PARLIAMENT OF VICTORIA

PARLIAMENTARY DEBATES (HANSARD)

LEGISLATIVE ASSEMBLY

FIFTY-SIXTH PARLIAMENT

FIRST SESSION

Wednesday, 10 March 2010

(Extract from book 3)

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By authority of the Victorian Government Printer

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Professor DAVID de KRETSER, AC

The Lieutenant-Governor

The Honourable Justice MARILYN WARREN, AC

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Minister for Public Transport and Minister for Industrial Relations	The Hon. M. P. Pakula, MLC
Minister for Roads and Ports, and Minister for Major Projects	The Hon. T. H. Pallas, MP
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Minister for Gaming, Minister for Consumer Affairs and Minister Assisting the Premier on Veterans' Affairs	The Hon. A. G. Robinson, MP
Minister for Housing, Minister for Local Government and Minister for Aboriginal Affairs	The Hon. R. W. Wynne, MP
Cabinet Secretary	Mr A. G. Lupton, MP

Legislative Assembly committees

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

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

Joint committees

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Heads of parliamentary departments

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

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

Parliamentary Services — Acting Secretary: Mr H. Barr

MEMBERS OF THE LEGISLATIVE ASSEMBLY

FIFTY-SIXTH PARLIAMENT — FIRST SESSION

Speaker: The Hon. JENNY LINDELL

Deputy Speaker: Ms A. P. BARKER

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

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

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

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

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

Leader of The Nationals:
Mr P. J. RYAN

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

Member	District	Party	Member	District	Party
Allan, Ms Jacinta Marie	Bendigo East	ALP	Lim, Mr Muy Hong	Clayton	ALP
Andrews, Mr Daniel Michael	Mulgrave	ALP	Lindell, Ms Jennifer Margaret	Carrum	ALP
Asher, Ms Louise	Brighton	LP	Lobato, Ms Tamara Louise	Gembrook	ALP
Baillieu, Mr Edward Norman	Hawthorn	LP	Lupton, Mr Anthony Gerard	Prahran	ALP
Barker, Ms Ann Patricia	Oakleigh	ALP	McIntosh, Mr Andrew John	Kew	LP
Batchelor, Mr Peter John	Thomastown	ALP	Maddigan, Mrs Judith Marilyn	Essendon	ALP
Beattie, Ms Elizabeth Jean	Yuroke	ALP	Marshall, Ms Kirstie	Forest Hill	ALP
Blackwood, Mr Gary John	Narracan	LP	Merlino, Mr James Anthony	Monbulk	ALP
Bracks, Mr Stephen Phillip [1]	Williamstown	ALP	Morand, Ms Maxine Veronica	Mount Waverley	ALP
Brooks, Mr Colin William	Bundoora	ALP	Morris, Mr David Charles	Mornington	LP
Brumby, Mr John Mansfield	Broadmeadows	ALP	Mulder, Mr Terence Wynn	Polwarth	LP
Burgess, Mr Neale Ronald	Hastings	LP	Munt, Ms Janice Ruth	Mordialloc	ALP
Cameron, Mr Robert Graham	Bendigo West	ALP	Napthine, Dr Denis Vincent	South-West Coast	LP
Campbell, Ms Christine Mary	Pascoe Vale	ALP	Nardella, Mr Donato Antonio	Melton	ALP
Carli, Mr Carlo Domenico	Brunswick	ALP	Neville, Ms Lisa Mary	Bellarine	ALP
Clark, Mr Robert William	Box Hill	LP	Noonan, Wade Mathew [7]	Williamstown	ALP
Crisp, Mr Peter Laurence	Mildura	Nats	Northe, Mr Russell John	Morwell	Nats
Crutchfield, Mr Michael Paul	South Barwon	ALP	O'Brien, Mr Michael Anthony	Malvern	LP
D'Ambrosio, Ms Liliana	Mill Park	ALP	Overington, Ms Karen Marie	Ballarat West	ALP
Delahunty, Mr Hugh Francis	Lowan	Nats	Pallas, Mr Timothy Hugh	Tarneit	ALP
Dixon, Mr Martin Francis	Nepean	LP	Pandazopoulos, Mr John	Dandenong	ALP
Donnellan, Mr Luke Anthony	Narre Warren North	ALP	Perera, Mr Jude	Cranbourne	ALP
Duncan, Ms Joanne Therese	Macedon	ALP	Pike, Ms Bronwyn Jane	Melbourne	ALP
Eren, Mr John Hamdi	Lara	ALP	Powell, Mrs Elizabeth Jeanette	Shepparton	Nats
Foley, Martin Peter [2]	Albert Park	ALP	Richardson, Ms Fiona Catherine Alison	Northcote	ALP
Fyffe, Mrs Christine Ann	Evelyn	LP	Robinson, Mr Anthony Gerard	Mitcham	ALP
Graley, Ms Judith Ann	Narre Warren South	ALP	Ryan, Mr Peter Julian	Gippsland South	Nats
Green, Ms Danielle Louise	Yan Yean	ALP	Scott, Mr Robin David	Preston	ALP
Haermeyer, Mr André [3]	Kororoit	ALP	Seitz, Mr George	Keilor	ALP
Hardman, Mr Benedict Paul	Seymour	ALP	Shardey, Mrs Helen Jean	Caulfield	LP
Harkness, Dr Alistair Ross	Frankston	ALP	Smith, Mr Kenneth Maurice	Bass	LP
Helper, Mr Jochen	Ripon	ALP	Smith, Mr Ryan	Warrandyte	LP
Hennessy, Ms Jill [4]	Altona	ALP	Stensholt, Mr Robert Einar	Burwood	ALP
Herbert, Mr Steven Ralph	Eltham	ALP	Sykes, Dr William Everett	Benalla	Nats
Hodgett, Mr David John	Kilsyth	LP	Thompson, Mr Murray Hamilton Ross	Sandringham	LP
Holding, Mr Timothy James	Lyndhurst	ALP	Thomson, Ms Marsha Rose	Footscray	ALP
Howard, Mr Geoffrey Kemp	Ballarat East	ALP	Thwaites, Mr Johnstone William [8]	Albert Park	ALP
Hudson, Mr Robert John	Bentleigh	ALP	Tilley, Mr William John	Benambra	LP
Hulls, Mr Rob Justin	Niddrie	ALP	Trezise, Mr Ian Douglas	Geelong	ALP
Ingram, Mr Craig	Gippsland East	Ind	Victoria, Mrs Heidi	Bayswater	LP
Jasper, Mr Kenneth Stephen	Murray Valley	Nats	Wakeling, Mr Nicholas	Ferntree Gully	LP
Kairouz, Ms Marlene [5]	Kororoit	ALP	Walsh, Mr Peter Lindsay	Swan Hill	Nats
Kosky, Ms Lynne Janice [6]	Altona	ALP	Weller, Mr Paul	Rodney	Nats
Kotsiras, Mr Nicholas	Bulleen	LP	Wells, Mr Kimberley Arthur	Scoresby	LP
Langdon, Mr Craig Anthony Cuffe	Ivanhoe	ALP	Wooldridge, Ms Mary Louise Newling	Doncaster	LP
Languiller, Mr Telmo Ramon	Derrimut	ALP	Wynne, Mr Richard William	Richmond	ALP

[1] Resigned 6 August 2007
[2] Elected 15 September 2007
[3] Resigned 2 June 2008
[4] Elected 13 February 2010
[5] Elected 28 June 2008
[6] Resigned 18 January 2010
[7] Elected 15 September 2007
[8] Resigned 6 August 2007

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WEDNESDAY, 10 MARCH 2010

Wednesday, 10 March 2010

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

BUSINESS OF THE HOUSE

Notices of motion: removal

The SPEAKER — Order! I advise the house that under standing order 144 notices of motion 7, 95, 146 to 149, 184 to 188 and 231 to 234 will be removed from the notice paper on the next sitting day. A member who requires the notice standing in his or her name to be continued must advise the Clerk in writing before 6.00 p.m. today.

PETITIONS

Following petitions presented to house:

Mental health: Bass Coast housing

To the Legislative Assembly of Victoria:

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

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

By Mr K. SMITH (Bass) (19 signatures).

Phillip Island: health services

To the Legislative Assembly of Victoria:

The petition of residents from the electorate of Bass draws to the attention of the house the urgent need for a 24-hour accident and emergency service and bulk-billed medical care on Phillip Island. There is a vital need for this because:

the Rudd and Brumby governments allowed the former Warley Hospital — a community-run bush nursing hospital — to close in January 2008;

the number of permanent residents and holiday-makers on Phillip Island continues to soar;

the main access route from the island can become blocked for hours by congestion or a road accident, leaving residents with no way of reaching Wonthaggi hospital in an emergency;

the current accident and emergency service provided by local doctors is struggling to cope and finishes at 10.00 p.m.;

with very limited opportunities to access bulk-billed medical services on the island, elderly residents are forced to travel a considerable distance for routine medical attention.

We note that the Warley Hospital building was recently sold and is now available for rent. We call on the state government to rent the hospital building and establish an accident and emergency department and bulk-billed medical care under the auspices of Wonthaggi hospital.

