significant amount of subsequent time to transact any business that the opposition wished to conduct on Wednesday — just yesterday. It is not a matter for us to try to manage the opposition's general business time; it is a matter for the opposition. If members of the opposition were not able to organise their business program to give themselves sufficient time to deal with the matter that they now wish to bring the entire house back for next week, then that is their difficulty and their problem. There was plenty of opportunity. There were a number of matters debated in the general business program yesterday that I would not have thought were particularly urgent, but the opposition chose to put those on ahead of the planning matter. The fact that it ran out of time is an issue for the opposition. I do not believe the whole house ought to be dragged back because it was not able

to organise its own opposition business program in time.

The government will not support this proposed amendment. We all understood that this was the last sitting day subject to us completing all of the program and that if we did not do that, we would return tomorrow. That has been completed and transacted and we have now had the valedictory speeches in relation to two members along with Mr Kavanagh's comments about himself and his thankyou, and I think that should complete in a proper way the program of this session of Parliament before the election. The government will not support this proposed change, and I urge all members of the house to join us.

### House divided on amendment:

#### *Ayes, 17*

Atkinson, Mr	Koch, Mr
Coote, Mrs	Kronberg, Mrs
Dalla-Riva, Mr	Lovell, Ms ( <i>Teller</i> )
Davis, Mr D. ( <i>Teller</i> )	O'Donohue, Mr
Davis, Mr P.	Petrovich, Mrs
Drum, Mr	Peulich, Mrs
Finn, Mr	Rich-Phillips, Mr
Hall, Mr	Vogels, Mr
Kavanagh, Mr	

#### *Noes, 21*

Barber, Mr	Murphy, Mr
Broad, Ms	Pakula, Mr
Darveniza, Ms	Pennicuik, Ms
Elasmar, Mr	Pulford, Ms
Hartland, Ms	Scheffer, Mr ( <i>Teller</i> )
Huppert, Ms	Smith, Mr
Jennings, Mr	Somyurek, Mr
Leane, Mr	Tee, Mr
Lenders, Mr ( <i>Teller</i> )	Tierney, Ms
Madden, Mr	Viney, Mr
Mikakos, Ms	

#### *Pair*

Guy, Mr	Eideh, Mr
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### Amendment negatived.

### Motion agreed to.

**The PRESIDENT** — Order! Before I ask the Leader of the Government to move his next motion I would like to say a couple of words. I want to start by thanking Council members for the great honour and privilege they afforded me at the start of this 56th Parliament to preside over this chamber. I was talking to an old union mate a few days ago. We were having a little chat amongst ourselves about how far we have come and who would have thought —

**Ms Lovell** — To the top of the tree.

**The PRESIDENT** — Order! I would have got to the top of the tree. I thank Ms Lovell.

**Mr D. Davis** — The top of the tree!

**The PRESIDENT** — Order! You never lose your sense of humour in this place, Mr Davis, believe me. In my initial speech I said that I would attempt to bring a little colour, a little dignity to the place and ensure that everyone got a fair go. I think I got it pretty much right for all three, but that is for others to decide. Again, it has been a privilege and a pleasure. I have enjoyed it thoroughly. Congratulations to all of you. I wish you all well, whether you are coming back or not. I was going to make a very flippant remark that was made to Caesar, 'Those who are about to die salute you'. The fact is I think the vast majority of us will be back. Have a good break. We will see you next year in whatever capacity we are in.

## ADJOURNMENT

**Mr LENDERS** (Treasurer) — On this 194th day of the session, I move:

That the house do now adjourn.

### **Kindergartens: federal policy**

**Ms LOVELL** (Northern Victoria) — The matter that I wish to raise is for the attention of the Minister for Children and Early Childhood and it is regarding federal Labor's policy to increase kindergarten hours from 10 to 15 hours per week for children in the year before school by 2013. My request for the minister is that she urgently amend Victoria's time line for the implementation of 15 hours of kindergarten to a more realistic time frame. The Municipal Association of Victoria (MAV) has suggested that an incremental expansion of hours to reach 15 hours by 2020 would be a more realistic time frame. This would allow those services which can deliver 15 hours to do so, but it would also allow time for those services which need to build additional infrastructure time to build it and avoid the loss of other programs such as three-year-old kindergarten, playgroup and fun groups.