The petitioners therefore request that the Legislative Assembly of Victoria immediately fund this much needed medical service on Phillip Island.

By Mr K. SMITH (Bass) (767 signatures).

Rail: Mildura line

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

This petition of the citizens of the region known as Sunraysia, primarily in the state of Victoria but including cross-border citizens of New South Wales centred on the city of Mildura, brings to the attention of the house the many promises to return the Melbourne–Mildura passenger train, without delivery.

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

1. the many undelivered promises;

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

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

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

By Mr CRISP (Mildura) (26 signatures).

Electricity: smart meters

To the Legislative Assembly of Victoria:

The petition of citizens of the state of Victoria draws to the Legislative Assembly's attention the Brumby government's mismanagement of smart meters, in particular:

the Auditor-General's finding that the project cost has blown out from $800 million to $2.25 billion, all of which will be paid for in higher bills;

the Auditor-General's finding that the electricity industry may benefit from smart meters at the expense of the consumers who pay for them;

the unfairness of many consumers and small businesses having to pay for smart meters before they are installed; and

findings by Melbourne University that many families will have to pay around $300 per annum in higher electricity bills as a result of Labor's smart meters.

The petitioners therefore request that the Legislative Assembly require the Brumby Labor government to immediately freeze the rollout of smart meters across Victoria until it can be independently demonstrated that consumers will not be forced to pay for the Brumby government mistakes in the smart meter project.

By Mr WALSH (Swan Hill) (114 signatures).

Liquor licensing: fees

To the Legislative Assembly of Victoria:

The petition of residents of Victoria draws to the attention of the house the need to urgently reconsider the massive increases in liquor licence fees in view of the severe financial pressure these are having on country liquor outlets.

Such huge blanket increases in licence fees are impacting on employment, community organisations and sponsorships, and even business survival in a number of cases.

Risk-based fees should actually address the problems which have arisen in 'hot spot' areas, distinguish activities increasing risk of antisocial behaviour, and thus be imposed selectively, to address those issues.

The petitioners therefore request that the Victorian government recognises the damage such across-the-board increases are causing, particularly in many country communities, and review the legislation as a matter of urgency.

By Mr WALSH (Swan Hill) (415 signatures).

Water: north–south pipeline

To the Legislative Assembly of Victoria:

The petition of the residents of Victoria draws to the attention of the house the proposal to construct a pipeline to take water from the Goulburn Valley to Melbourne.

The petitioners register their opposition to the project on the basis that any water savings achieved by irrigation modernisation in the Goulburn Valley irrigation system should be retained in that system for use by communities and for environmental flows and not piped over the Great Dividing Range to Melbourne.

The petitioners therefore request that the Legislative Assembly of Victoria reject the proposal to build the pipe and call on the state government to invest in other measures to increase Melbourne's water supply, such as recycled water and stormwater capture for industry, parks and gardens.

By Mr WALSH (Swan Hill) (13 signatures).

Tabled.

Ordered that petitions presented by honourable member for Swan Hill be considered next day on motion of Mr WALSH (Swan Hill).

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

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

SCRUTINY OF ACTS AND REGULATIONS COMMITTEE

Alert Digest No. 3

Mr CARLI (Brunswick) presented *Alert Digest* No. 3 of 2010 on:

Credit (Commonwealth Powers) Bill
Electricity Industry Amendment (Critical Infrastructure) Bill
Radiation Amendment Bill
Statute Law Amendment (National Health Practitioner Regulation) Bill

together with appendices.

Tabled.

Ordered to be printed.

DOCUMENTS

Tabled by Clerk:

Alpine Resorts Co-ordinating Council — Report 2008–09

Auditor-General — Irrigation Water Stores: Lake Mokoan and Tarago Reservoir — Ordered to be printed

Australian Crime Commission — Report 2008–09

Commissioner for Environmental Sustainability — Report 2008–09

Parliamentary Committees Act 2003 — Government response to the Public Accounts and Estimates Committee's Report on the Review of the findings and recommendations of the Auditor-General's reports tabled September 2007–February 2008

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

Baw Baw — C73

Horsham — C43

Moorabool — C18

Moyne — C50

Nillumbik — C58 Part 1

Yarra Ranges — C98

Surveyor's Registration Board of Victoria — Report 2008–09.

ENVIRONMENT AND NATURAL RESOURCES COMMITTEE

Membership

The SPEAKER — Order! I have received the resignation of Mr Viney, MLC, from the Environment and Natural Resources Committee effective Tuesday, 9 March 2010.

MEMBERS STATEMENTS

Monbulk Primary School: facilities

Mr MERLINO (Minister for Sport, Recreation and Youth Affairs) — Last week I had the pleasure of visiting Monbulk Primary School for a firsthand look at how the Brumby and Rudd governments' record investment in education is benefiting Monbulk students. I was very proud to officially open a $500 000 upgrade at Monbulk Primary School, including a refurbishment and conversion of six existing classrooms to four, bringing them into line with current learning standards. Interactive whiteboards were also put into every classroom in the school as part of this project. The project was funded through our government's Better Schools Today program and is a great example of the partnerships we are building to create modern schools right across the state.

About to start construction is a multipurpose arts facility at the school, funded through the commonwealth, and work is almost finished on the Monbulk community hub, a wonderful project funded by all three levels of government that will benefit the students and the broader community. This is a great time for education in Monbulk. I would like to thank Monbulk Primary School's principal, Ray Yates, and his school council for their visionary work to transform the school.

Monbulk Soccer Club: synthetic playing surface

Mr MERLINO — This Sunday I will be honoured to officially open the new Monbulk synthetic soccer pitch on a day featuring games between the Monbulk Veterans and the Victoria Police Soccer Club, and also the Monbulk Soccer Club versus Ashburton, which is the member for Burwood's team. Participation in the world game is booming in the Yarra Ranges, with club membership in the region rising 65 per cent in the last few years. There is great pressure on facilities to meet that demand, and a synthetic pitch can obviously withstand a lot of use. This is going to be a very welcome facility in the area. The Brumby government is proud to commit $300 000 towards this project in partnership with a $300 000 contribution from the Shire of Yarra Ranges. Congratulations to Monbulk Soccer Club president, Barry Adshead.

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

Government: performance

Mr MULDER (Polwarth) — The Premier is at it again: more phoney dates and deadlines that just happen to fall the other side of an election. This tactic is stale, it no longer works and the public is waking up to the Premier and his tricks.

This time the Premier's claim is utter rubbish. The Premier claims he will reduce litter by 25 per cent by 2014. This claim is right up there with the Premier's claim of a new train each and every month from December 2009 — in fact just one train has arrived, and any benefit it provided has been cancelled out by the withdrawal of eight Siemens trains from the network, causing chaos for commuters. Then there was the claim by the Premier of improvement on day one with the new rail operator Metro Trains Melbourne.

Then there was the Premier's pet project, myki, which the Premier signed off on as Treasurer, then pumped an additional $350 million into as Premier. This project, according to the Premier, was to be operational across Victoria by 2007. It has since swallowed up more taxpayers cash and is yet to be seen on Melbourne's trams, buses or V/Line trains, and it is now into its fourth year of late running. Following on right behind was the Premier's promise of 30 per cent of freight on rail by 2010 — a claim that Sir Rod Eddington suggested the government drop because it could not be achieved.

If one takes a step back in time one will find 'No tolls on the Scoresby' and 'Melbourne 2030'. Is it any wonder that the community has finally woken up to the spin, the media strategies and the sudden visits to schools, nursing homes and hospitals by the Premier each and every time a bad news story is about to hit the screen!

This is not a government for the people but a collective of self-interest, jobs for the mates, deceit and trickery.

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

Vern Wright Reserve, Rosebud West

Ms D'AMBROSIO (Minister for Community Development) — I rise to congratulate the Rosebud West community, the Rosebud West Community Renewal Steering Committee and the Mornington Peninsula Shire Council for their wonderful work in designing the redevelopment of the Vern Wright Reserve.

The redevelopment was identified as a priority under the community renewal action plan and was helped along by a $50 000 Victorian Community Support Fund grant and a further $100 000 from the Community Renewal Flexible Fund. The project is a practical response to the lack of community space in Rosebud West and will make the reserve more accessible to local residents for a range of activities. I was privileged to have seen the results of this project firsthand on 3 March. Key elements of the reserve's redevelopment include installation of shelters, seating and electric BBQs; relocation of playground equipment and redevelopment to include all-abilities design; installation of fences to create a dog leash-free area; construction of accessible pathways around the site; and bollards to mark areas for parking and to restrict vehicle access onto the open park site.

Redevelopments like this are more than just infrastructure gains; they have enormous benefits for community health and wellbeing, promoting greater participation in community life and increased social connection and support between residents.

An additional benefit of this project is increased community safety and asset protection of the neighbouring tennis courts, with heightened use of the reserve by the community. It is wonderful to see a collaborative approach taken to projects like this, and the time taken by council to consult with residents and community groups should be applauded.

Roads: regional and rural Victoria

Mr DELAHUNTY (Lowan) — On behalf of the Lowan electorate I condemn the Brumby Government for a decade of deceit and neglect of our country roads, which must be adequately maintained for safe and efficient freight and community transport.

As an example of their neglect, in December last year I received a reply from the Minister for Roads and Ports to my question on notice which asked: what is the total number of vehicles and trucks that over the five years to June 2009 have used the Henty Highway between Portland and Hamilton, Hamilton and Horsham, and Horsham and Mildura; the Western Highway between Stawell and Horsham, and Horsham to the South Australian border; and the Glenelg Highway between Lake Bolac and Hamilton, and Hamilton and the South Australian border? The minister's response was:

> To complete the information requested would place a large burden on the department's time and resources.

What a joke!

If the Brumby government does not know how many vehicles and trucks use these important roads, how can it plan expenditure on this vital infrastructure? The Auditor-General recommended an additional $100 million for road maintenance on country roads. Also the Australian Bureau of Statistics has reported that the number of distressed roads in Victoria has risen dramatically. In western Victoria many B-class and C-class roads have stressed pavements, are breaking up and are rough. Victoria is bigger than Melbourne, and the Brumby government must improve its knowledge and understanding of country roads and increase the standard of road maintenance — for we all know that if you fix country roads, you save country lives.

Drought: opposition policy

Mr HELPER (Minister for Agriculture) — I wish to draw the attention of the house to two examples that demonstrate very clearly how out of touch The Nationals are with the realities of life in country Victoria.

The first example is that on 1 March the member for Benalla — I am glad he is in the chamber — issued a press release demanding that the state government immediately announce an extension of its drought assistance measures. The member for Benalla referred to the Brumby government's $47 million drought assistance package, announced by the Premier and me on 22 October last year. That is 4 months and 16 days ago — 136 days ago.

I want to explain to the member for Benalla — and illustrate the irrelevance of The Nationals — that there are 365 days between equal points in a season, and one would expect the government to announce its drought response this year at the same point of the season as it announced it last year.

The second example that draws attention to the irrelevance of The Nationals is of course when I challenged the Leader of The Nationals last year to produce a drought policy of the party's own and all we

got was in effect a roneoed sheet of the government's drought initiatives announced in the season preceding that. I would suggest to The Nationals that they make use of — and I am happy to make available — firstly, a Roman calendar; secondly, a notepad; and thirdly, a quiet place to think.

Crime: victim support

Mr CLARK (Box Hill) — Recently the Attorney-General reannounced that the government intends to introduce legislation to confirm that victims can read out their impact statements in court and include photographs and other supporting material. This is a worthwhile option for those victims who would like to take it up. It is welcome that Labor now supports victim impact statements despite having been highly critical when they were first introduced by Liberal Attorney-General Jan Wade in 1994.

However, the Attorney-General still stubbornly refuses to do what would be of greatest benefit to victims — namely, ensure that there are far fewer victims in the first place through tougher sentences and getting rid of soft-on-crime options like suspended sentences and home detention. Neither does the Attorney-General show any sign of fixing other real-world problems victims face, such as frequent lack of support in preparing statements, despite the language of the victims charter, and the fact that prosecutors often do not want to receive statements until after a conviction lest the defence make use of them in the trial.

To make matters worse, ever-increasing court delays are causing ever-greater uncertainty and anxiety for victims in their long wait for justice, and the Victims of Crime Assistance Tribunal is struggling to cope with the ever-rising number of violent crime victims. As at 30 June 2009 there were 6162 VOCAT assistance applications waiting to be decided — an increase of 21 per cent in just one year. Forty per cent of those had been pending for nine months or more and 30 per cent had been pending for more than a year. With almost 44 000 reported crimes against the person in Victoria in 2008–09, VOCAT gave financial assistance to just 3547 victims. There are far more things the Attorney-General needs to be doing to help victims.

Mr Donnellan interjected.

The SPEAKER — Order! I ask the member for Narre Warren North to withdraw the remark he made across the table.

Mr Donnellan — I withdraw.

Parkdale Secondary College: awards

Ms MUNT (Mordialloc) — It was recently my pleasure to attend a presentation-of-awards assembly at Parkdale Secondary College. It came to my attention last year that the year 12 Japanese teacher was very ill. She worked right through until the end of the year. She was determined to get her year 12 students through, and they all achieved exemplary marks, which will help them in their later lives. Parkdale Secondary College has awarded three scholarships in memory of Mitsuko Hodgens, who passed away in late 2009. She was also a year 8 form teacher. Mitsuko was very well regarded by the whole school community, and she will be sadly missed. The recipients of the awards are all year 8 students: Nick Dullard, Josh Churchward and Ramai Harker. They are all high achievers, and I know they will do very well in her memory.

There was also a presentation of student leader awards to college captains Sarah Jenkins and Ray Keighley; vice-captains Theo Leggos and Blair Ippolito; senior school leaders Rex Sakkas, Helena Naumann and Hannah Burns; junior school captains Mitchell Pope and Jessica Johnston; junior school vice-captains Michael Nikolitsis and Rhiannon Hemingway; sports captains Taylor Pope and Brooke Griffin; sports vice-captains Kelly Nicholls and Gavin Scott; junior sports captains Arielle Cathcart and Rafael Menkhorst; and junior sports vice-captains Harley Balic and Ashleigh Solomon. I congratulate them all and wish them well for 2010.

Country Fire Authority: funding

Mrs FYFFE (Evelyn) — This government's shameless use of spin and smoke and mirrors knows no bounds. Government members are more interested in protecting themselves and their jobs than protecting Victorians.

I am reliably informed that the CFA (Country Fire Authority) has been forced to cancel its trial of VicRoads electronic fire danger warning billboards because of a lack of funds. I have also been informed that following some media performances by Mr Russell Rees that were believed to be reflecting badly on the Premier's decision to reappoint Rees as CFA chairman after the Black Saturday bushfires the Premier made another decision. That decision was to order that a certain person be employed by the CFA through the company Inside Public Relations. Who is the public relations person that the Premier insisted on being employed by the CFA as a media consultant to Russell Rees at the rate of $20 000 per month, an annual salary

of $240 000? It is none other than the former Labor spin doctor Sharon McCrohan.

Once again the government is not listening to Victorians, who want their money spent on improved community safety and not on Labor spin doctors to protect the Premier's reputation. Victoria's current Premier is more interested in protecting his reputation than protecting Victorians. The thousands of wonderful CFA volunteers who give so freely of their time and put themselves at risk to protect Victorians deserve better than this.

Kananook Creek Boulevard

Dr HARKNESS (Frankston) — A community vision was realised on 28 February as the new $8 million Kananook Creek Boulevard was officially opened at the Kananook Creek community celebration day. I know that you, Speaker, are well aware of Kananook Creek, as we share an electoral boundary, and you will also be pleased to know that this project has been great news for the Frankston economy and that the new pedestrian boardwalk is already adding to what is now a vibrant public space. It is a terrific example of what can be achieved when the state government, local government and the community work together to achieve the common goal of creating livable, sustainable communities.

The project has revitalised an under-used community space and reorientated the town centre towards its best asset — that is, the foreshore. The boulevard provides exciting new amenities for the community as well as helping to attract private investment as businesses realise the improved potential of this area and take advantage of the waterfront location.

The project provides the community with attractive promenades and boat-mooring areas, a bike path between Beach and Wells streets, and a new vehicle and pedestrian bridge linking Davey Street to Long Island. Other features include new seating and landscaping, which have seen the area transformed from asphalt car parks to an attractive tree-lined boulevard with feature lighting. A new edge has been created along the creek to improve community safety and amenity.

Energy: new technology

Dr HARKNESS — On a separate matter, electric cars and solar-powered neighbourhoods and home appliances might be a reality in Frankston when the federal government announces — —

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

Croydon South Primary School site: future

Mr HODGETT (Kilsyth) — The Brumby government has stopped listening to the community. Sadly today I stand here in this house and say on behalf of the local residents of Croydon South, 'We told you so!'.

Numerous times in this Parliament I have raised with the Brumby government the matter of allowing the land and buildings at the site of the former Croydon South Primary School to be used for community use. Hope City Church formally inquired about using the site. Croydon U3A, with over 600 members, wanted to use the space. The Eastern Volunteers Resource Centre wants to operate from a community hub. The demand for facilities for community use in the area is enormous and many local clubs and groups are putting their hands up, desperately seeking access to additional community space to conduct their activities. On each and every occasion these requests have been rejected by the minister.

The future use of this land continues to be of great concern to local residents and community groups as the land and buildings sit vacant and unkempt, deteriorating and subject to acts of vandalism. The state of the buildings today is a disgrace. Why can they not be used by the community, for the community? The Brumby government would rather spend taxpayers money to board up the buildings and block any community use. Hundreds of thousands of dollars were spent on the buildings before the school closed. Now hundreds of thousands of dollars are needed to repair the damage caused to the buildings which have been trashed by vandals.

The waste, incompetence, stupidity and short-sightedness of the Brumby government are incomprehensible. We told the government it would happen. We saw this happen at the site of the Mooroolbark Primary School after it closed in 2003, and the same thing will happen to the site of the closed Croydon North Primary School. The Brumby government has stopped listening to the community. The residents of Croydon South will get the opportunity to vote with their feet and throw out this tired, lazy, incompetent Brumby government this November.