The issue has reached crisis point. Victoria's early childhood sector has become increasingly concerned that it is not possible to implement 15 hours of kindergarten for children in the year before school by 2013 with the current infrastructure and without impacting on the current service system that provides services like three-year-old kindergarten and playgroup.

The MAV has identified a \$606 million infrastructure backlog and has called on the federal government to commit a minimum of \$606 million for local government kindergarten facilities so that universal access to 15 hours of four-year-old kindergarten can be achieved. According to the MAV, approximately 50 per cent more kindergarten facilities are required to implement 15 hours of kindergarten per week for children in the year before school.

The MAV has called on the federal government to fully fund the additional 5 hours of kindergarten. Without funding to cover the cost of providing these additional hours, parental fees could increase by an incredible 50 per cent, which would push kindergarten out of reach for many low-income working families and undermine the policy aim to increase participation in kindergarten.

The MAV has also expressed concern about a shortage of qualified staff and has called for a substantial investment in workforce initiatives. Victoria's bilateral agreement on achieving universal access to early childhood education states that approximately 600 to 800 further early childhood teachers will be required to move from a 10-hour to a 15-hour program by 2013, but the government only plans to recruit an additional 150 qualified early childhood teachers by 2013. This falls well short of the 600 to 800 needed.

The submission of MAV to the current mid-term review of 15 hours of kindergarten expresses concern about the time line for the implementation of this policy and suggests that a realistic time frame would be the incremental expansion of service quality over 10 years to 2020. In the past 12 months it has become obvious that without immediate and substantial investment in infrastructure it will be impossible for all Victorian kindergartens to move to 15 hours of four-year-old kindergarten by 2013 without severely affecting the provision of other early childhood programs, including three-year-old kindergarten and playgroup. Families have demanded access to three-year-old kindergarten and will not accept a reduction of these programs.

**The PRESIDENT** — Time!

### **Geelong: airport site**

**Mr RICH-PHILLIPS** (South Eastern Metropolitan) — I raise a matter for the attention of the Minister for Rural and Regional Development. It relates to the need to identify a new site for a Geelong regional airport given the impending closure of the airport at Grovedale, which is located south of Geelong. As the minister would appreciate, Geelong is one of the few

regional cities in Victoria that does not have its own regional airport. With the imminent closure of the Grovedale site as well as constraints on the airport at Barwon Heads, there is a real need for a site to be identified to allow a lot of the aviation activities that currently take place in Geelong to continue. Pilot training is an example of a major activity in Geelong that will not be able to continue if an alternative site is not identified.

This is a matter I have spent quite a bit of time working on. I have had representations from my colleague David Koch, who is one of the local members in the Geelong area. Mr Koch has worked extensively on this particular issue along with the Liberal candidate for the Assembly seat of Barwon South, Andrew Katos, and the local community to identify an appropriate site for a replacement for the existing Grovedale airport. It is very clear there is a strong community need for such a facility.

Given the imminent closure of the Grovedale site and the new housing development taking place south of Geelong, the action I now seek from the minister is for her to ensure that Regional Development Victoria works with the Geelong community to ensure that an appropriate site is identified so a replacement can be built once the Grovedale airport has closed.

### **Bendigo Pony Club: facilities**

**Mrs PETROVICH** (Northern Victoria) — My adjournment matter is for the Minister for Sport, Recreation and Youth Affairs. Today I would like to highlight to the minister the issue of the lack of equestrian facilities in Bendigo. Bendigo Pony Club has a wonderful history of providing opportunities for young riders to experience a range of activities and disciplines ranging from basic horse care, mounted games and showjumping to flat riding. One activity that will not be experienced by these pony club members is cross-country riding, because they have no access to a cross-country course at their present location.