Hallam: banking services

Mr DONNELLAN (Narre Warren North) — On 27 February of this year I was fortunate to open a

Bendigo Bank 24-hour easy teller at Spring Square, Hallam. It was a result of a long campaign by a local community group, including the Spring Square traders, Danny Gan and Alan Salter. The campaign has been running for about 18 months and has been seeking pledges from the local community. Every Saturday its members have been standing out the front of the supermarket in Spring Square, quietly but surely talking to members of the community about the importance of getting the first ever full bank service in Hallam.

For many years Hallam has not had any bank service; all it has had is an easy teller in the supermarket. Now it has a 24-hour easy teller. The group has raised about $350 000 in pledges and is getting very close to its target. I think it has to get about $700 000, so it probably has another 12 months to go. However, I am pretty sure it will get there and Spring Square will soon have a full bank service.

I congratulate members of the community, Danny Gan, Alan Salter and many others I have probably missed, who have done such a marvellous job of bringing that 24-hour easy teller to Hallam.

Courts: Wangaratta

Mr JASPER (Murray Valley) — I am seeking urgent action from the Attorney-General to undertake an immediate renovation and upgrade of the historic 72-year-old Wangaratta courthouse. Because of concerns with the deterioration of the building and major structural problems, the sheriff's office has been relocated from the building, and last week court 3 was closed because of occupational health and safety concerns.

Last year I wrote to the Attorney-General to bring to his attention the need for major renovations to the Wangaratta courthouse. A response in April 2009 indicated that the building was sound and safe to occupy following works to stabilise the building and the completion of exterior painting. It also confirmed that a building assessment of Magistrates Court buildings, including Wangaratta courthouse, would be undertaken.

I understand that a report on the court complex has been completed, but it is clear from the developments of recent weeks, with the closure of parts of the court, that urgent renovations must be undertaken not only to restore the historic building but also to return to full usage of the facilities.

The Wangaratta court complex is a critical court to north-eastern Victoria, with a wide range of legal processes and hearings ranging from Supreme Court through to County and Magistrates courts sittings and various panel hearings being conducted at the facility. Barristers and solicitors operating in Wangaratta and from Wangaratta courthouse have confirmed with me the importance of the court and the wide range of services it provides to this part of country Victoria. I have already had personal discussions with the Attorney-General this week, and I look forward to his early and positive action in approving urgent major renovations to the historical court complex at Wangaratta.

Foundation of Goodness

Mr PERERA (Cranbourne) — Recently I was honoured to be invited to a dinner hosted by David and Cathy Cruse of Knox Tavern, Wantirna South, sponsors of the Foundation of Goodness. I was also honoured to be in the company of the founder and trustee of the Foundation of Goodness, Kushil Gunasekera, and other donors to and sponsors of the foundation. The foundation aims to narrow the gap between urban and rural life in Sri Lanka by tackling poverty through productive activities. It provides essential facilities and programs free of cost to about 20 000 people from 25 villages around Seenigama on the southern part of the island of Sri Lanka.

As part of the post-tsunami relief work the Brumby Labor government teamed up with the foundation in fully funding a residential village for tsunami victims. This is part of the Brumby government's $10 million tsunami aid to Sri Lanka.

Last year Cathy Cruse raised about $20 000 for the foundation by climbing Mount Kilimanjaro. The foundation has embarked on a new project called the Learning and Empowerment Institute, North Sri Lanka. The institute will incorporate around 30 sectors to cater to the health care, educational, sporting, business development and empowerment needs of the local population.

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

Warrandyte Netball Club: funding

Mr R. SMITH (Warrandyte) — Almost two years ago I stood in this house to ask the Minister for Sport, Recreation and Youth Affairs to meet with the Warrandyte Netball Club to discuss its need for a purpose-built clubroom. At the time I was encouraged by the fact that the minister sent a representative from his department to meet with the club's committee. It is

unfortunate, however, that this representative seemed more interested in creating roadblocks and discouraging the club than demonstrating support for and offering tangible assistance with the club's needs.

It is distressing that the Brumby government seems content to have its interaction with local communities confined to sham consultation processes, if indeed any show of consultation is offered at all, and meetings that are designed to merely tick the boxes to give the impression of action.

Warrandyte Netball Club is committed to achieving its vision — a vision I share — of a clubhouse and home for the many girls who play under its banner. To this end the club has organised a number of fundraising events, the most recent of which was run on 27 February. This event involved the fathers of the netball girls taking to the court to play three matches in what proved to be a hard-fought contest between men who clearly each possess an intensely competitive nature. It was my pleasure to accept the club's invitation to participate and to play in these matches, although I note that the no-contact rule of netball frequently seemed to be forgotten. The event was a big success and was well supported by the local community. It is evidence of the commitment of the club to its members.

Maddison Bartlett Foundation: football match

Mr R. SMITH — On 28 February a charity football match was held to raise money for local bushfire survivor 13-year-old Maddison Bartlett. I would like to congratulate the Warrandyte and Eltham football clubs, as well senior constables Paul Kemezys and Gary Tickell and the many others who contributed to the enormous success of this event. Their willingness to support this young girl is a credit to these local communities, and I commend all involved for their efforts.

Leo Sargent and Lindsay Glen

Ms MARSHALL (Forest Hill) — I am proud to bring to the attention of the house an honour recently bestowed upon local icons Leo Sargent and Lindsay Glen, who were the recipients of the City of Whitehorse 2010 Australia Day awards. Leo and Lindsay are both committed executive members of the University of the Third Age in Nunawading. As all members of this house would be aware, U3A is a successful and well-run organisation which delivers a huge variety of courses and social opportunities for senior Victorians in the area and in Forest Hill particularly. This volunteer organisation provides the people of the community with the ability to continue learning no matter at what point they are in life.

Over the past seven years I have been fortunate enough, obviously not as a U3A member but as a member of Parliament, to have heard stories of and seen firsthand the mammoth contributions that both Leo and Lindsay have made. The time and effort put in by these two men has helped ensure that U3A Nunawading has been and remains an integral part of our community. I add my admiration and respect for these two men who have provided me with great friendship over the last few years.

The passion, dedication and practical contributions made by Leo and Lindsay to the people and the institutions of the area have been unrelenting. Leo and Lindsay are selfless individuals who give much for the benefit of others in our community. They are worthy recipients of the award, and I am pleased that the City of Whitehorse saw fit to formally recognise their invaluable contributions to the community. Well done, Leo and Lindsay. We are very proud of both of you.

Science, technology and innovation: Deloitte report

Mr KOTSIRAS (Bulleen) — In October 2009 Deloitte published another report into the impact of the Victorian government's science, technology and innovation initiative on the Victorian economy and the wider community. This government-funded report cannot be taken seriously. I have been advised that it was reviewed, amended and resubmitted a number of times by the minister's office to ensure that it painted a clear and positive picture of the government.

According to the report 'this investment has already delivered substantial net benefits to the Victorian innovation sector and the wider Victorian community'. This exaggeration is an insult to the Victorian taxpayer. Given that the Labor government paid the consultant and had the opportunity to review and make changes to the draft report, why should Victorians take any notice of this report? Victorians deserve better. Victorians deserve the truth, and Victorians deserve information that is independent and reliable.

With a lack of policy direction in innovation from a minister who is out of his depth and with recent research showing that maths standards — and I believe science standards as well — are now at dangerously low levels, Victoria will become the idle state unless this minister is replaced.

Government: performance

Mr KOTSIRAS — On another matter, I call upon this inept government to advise this house how much of the $8 million that was announced by this government in 2006 as part of the cultural precincts enhancement initiative has been spent. I supported the idea at the time and still do. Unfortunately this government has shown once again that it cannot manage money, cannot deliver projects on time and on budget and only works to an election timetable. When is this Labor government going to stop using media stunts, hollow rhetoric and misinformation and start governing and taking responsibility for its actions and failures?

Ros Stevens

Ms DUNCAN (Macedon) — I rise this morning to pay tribute to Ros Stevens, who this month retires as chief executive of the Sunbury integrated health centre, previously known as the Sunbury community health centre, after having worked there for the past 23 years.

Ros joined the health centre in 1983, before it was rebuilt and relocated by this government in 2002. Ros was initially appointed as a part-time financial and family counsellor after going back to school to obtain her qualifications in psychology. Just four years later she was appointed chief executive. Ros lives in Malmsbury and claims she wanted the job at the centre in Kyneton, but it was thought she would not be tough enough. She may not have been tough, but she was and is an excellent people person.

Ros has been a strong advocate for improved health services. She was the main driver and a strong supporter of the new integrated health service she now leads. Ros has also been instrumental in the development and planning of the Sunbury Day Hospital, which is currently under construction. It is a project I know Ros will remain involved in even after her retirement. In fact I doubt that Ros will retire at all. She may no longer come to work at Sunbury community health centre every day, but no doubt she will continue to do all she can to improve health outcomes for her community, wherever that may be in the future. I wish her all the best in her retirement.

Benambra electorate: events

Mr TILLEY (Benambra) — Over the past month it has been show and event season in the north-east of Victoria. On Saturday, 27 February, I visited the Corryong show and was delighted to see so many people and stalls and the high quality of the equestrian events run by the Border District Showjumping Club. Joy Lee and the organisers of the Chiltern community market should be congratulated on taking the initiative and putting together a great day at the Chiltern recreation reserve, and I look forward to the continued success of the market in coming months. I hope it continues to grow, as it is an important tourist attraction for the town.

There were more events throughout the north-east of Victoria. The Towong Cup was held last Saturday. Prince Rhubarb took the cup, and congratulations go to the winning connections. The Towong Turf Club hosted a great event, and the turf club committee should be congratulated. Country race clubs are doing it tough and Labor's part-time racing minister has put the country clubs under the hammer by playing favourites, imposing unfair conditions and failing to stand up for local country race clubs. Country races are important for many small towns across Victoria, as they provide much-needed economic activity through tourism. Labor has shown great contempt for small country race clubs and local country communities. It is an absolute disgrace.

Other events in the north-east of Victoria include the Mighty Mitta Muster, the Tallangatta show and the Wodonga's Todos Arte festival.

Lesley Ould

Ms HENNESSY (Altona) — I rise today to recognise and congratulate a valued member of the Laverton community, Mrs Lesley Ould. Lesley was a recipient of the Medal of the Order of Australia this year. This recognition could not be more deserved. Lesley has been involved extensively in the Laverton community for nearly 40 years. She truly is a local community treasure.

Lesley has been involved in the development and distribution of important community information. Her position as secretary of the *Around Laverton* community newspaper has seen its monthly distribution rise to 6000 copies. Aside from writing content for the paper, Lesley doubles as a distribution manager, organising volunteer walkers for letterboxing. She then completes her own deliveries.

This inspiring woman is also group leader of the 2nd Laverton Scout Group and has been involved there for more than 30 years.

Each year Lesley leads her cubs and scouts in the Clean Up Australia Day project in and around Laverton. In 2008 Lesley became the president of the Laverton community garden, adding to a variety of other

community-related positions which include being president of the highland and national dancing association, a member of the youth foundation committee, the Laverton festival working group, the Laverton community renewal group — and the list goes on.

Lesley is an example of the many selfless people in the Altona electorate who devote their time, energy and wisdom to building and strengthening our local community. We are extremely proud to have such an outstanding community leader in our midst.

Belmont Lions

Mr CRUTCHFIELD (South Barwon) — It was with great pleasure that I attended the Belmont Lions season launch on Sunday, and it was a significant launch. The Belmont Lions have been under some pressure in recent months with a significant loss of money from the club — it went missing — and a dramatic turnover in its committee. I met with its president, Grant Ward, about a month ago and offered him encouragement to continue this year from a netball perspective and also from a football perspective. It is critical that the Belmont Lions survive. There are only two other football clubs in inner Geelong, and they are Geelong Football League clubs Grovedale and South Barwon. Belmont Lions is a Geelong and District Football League club and a critical part of the sporting infrastructure in my electorate. We need it to survive.

I was pleased to come on board as sponsor for the Belmont Lions. I know they have spoken to the president of the Geelong Football Club, Frank Costa, and Brian Cook for some advice about committees and some of the structures they need to put in place. The Wathaurong Aboriginal Cooperative has come on board and continued its much-needed sponsorship. Some 15 Koori kids play both football and netball at Belmont. It has a very strong junior program, and I am certain it will be successful this year.

Gordon Primary School: facilities

Mr HOWARD (Ballarat East) — Last week I was pleased to again visit Gordon Primary School, this time for the official opening of the school's extensive redevelopment, a jointly funded federal and state government project. This $470 000 project, which was the first project in the state to receive federal Building the Education Revolution funding, involved the installation of a new relocatable double classroom and refurbishment of the main building. It was great to be in the auditorium for the official opening and to meet with parents and friends, who were delighted with the completion of this great project.

MATTER OF PUBLIC IMPORTANCE

Transport: Victorian plan

The DEPUTY SPEAKER — Order! The Speaker has accepted a statement from the Minister for Roads and Ports proposing the following matter of public importance for discussion:

> That this house congratulates the Brumby Labor government for delivering on initiatives in the $38 billion Victorian transport plan to provide the state with the best transport network in Australia and condemns the Liberal-National coalition for its stated policy to slash projects from the plan and calls on the opposition to inform the people of Victoria exactly which transport projects they would slash.

Mr PALLAS (Minister for Roads and Ports) — I rise to speak in support of the matter of public importance I have put before the Assembly. In doing so I recognise that the Victorian government has put in place a $38 billion Victorian transport plan. It is comprehensive in nature and wide reaching in its scope and in the nature of the changes it seeks to introduce to the way our transport integrates and operates. It includes the largest investment ever made in our state's transport network; it is a plan of action that is being delivered. This is the biggest forward infrastructure program in Victoria's history. It is bigger than the Snowy Hydro scheme, which in present dollar terms would be about $6 billion to $8 billion. It is bigger than the Thomson Dam and the city loop projects combined.

We are continuing to invest in a better rail system for all Victorians with more services running to more places more often. Early works have begun on the $4.3 billion regional rail link project which will provide more services and better running times right across the metropolitan and regional passenger networks. We have made investments such as the $52 million Clifton Hill rail project, the $39 million North Melbourne station upgrade, delivery of 723 additional weekly and extended train services, $13 million for the Flinders Street station concourse rehabilitation to deal with deterioration of steel work and concrete arch slabs, $4 million on lighting upgrades at 64 metropolitan stations, 50 new trams being ordered this year, and $40 million for planning the Melbourne Metro tunnel.

In opposition the Liberals and The Nationals have actively opposed the rail and other public transport upgrades undertaken by the Brumby government to deliver improved services for Victorians. They opposed the return of trains to the Bairnsdale and Ararat lines —

lines they shut down — and major upgrades carried out on the Bendigo, Ballarat, Geelong and Latrobe Valley rail lines even though these projects are addressing years of underinvestment in Victoria's rail network. In opposition the Liberals and The Nationals have made it clear that they have not learnt from their mistakes and that they cannot be trusted to manage and safeguard the future of Victoria's transport network. Public transport would be placed at risk under a Liberal-Nationals coalition government because the opposition has no plans to improve access to public transport for all Victorians.

While we are getting on with improving our public transport system and our integrated transport network, we are also taking initiatives to reduce congestion, thus enabling people to spend less time in traffic. Our plans are public, in progress and, importantly, open for scrutiny by the public. In contrast we hear nothing from those opposite. True to their status as the opposition, members opposite oppose everything and stand for nothing.

We need to move people and freight with increasing efficiency to make our transport network work effectively. That is what our smart road strategy, Keeping Melbourne Moving, and clearways policy do. The Brumby government is taking action to deal with congestion in the short, medium and long term, ensuring that Melbourne remains one of the most livable cities in the world. That is what we are talking about: trying to get people to and from work and home safer and easier. That is regardless of how they seek to travel, whether it be by public transport — whether train, tram or bus — by bike or by private vehicle. It is about relieving congestion on our major arterial road network, on roads that commuters use every single day to get to and from work. The opposition wants Victorians to spend more time stuck in traffic.

During the Kororoit by-election the Leader of the Opposition said that he intended to release 'an integrated transport strategy for Victoria which will be progressively announced in the lead-up to the next state election'. I note the words, 'progressively announced'. We have not seen much progress yet, have we? In fact today, 637 days later, there is still no transport strategy.

Mr McIntosh interjected.

The DEPUTY SPEAKER — Order! If the member for Kew wishes to contribute to this debate, he will be given the call.

Mr R. Smith interjected.

The DEPUTY SPEAKER — Order! I remind the member for Warrandyte that he is out of order and out of his place.

Mr PALLAS — Six hundred and thirty-seven days have passed and there is still deafening silence in terms of the opposition's vision and plan for the future, a plan that was going to be 'progressively announced' from 637 days ago. If this were a performance appraisal of the opposition's work output, the assessment would be categorically and unambiguously 'hopeless'.

This government has continued to get on with the job of delivering services. In 637 days the opposition has given the public nothing to consider or ponder as a credible alternative strategy. What we have heard from the opposition about its plans for the future is deafening silence.

On Monday the member for Polwarth, a man loyal to his leader, continued to reinforce the basic message coming from the opposition that its comprehensive plan — not its 'progressively announced' plan but its comprehensive plan — would be released before the next state election. Who knows when? Who knows what the opposition will stand for between now and then?

In the last 637 days the Brumby Labor government has been working to deliver to Victorians the best transport network in Australia. In the last 637 days we have invested $1.7 billion in improving and maintaining Victoria's arterial road network. In the last 637 days we have seen Victoria record its two lowest road tolls ever. It has had record low tolls year on year, including the lowest regional Victoria road toll.

In the last 637 days we have released and commenced delivery of the Victorian transport plan, which provides the largest single investment in transport infrastructure in the state's history. We have also released strategies that underpin the transport plan. We have not just released the plan, there are also plans relating to promoting cycling. We have a cycling strategy. The opposition does not have a clue. We have a freight strategy. We are talking about improving the efficiency of Victoria's gateway to the world — our ports. And we have a plan for better and more equitable use of road space.