In 1970 I attended Bendigo Pony Club as a seven-year-old, and my membership continued until my late teens. The reason I raise these time frames and my involvement in this club is that since that time there has been significant growth in Bendigo and an increase in equestrian activity.

It needs to be acknowledged that a suitable facility would attract competitors from across central Victoria, with significant benefits to the local economy. I know there has been an ongoing conversation between Righteous Pups Australia in Bendigo, which provides a

great service with companion dogs for children with autism and other disabilities, and other equestrian user groups about a suitable site which is large enough to accommodate all of the user groups.

The action I seek is for the minister to address the issue of the provision of suitable equestrian facilities in Bendigo and for it to be done in consultation with Bendigo Pony Club, Bendigo and District Adult Riding Club, Righteous Pups Australia and the Greater Bendigo City Council to progress this long-outstanding issue of a suitable site for co-location and to ensure that appropriate planning is undertaken so this issue can be resolved.

### **Glenelg Highway: maintenance**

**Mr KOCH** (Western Victoria) — My matter is for the Minister for Roads and Ports and relates to the poor road conditions along the Glenelg Highway and the questionable methods used by the state government and its agencies to create the impression that something is being done about the poor state of this vital road.

Every attempt made by the Brumby government to fix the Glenelg Highway has resulted in temporary solutions such as patching. This approach neglects the long-term infrastructure problems plaguing many highways across western Victoria. For too long the government has relied on low-cost quick fixes to avoid spending money on road construction.

During recent times VicRoads has even resorted to using permanently placed maintenance signs along Glenelg Highway to inform motorists that the road surface is potholed. The VicRoads director of the south-west region recently said that as many as 40 warning signs now line the highway advertising that the road surface is so poor that drivers must take special care.

This is unacceptable for a major highway used by locals, tourists, school and V/Line bus services and B-double transports. The Brumby government's neglectful attitude to road infrastructure in western Victoria has become its legacy. Poor road conditions are rampant through western Victoria and are not limited to the Glenelg Highway. For example, the Henty Highway, which is south of Hamilton, and the Hopkins Highway between Warrnambool and Mortlake are both in appalling condition.

To date I have only received reports from the Minister for Roads and Ports and VicRoads indicating that limited resources are being expended on western

Victorian highways annually. As a consequence only bandaid outcomes are being achieved.

When media in western Victoria attempted to gain access to VicRoads' south-west director he gave them the run-around. Initially he refused to answer direct questions, opting for generic statements that avoided the issue of the poor road conditions. This is yet another example of the ongoing disregard shown to the road users of western Victoria. Then rather than travel along the highway in question he finally agreed to an interview but insisted journalists make the 5-hour return trip to Geelong to meet him at his office.

My request of the minister is that he abandon the current policy of short-term rehabilitation and patching of the Glenelg, Henty, Hamilton and Hopkins highways and demonstrate to the people of western Victoria that this government is prepared to make resources available to be spent on restructuring these major transport routes and offer them the level of road safety to which all road users are entitled.

I thank you, President, for your constructive guidance in the Council over the last four years and wish all my colleagues on both sides of the house all the best as we come up to the election in November and beyond.

### **Shire of Moorabool: sewerage**

**Mr KAVANAGH** (Western Victoria) — My matter is directed to the Minister for Water, Tim Holding, and it relates to installation of sewerage facilities in my electorate. On behalf of the Moorabool Shire Council mayor Pat Toohey has asked me to inform the government that residents of Moorabool are extremely upset by the continued failure of the government to fulfil the promise it made in 2005 to extend the sewerage system into unsewered parts of the shire. In spite of this five-year-old promise, the government has done nothing. The mayor pointed out the township of Wallace as an example. Wallace is a place that has everything except sewerage infrastructure. The action I seek from the minister is that he fulfil the promise the government made to the Shire of Moorabool in 2005 and install sewerage facilities in those parts of Moorabool that do not presently have modern sewerage facilities.

I add my thanks to you, President, in particular for your help over the last four years. Your kindness has been most appreciated.