But after 637 days we are still waiting for the opposition to release its transport policy. We do not want it all, just a sniff of a vision, just something constructive the opposition might have to say to the people of Victoria. But what we hear when it comes to something constructive is carping, criticism — —

Honourable members interjecting.

The DEPUTY SPEAKER — Order! I have already told the member for Warrandyte that he is out of order and out of his place. I warn the member for Kilsyth that he is also out of his place and out of order.

Mr PALLAS — Victorians continue to wait. The Brumby government, however, does not wait. We are taking action to improve travel times on our freeways. In the last 637 days we have delivered new lanes on the Monash Freeway and new ramps on the M1-West Gate Freeway upgrade, and this work continues. We have overseen the completion of the 39-kilometre EastLink project and construction of new bypasses at Ringwood and Dandenong. We have commenced the delivery of the toll-free Peninsula Link project. But in the last 637 days the opposition has been too lazy to develop or release a transport policy. Maybe it does not want to be subject to the same scrutiny it believes we should be held open to. These self-professed advocates for accountability have no concept of the hypocrisy of the position they espouse.

We have removed level crossings at Springvale and Middleborough roads. We have updated suburban roads in Langwarrin, Hoppers Crossing, Wheelers Hill, Clyde North, Narre Warren and Keilor Downs. And after 637 days we still hear nothing from the opposition. There is a deafening silence. The community has no idea what the opposition's preferences and priorities are and what choices it would make in order to run the network more efficiently. We hear a lot from the opposition about 'efficient choices' and 'efficient use' of revenue, but we hear not one word about how it would make those choices, only veiled assertions that it would only honour those agreements that the government had formally entered into under the Victorian transport plan. What is the secret plan from members opposite? What is it that they are not prepared to tell the people of Victoria?

In the last 637 days the Brumby government has been improving regional roads, because we understand exactly how important those roads are to the people of Victoria. Our actions have been highlighted by the first three stages of the Geelong Ring Road development. Our actions have been highlighted by the upgrades to the Calder Freeway which have improved the links to Bendigo. But in the last 637 days the opposition has failed to meet its promise to Victorians to release a transport policy — even part of a policy, a shred of a policy, a scintilla — to show that it has an idea about how it would manage an integrated and complex transport network. When the opposition was last in government in the 1990s it neglected transport policy for seven years and shut down transport services. We understand why it does not want Victorians to know what it has in store for transport, should it ever be in the position — which would be unfortunate for the state of Victoria — of having control of the Treasury.

The Brumby government is investing record funding in our road system. The public transport budget in the final year of the Kennett government was $60 million. This year there is funding of $6 billion worth of public transport projects — $6 billion! Compared to the last budget of the Kennett government we have more than tripled the state's annual investment in road projects. That represents an increase from $402 million in 1999 to $1.36 billion budgeted for the current year. Our increased funding is delivering more improvements and maintenance projects right across Victoria.

It also means we are making vital investments in our road safety strategies. When the Liberal-Nationals coalition was last in office it allocated $186 million for road improvement projects in 1999–2000. We have increased the annual investment sevenfold with the Brumby government investing $l billion in 2009–10 for road improvement projects.

The Brumby government has spent 637 days improving transport right across the state. It has done that because we understand that the people of Victoria expect more. While members of the Liberal-Nationals coalition have sat on their hands, we have seen some remarkable things in the last 637 days: we have seen three different leaders of the Liberal Party at a national level, and Chris Evert and Greg Norman have been married and divorced!

When the Leader of the Opposition revealed that the Liberal-Nationals coalition would slash important transport projects it was reported that it would review all government commitments and all spending under the $38 billion transport plan. What is your secret plan for upgrading Victoria's transport services, or is it just that you revert to type? That you are committed to cutting and slashing like you always do? Will you cut the $4.3 billion regional rail link? Will you — —

The DEPUTY SPEAKER — Order! The minister should not use the word 'you'. He should direct his comments through the Chair.

Mr PALLAS — Will members opposite reduce the metro rail tunnel, the $2.8 billion second river crossing, the $110 million commitment that we have made to upgrading our cycling network? Do they have a plan? If you aim for nothing, you will hit the target every time.

That is exactly what those opposite are doing. Again, it is a plan of inaction on the opposition's part.

Only the Brumby government has a plan for the movement of freight in Victoria. The opposition has no strategy whatsoever. Freight Futures is the first comprehensive freight strategy in this country. We have seen a comprehensive strategy for moving freight. As a state we have put in place long-term strategies for economically, ecologically and socially responsible freight movement. That is all part of our strategy, our plan, which is public and open to scrutiny.

There is $2.8 billion for east–west link stage 1, $380 million for the truck action plan, $340 million for the green triangle freight action plan, $340 million for the western interstate freight terminal, $260 million for the port of Melbourne international freight terminal, $100 million for the metropolitan freight terminal network stage 1 and $20 million for the upgrade of the development of the port of Hastings.

The Brumby government is taking action; those opposite have no plan. We are delivering on everything we said we would do. We need to share road space, and we need to make vital decisions about how that could come about.

The Leader of the Opposition is all things to all people. He blames the government for no policies. He goes around attending meetings advocating for things. The coalition is a wannabe government. It should come clean about its hidden agenda on transport.

Mr Hodgett interjected.

The DEPUTY SPEAKER — Order! I ask the member for Kilsyth to show respect for the standing orders and sit in his place. When he does I will then tell him he is still out of order for interjecting at that level.

Mr MULDER (Polwarth) — I rise to join the debate on this matter of public importance. It is not all that often in this place that you get a free kick from those opposite, but the matter of public importance (MPI) raised today is just that; it is quite extraordinary.

The minister is living in another world. If he were out there today sharing the grief and pain with commuters on the public transport network, he would know what it is all about. However, this government has disengaged; this government is no longer listening. It does not understand the difficulty and pain it is causing on a day-to-day basis to the people out there who are trying to get to work and trying to get home at night because the public transport network is failing dismally.

The minister's well-read speech has been recorded, and I wonder whether or not we could pull out the music from the public address systems on the trains and trams, like the City Circle tram, and pop in the speech. I am sure it would give the people out there who are going to be late home again tonight a great deal of comfort to listen to that diatribe — that is all you could describe it as. There was nothing in it about the current issues the community is facing; nothing in it about public transport safety; and nothing in it about people's personal safety on train stations and trains late at night. The minister has completely missed the target and missed the point. The government no longer thinks about people; it is about publicity, it is all about ribbon cutting; it is about being seen to be doing something without actually doing anything.

The update at 9.53 a.m. was that Metro had admitted it faced significant challenges this morning with at least another 30 trains cancelled. Just prior to that update coming out I got a text message from a gentleman who was on his way to work asking whether the opposition could do something about the rail network. He was sending me that text in his boss's time because he was late for work yet again. This is what is going on on a day-to-day basis.

Let us be honest, today's MPI is about promoting the document I have in front of me, which outlines the Victorian transport plan. This plan is now enshrined in legislation. As the minister would recognise, the legislation provides that the plan will be reviewed from time to time. In other words, it is going to be changed when the government thinks it is right to change it. If the member for South Barwon's popularity is shown by the polls to be slipping, which it possibly has at the moment, the government will say it had better put something for his electorate into the transport plan. That is how it actually works, and it is totally unfunded. About $8 billion of the $38 billion is funded, leaving the remaining $30 billion unfunded. The government is just slipping projects in and out as it goes along, and at the same time using Victorian taxpayers money to advertise this document.

As the document states, the plan is going to be reviewed from time to time. There will be a few pages slipped out of it at times, and each time that happens we are going to have to reprint the document, which is what happened with the Transport Ticketing Authority recently when the former Minister for Public Transport retired. Two million dollars of taxpayers money was spent on redoing all of the letters and sending them out. When we are up to 1A of the Victorian transport plan we will find the Premier's photo will remain but there will have to be a change because we have a new

transport minister. There will be another couple of million dollars and a whole new advertising campaign to blow it.

I would have thought that in the messages from the Premier, the Minister for Major Projects and the former Minister for Public Transport there would have been significant content about safety on the public transport network. The Premier's message contains nothing on safety on the public transport network, either about the infrastructure or the people who are out there being assaulted at the stations.

Mr Nardella interjected.

The DEPUTY SPEAKER — Order! I will give the member for Melton the call, if he wishes. Until that time he should cease interjecting.

Mr MULDER — In terms of the Minister for Major Projects and the former Minister for Public Transport, there is a single, bland message and nothing else on the critical issue that people are facing out there today on the public transport network.

This matter of public importance is an absolute joke. Given the events and the media of this week, how on earth this government could come in here today to try to promote its record on public transport and road congestion in this state is beyond me. It does not stack up. Someone is pulling the wool over the minister's eyes in asking him to come in here and raise this matter today, because it simply does not stack up.