### **Regional rail link: Footscray properties**

**Ms HARTLAND** (Western Metropolitan) — My adjournment matter is for the Minister for Planning,

Mr Madden, and it is on behalf of residents affected by the proposed works for the regional rail link in Buckley Street, Footscray. I quote from a letter to the minister from an affected resident:

I am writing in relation —

to —

the regional rail link project and the properties that are set to be acquired as part of the project. Although residents went to great lengths to prepare both individual and group submissions outlining preferences and concerns around the project, these do not seem to have been fully represented in the EES referral prepared by the Department of Transport.

For residents that are marked to be acquired the key concerns are:

1. Being forced to leave Footscray due to high property costs in the area and so many people being forced into the market at one time, leaving us displaced from our community.
2. Limited availability of public housing and rental properties in the area.
3. Ongoing support for special-needs residents especially long-term —

older —

residents.

4. Support for individual finance needs by ... government-funded loans.

Through our community meetings it is ... evident that the affected residents have little confidence in the amount of support that will be offered from the government and Department of Transport in particular relation to:

1. Support in finding similar accommodation within the Footscray area either to purchase or rent.
2. Support with financing a new property.
3. Emotional support through what may be a traumatic experience for some residents.

Finally, the management of this project from notification to consultation to implementation has been a complete bungle, which I am sure you are fully aware of and do not require me to go into full detail. How can we trust that the DOT and your government will treat us fairly and equitably? They may be just a bunch of houses to you, but let me assure you they are our homes, memories and our community that this project will be impacting.

My request is that the minister meet with the community and discuss these issues before making a decision on the environment effects statement referral and how to proceed with or without specific conditions and that he take into account the above concerns.

### Students: truancy

**Mrs PEULICH** (South Eastern Metropolitan) — The matter I raise tonight is for the attention of both the Minister for Education and the Minister for Children and Early Childhood Development.

Before raising this matter, I thank you, President, for a colourful, entertaining time over the last four years; hopefully I gave you some memorable experiences as well. I am sure it has been an experience that all of us have valued and enjoyed, occasionally!

The matter I raise is in relation to Victoria's inadequate collection of attendance data and the problem of truancy and absenteeism; by absenteeism I mean absences from school that may be approved by parents but may still be problematic, and by truancy I mean where absences are not approved by parents.

I recently read an article in the *Courier-Mail* in relation to the Queensland experience. Parents there are penalised and bans are put in place, with links to Centrelink payments, to stop kids from skipping school. I do not necessarily wish to see such a scheme replicated here, but I am disturbed about the fact that no overall strategy could possibly be developed in Victoria because the data needed to inform strategies is not collected.

I realised this in the last week when a number of questions on notice seeking school attendance data for the various regions across Victoria were returned to me by the minister with the notation that the department does not collect attendance data and that 'We are not able to provide data as to how many students were absent for a given reason, nor the length of time for which they were absent'.

Some time ago an Auditor-General's report showed that the rate of truancy and absenteeism has grown over the last decade to a very disturbing level of 18 days on average for secondary school students. This was confirmed by the report of the Drugs and Crime Prevention Committee inquiry into strategies to prevent high-volume offending and recidivism by young people, tabled last year, which called for such data to be collected.

If we are going to address the problem, we need to make sure that we collect the data so we can do something about it. If you do not collect the data, it is easy to ignore it, to allow it to go under the radar and for matters to not be addressed. A child has an absolute right to an education. We cannot ensure that they get the education they need, nor can we meet their needs, if

we do not do the basics, and that includes the collection of truancy and attendance data. I call on this government to rectify its failure of 11 years to address this very basic problem that is the root cause of a lot of the issues that are facing our schools.

### Babes Project: funding

**Mr FINN** (Western Metropolitan) — I wish to raise a matter for the attention of the Minister for Women's Affairs. It concerns a meeting I recently had with a couple of extremely impressive young ladies who have embarked on a project in the eastern suburbs, based in Ringwood. The project is called the Babes Project. Members may well ask what this about, as I did. I will quote from the flyer they gave me, because it explains what it is well. The flyer says:

The Babes Project is committed to providing positive options to women facing crisis pregnancy. Women need hope and help as they choose to either place their baby with an adoptive family or raise the child themselves. She will need much support, so we will build her a home.