Earlier this week we had the revelation of the Metro Trains Melbourne tender document warning of catastrophic accidents on the rail network due to trains derailing because the rails have not been maintained properly by the government of the day. The government made a choice to put $350 million into the myki ticketing system and put off vital rail safety upgrades: ballasts, sleepers, rails, points, crossings, signalling — all of it pushed back, and forward went myki with another $350 million. You cannot cut a ribbon over sleepers or rails or points or crossings; there is no media opportunity, and that is why that has not been undertaken. There is no media opportunity, and that is why we find ourselves in this position.

Even today, on top of what happened earlier this week with the revelation of those documents, we have the viaduct on the corner of Flinders Street and Spencer Street station, which is 100 years old, just about falling down. We have trains travelling at 15 kilometres across it. The decking has had it. The work was identified by Metro as being urgent, but for political purposes the government has put off that work until after the election.

This government has an atrocious record, a shocking record. What is the coalition's plan? I have said this before, and I will tell the minister exactly what our first priority as a government will be. I will wear this on my arm and my shoulder every day of the week. Our first priority as a government will be to protect the people who travel on the public transport network, both with infrastructure and protective services officers on train stations. From 6 o'clock at night until the last train of the night, seven days a week, there will be Victoria Police protective services officers on every train station, protecting people from thugs, stopping people from being assaulted, stopping people from being bashed up and getting rid of the drug addicts that hang around railway stations. That is one of our plans.

Our next plan is to give priority to making sure that the rail network is safe and sound; that we have had the drains cleaned up, that we have put the ballasts in place, that we have cleaned the mud out of the ballasts, that we have gotten rid of all the rotten old wooden sleepers, that we have replaced the rail in a timely manner, that the critical points and crossings have been upgraded when they have required it and that we have ensured that the signalling systems work. We are not going to put people's lives at risk. That is the basis of our plan. That is where we start, that is where we work from.

Then we go to the projects, many of which we have been identified and will come to the fore as we move closer to the next election. But the fundamental point — and the minister has to acknowledge this — is the safety of the public. If you are going to be a government, you have to govern for the people and you have to look after their interests and their safety. I am talking about schoolchildren who are riding on those trains. The incoming operator claimed that there was a serious risk of a train derailment, but the government hid the report from the public and did nothing about it. You stand condemned today in this house — —

The DEPUTY SPEAKER — Order! I remind the member for Polwarth, as I reminded the minister, that when he uses the word 'you' he is referring to the Chair. I ask the member to please speak through the Chair.

Mr MULDER — I will move on to another issue in terms of this government's record. This is not from the opposition. We are not talking about this; this comes from an infrastructure report from Engineers Australia. This is talking about Victoria; this is talking about what

the minister was talking about previously. The report says:

> The rail system does not meet the needs of the current population, let alone provide for future growth.

For rail, you get a D. It was a C-minus before and now you are down to a D.

The DEPUTY SPEAKER — Order! The member for Polwarth will not give the chair a D. I remind him again to not use the word 'you'.

Mr MULDER — I give you an absolute A, Deputy Speaker, if I may say so.

There is other commentary out there at the moment about Victoria's record on transport and its record on traffic congestion. I am sure that the minister at the table, the Minister for Roads and Ports, would agree that you could not go any further than a comment from the Prime Minister of Australia himself in relation to the government's record in Victoria on infrastructure and public transport. An article in the *Sunday Age* of 7 March says:

> … Mr Rudd said the Victorian government, which faces an election in November, had underinvested in critical state responsibilities.
>
> Asked if the state had spent too little on areas such as public transport and law and order, he answered, 'Yes'.

Kevin Rudd said yes. Engineers Australia said yes. The government has not got it right. The government will never get it right. It has been told by the Prime Minister and by Engineers Australia, 'You have not got it right'.

The government has failed to invest and the government — and the Minister for Roads and Ports — has to recognise that it can no longer fob the public off and govern by media and spin. The veneer is starting to be pulled away from the government of the day and it is now being exposed. Today it is all out there to see. Everyone out there knows what is going on: the system is in crisis, the public transport network system is in crisis, people feel threatened when travelling on the public transport system and they feel that their lives are being threatened on a day-to-day basis due to a lack of investment by the government of the day.

It is not just the issue of the infrastructure, and that is why the first opposition policy to come out was in relation to putting Victoria Police PSOs (protective services officers) on every railway station. Of course when we received the government's annual report to the Parliament slipped into that report was the suggestion that the government may put in place a policy to put PSOs on the railway stations in Victoria. The Minister for Police and Emergency Services claimed he slipped that in to prove what a heap of hypocrites we were, and the Premier did not know it was in there. This is how these people are governing. They are rattled; they should admit it. They really do not know what to do at the moment.

So much money and political capital has been invested in this transport plan. Normally in this situation a government's strategy would be to stop talking about transport: it has lost the debate, it has lost the community's confidence and it would normally move to some other area and not talk about transport. The problem is there is too much invested in this, and the minister at the table, the Minister for Roads and Ports, is the one who has taken carriage of it, so he has to come out here today and try to defend it. But the simple fact of the matter is it is indefensible. You cannot defend the government's record on transport. The government should stop talking about it and move on to some other area because it has lost the debate. It has given the opposition the opportunity to bring it up as the matter of public importance today when in the real community people are turning up late for work; they will be turning up late at home tonight; children in child-care centres will be wondering, 'Where is Mum? When is Mum coming to pick me up?'; the shift worker at home will be waiting for the other party to come home and relieve them; children will be at home by themselves; and the critical time that people should be spending at home with their children will be gone, because the government cannot run a simple public transport system. All along we have said — and I agree with what the Minister for Roads and Ports says in some instances — the government has spent some money in the transport area.

Mr Nardella interjected.

The DEPUTY SPEAKER — Order! The member for Melton!

Mr MULDER — However, the government's prioritisation of spending is shocking, it is appalling, and the outcomes are even worse. The minister spoke before about the money invested in regional rail. For 42 consecutive months the trains to Geelong have run late, after the government spent nearly $1 billion on what was called a 'fast train project'.

Mr Pallas interjected.

Mr MULDER — Ballarat and Bendigo are not much better. Nearly $1 billion of taxpayer money has been spent.

The last great initiative of the minister at the table, the Minister for Roads and Ports, is $20 million worth of fairy lights on the West Gate Bridge. That is going to do a lot for the state, is it not? Flash, flash, flash! You can just see them: a photo of the minister up there and a photo of the Premier. We are going to outdo Sydney with lights on the bridge. It is absolutely unbelievable; the government's prioritisation of spending is off the rails. This was proven with myki: $1.4 billion spent and climbing. There is no money for sleepers, critical points and crossings, and upgrading rails, but there is $1.41 billion and climbing for a plastic ticketing system that no-one wanted, no-one asked for and which does not work. That is what we have got.

When you start to add up the number of these projects and work out where the money has actually gone, you get an understanding of why we are in the position we are in today. There is traffic congestion so travel times for people getting home at night, coming to work in the morning and for industry continue to blow out, which means more time behind the wheel and more money lost to commerce and industry. This is a disgrace.

Mr NARDELLA (Melton) — Politics is an honourable profession. It is difficult but it is honourable, and this is the case for all honourable members. If you give your word, you keep it. If you make a promise, you keep it. If you give a pledge, you keep it. And if you say you are going to release a policy, then you keep your word. Honourable members on the other side of the house do not understand what honour is, what being honourable means or what it is to keep a pledge or a promise. Today it is 637 days since the honourable Leader of the Opposition said in a press release, 'We are going to give you a plan. We are going to give a policy. We are going to give you a pledge to make things better in Victoria'. It has been 637 days and still there is no plan, no policy and no pledge by the honourable members on the other side of the house. They are so lazy that they cannot put pen to paper and have a discussion to work through what their vision is for public transport, for the road network, for the freight rail network or for regional rail services here in Victoria.

As Mr Philip Davis in the other place said, with reference to David Davis, also in the other place, they are too lazy to do any policy work at all. David Davis spent about 10 minutes working through the health policy before the last state election: 10 minutes working out what he was going to do to spend billions of dollars in health. But this honourable member for Polwarth, the shadow Minister for Public Transport and shadow minister for roads, has not spent even 10 seconds working out what he will do in the areas of public transport and roads and ports here in Victoria.

The only thing we can go on is the opposition's past record on public transport and roads and ports. What did it do in the area of roads and ports? It slashed and burned. It did not invest in roads and ports here in Victoria. When we went out there and spent a billion dollars on bay dredging, all opposition members did was criticise. Everything we do they go out and criticise. When we completed the regional rail upgrade all they did was criticise and say, 'No, you are spending too much; no, you should not be building it; no, you should be doing it in the middle of the city'.

When we were doing the bay dredging the honourable member for Nepean, at every opportunity, criticised and got stuck into us. He was saying we should not be doing it, that we were going to kill a couple of fish, we were going to kill a couple of seals — but I tell you what, the fish and the seals are still there, and more importantly the jobs and the economic activity the dredging has created for Victoria are there too.

But where is the opposition's plan for the vision of Victoria? The member for Polwarth has had 15 minutes to put together a vision for Victoria, to put before this house what the opposition is going to do for the Victorian public, but he could not do it. Opposition members are too lazy. It is too much hard work to sit down and actually work this stuff through.