The Babes Project home is a place where women will come as part of a wider program to provide support throughout their pregnancy and as they prepare for their future as parents or in going through the adoption process.

There will much room for women to take time to plan for childbirth and the next stage of life, with all the help necessary. She will be offered an educational program to assist her in providing for herself and her family long term.

We believe that adoption can be re-created in this nation to be a positive option for families. We also believe that some women just need support and practical tools to find the courage to move forward. This is why we believe the Babes Project home is a must in our community. It is time to stand alongside women and to journey the distance with them. It is time to show love.

I believe strongly in the words that are on this flyer and the motives behind the Babes Project. These two young women came to see me because they are based in the eastern suburbs at the moment and they wish to move some of their service to helping women in the western suburbs. That is something I strongly support and welcome.

I ask the Minister for Women's Affairs to provide some financial assistance for the Babes Project to set up in the western suburbs so that it can provide the sort of service that I do not think anybody else in the west does at the moment. It may well be something that you, President, might throw your support behind in the not-too-distant future. I ask the minister to provide that money. It seems appropriate as we are just two days away from the annual March for the Babies, which is on the eve of the anniversary of the passing of the Abortion Law Reform Bill in this Parliament. It gives



the minister a chance to show us that she is really pro-choice instead of just rabidly pro-abortion, as I strongly suspect.

President, I thank you for your indulgence on many occasions over the past four years and wish you well — but not too well.

### **Planning: wildfire management overlays**

**Mr DRUM** (Northern Victoria) — President, I, too, thank you for the guidance and leadership you have shown in the house over the last four years. Well done in this job. I look forward to seeing you in one way or another in the new Parliament.

My adjournment matter is for the Minister for Planning, Justin Madden, and it has to do with wildfire overlays. I refer to correspondence I have received from an individual from the central Victoria region. He wrote to me to express his concern about the planning and building permits in central Victoria in relation to wildfire overlays. He said the Premier confirmed late last week that Victorians would continue to be able to live in the bush if that were their wish.

In wildfire overlay areas there appears to be extensive anecdotal evidence from estate agents, building surveyors and others that the Country Fire Authority (CFA), through its approval officer, is refusing most, if not all, of the planning applications that are referred to it. Mr Lloyd, who wrote this letter, does not know whether it is the personal view of the approvals officer or whether it is a directive that has come from management post-Black Saturday.

The effects of these refusals are severe. He refers to his own case: he sold a block of land in a rural living zone with a wildfire overlay to a young first home owner six months before Black Saturday. Even though there are houses on either side of this vacant block of land, they took the precaution of confirming with the council that a building permit could be obtained and they obtained a land capability assessment. The purchaser then obtained a \$60 000 mortgage to buy the land, but now under the new system he cannot get a planning or building permit. This is a disaster for this young mortgagee as he now has land that is worthless.

Bendigo building surveyors who have spoken to Mr Lloyd have said that this has happened 100 times over in their area. People now own worthless land. There are over 2000 vacant building blocks in rural living zones and other residential zones in central Victoria that have been impacted by the wildfire overlays, and they are all now worthless.

I ask the minister to review those cases where land has been purchased in good faith prior to the introduction of the wildfire overlays, as it seems that the unintended consequence of these BALs (bushfire attack levels) is that many Victorians — it has been listed as maybe 2000 — find that they are now the proud owners of worthless land. If this CFA policy of refusal is a government policy, then that needs to be clarified by the minister. If the CFA is exceeding its mandate, then that needs to be corrected. We need to accept that we may have to build to BAL 40 for farming zones in bush settings, but irrespective of that if these people have an opportunity to build a house, they should be able to do so.

### **Responses**

**Mr LENDERS** (Treasurer) — I have four written responses to adjournment matters raised earlier this year by four members. Nine members raised adjournment matters this evening. I will refer them to the relevant ministers.

**House adjourned 7.29 p.m.**