The Leader of the Opposition got his driver to drive him out to the western suburbs during the Kororoit by-election — he would not drive out there himself; it is over the Yarra River — and then he said this:

> Today's announcement will form part of an integrated transport strategy for Victoria which will be progressively announced in the lead-up to the next state election.

If you give your word, you keep your word. If you are the Leader of the Opposition, you should keep your word. If you are the spokesperson on transport, you keep your word. Opposition members have had 637 days to keep their word and they have not kept their word at all. That is what brings politics and honourable members into disrepute — when they do not keep their word. If you do not keep your word, you are telling untruths to the Victorian public, the Victorian people, road users and other users of these systems.

If we go back and examine the seven long, dark years of the Kennett government, how did it 'fix up' all those things that the member for Polwarth talked about — the railway sleepers, the ballast, the timetabling, the train

carriages, the train services? I can tell the house what the opposition parties did in government because that is what they are going to do when they review the Victorian transport plan: they will slash and burn the vision that we have for Victorians.

In its seven long, dark years in office the Kennett government closed six rail lines. It said, 'Yes, we will fix up the ballast on the railway tracks; we will close the lines so we do not have to replace the sleepers and the ballast or put any more trains on the railway system'. What else did it do? It then sold off all the rolling stock. It did not put it away so that we could then use it — no. Alan Brown, the then Minister for Transport, said, 'No, we want to flog these off'. It was for $20 000 a carriage when they cost $20 million — and he flogged them off.

Members opposite then came out with a policy of putting Victorian police members on every station from 6.00 p.m. until the last train.

Mr O'Brien — That's right. What's wrong with that?

Mr NARDELLA — The honourable member for Malvern says that is right. What will these police members do? They will be sitting on those park benches if members opposite ever get elected, and I will be able to go and sit with them on the park benches and have a smoke with them because that is what they will actually do. Will it be protection work? No. Will it be going up and down the carriages? No. They will be sitting down on the park benches on every single station smoking cigarettes. How will members opposite pay for it? By sacking every single V/Line conductor on the regional services to pay for this stupid policy they cobbled together in their 10 seconds of thinking. They will slash, they will burn, they will close railway lines, they will cut and slash services like they did in those seven long, dark years, and yet the member for Polwarth mocks the government for putting together a $38 billion Victorian transport plan. He mocks us for investing in the M1, and we copped all the criticism during the development and construction of EastLink.

At every opportunity opposition members went out there and busted us on that. They criticised us time and again for the construction at Anthonys Cutting. They criticised us on the Deer Park bypass. We were criticised on the new V/Locity trains. We have built them, added the extra capacity and added the extra timetables but still the honourable member for Polwarth has gone out there and criticised us.

I was there in Ballarat when we announced 200 more regional rail services in country Victoria. What did the honourable member for Polwarth do? This genius of the Liberal Party, this giant of intellect within the Liberal Party who is so busy trying to steal the job of the Leader of the Opposition, went out there and criticised the 200 extra rail services that we had worked to put in place in regional Victoria. That is the extent of his party's policy and its thinking with regard to the vision for public transport, roads, ports and freight within Victoria — to criticise. When you have no idea, you go out there and criticise. When you have no idea as to how you will increase services and re-establish rail services to places like Ararat and Bairnsdale, you criticise.

The really ludicrous situation was that when the Kennett government closed the Bairnsdale rail line — I remember that because I am a bit old and I have been here for a while — its argument was that the bridge going to Bairnsdale could not handle the weight of the locomotives, but it had to get a locomotive down there to rip up that track and that locomotive was heavier than the limit the government of the day claimed the bridge could take. That is an example of its policy. Its policy is to slash and burn; it is not to do the upgrades. Its policy is not to be able to do the thinking for the vision that is needed here in Victoria to maintain the economic growth, the jobs, the prosperity, the livability and the lifestyles of people here in Victoria. The member for Polwarth had 15 minutes to put together a policy and he failed miserably, like all members opposite will fail later on this year.

Mr O'BRIEN (Malvern) — My fifth edition *Australian Pocket Oxford Dictionary* defines the word 'chutzpah' as a colloquial noun, derived from Yiddish, meaning shameless audacity. Perhaps for the sixth edition the editors could simply copy and paste the text of this matter of public importance, because I have never seen anything that is so dripping with shameless audacity as this government trying to come in here, in a self-congratulatory debate, and claim that it has the best transport network in Australia. What planet are these people living on?

The first thing I would like to refer to is this reference to the $38 billion Victorian transport plan. The $38 billion is the first bit of deception, because if you do not have the money to pay for it, it is not a plan; it is a wish list.

The government does not have $38 billion or anything like that amount waiting to be invested in transport infrastructure. Dreaming about what you might like to do if you win Tattslotto might count as a pleasant

diversion and one that many Victorians might practise on a Saturday night, but it hardly amounts to a plan. Yet this Victorian transport plan seems to be dependent on the magical apparition out of nowhere of tens of billions of dollars to fund it.

For all the talk we have seen from those opposite what have we actually seen delivered under this $38 billion so-called transport plan? There has been precious little except for annoying taxpayer-funded advertising that is not informing the public about what the government is doing but rather desperately trying to convince the public that the government has got a clue about what it is doing. There has been $5.5 million spent on ads, but Victorians know you cannot catch an ad to work in the morning. This is a government that believes it is more important to invest in public relations than public transport.

Let us just have a look at one of the promises from the plan — this is a beauty — the South Morang rail extension. When was the South Morang rail extension promised by Labor? That would be 1999, more than a decade ago. So more than a decade later and more than a decade late the government says it is finally going to get around to doing something about the South Morang rail extension. Let us have a look at what the cost is. When the Labor Party announced this policy back in 1999 what did it say the cost was going to be? It said it would cost $8 million dollars. Let us have a look at what the government now says it is going to cost to deliver on this promise a decade later. The cost will now be $562 million. That is 70 times the previous estimated cost. Let us have a look at what the Premier is reported to have said about this difference at a press conference that he held with the former public transport minister, Lynne Kosky. I am keen to quote the Premier directly so I cannot be accused of misquoting him. I will read the question first so that we can put it all in context:

> REPORTER: The extension was originally promised by Labor back in 1999 at a cost of $8 million. Why is there such a jump now in the cost of this project?
>
> BRUMBY: Well, look, I think, you know, when it was promised back then, it was … part of the opposition policies at the time, and I think it was probably difficult to get accurate costings and accurate information.

That is unbelievable! What a weak and pathetic response to a shameful piece of financial mismanagement. There was a cost blow-out from $8 million to $562 million and the best the Premier could say was, 'Oh, it is really hard in opposition to get your costings right'.

I have seen a lot from this government in terms of major cost blow-outs. I have seen a $1 billion upgrade of the M1 CityLink-West Gate link become a $1.4 billion upgrade. How many extra kilometres of road do taxpayers get for that $400 million blow-out? They do not get one inch, not one centimetre. There are not even decent sound barriers for my constituents or those of the member for Burwood — who did not even stand up for his area. However, that $400 million cost blow-out pales into insignificance compared to South Morang. The South Morang blow-out puts the other blow-outs in the shade. It is a 7000 per cent costing error.

Excuse me, Deputy Speaker, if I never take seriously any call from the Labor Party for this side of the house to provide the government with costings on our policy initiatives. This puts the government's so-called $38 billion transport plan into context. I suspect the $38 billion figure came from the same people who did the South Morang rail costings. If that is actually 70 times inflated, maybe the $38 billion plan is actually only a $543 million plan.

Let us have a look at some recent events of this so-called best transport network in Australia which the government claims to have provided. I am the member for Malvern; I am very proud to represent that electorate. We saw brake failures on five trains at Malvern station just this past weekend. Usually my constituents cannot get on the trains because they are overcrowded. Now they cannot get off them because the brakes do not work. And this is the best transport system in Australia, the government says in this self-congratulatory motion. I am looking forward to part of the plan being to install tail hooks at Malvern station to try to stop those trains flying past because their brakes do not work anymore. When you get on a train you should not have to play Brumby bingo as to whether you are going to arrive in one piece or whether the brakes are going to work.

Mr Foley — Arrive in one piece — for goodness sake!

Mr O'BRIEN — This is exactly the sort of disgraceful situation we have. The member for Albert Park scoffs at that, but he obviously did not read yesterday's *Herald Sun* because there was a two-page spread, on pages 4 and 5, titled 'Thousands at risk of train disasters'. The article refers to the tender documents from Metro Trains Melbourne as saying:

> Buckles are of particular concern as, apart from being disruptive when they occur, these have the potential to cause derailment of trains or collision with structures or trains on the adjacent lines, with catastrophic consequences …

Let us have a look at myki, which was originally estimated to cost $494 million and now is costed at $1350 million and counting. And for what? For a delayed dysfunctional system that does not work. Instead of wasting hundreds of millions of dollars on a white elephant ticketing system that does not work, and which nobody asked for, the Brumby government should have invested in a safe and reliable public transport system, as the member for Polwarth has already indicated.

What are the government's other great initiatives? Clearways — this is terrific! The government is putting out of business a whole lot of small businesses in my electorate and in other municipalities like Yarra and Moreland. The minister is now being taken to the Supreme Court by those municipalities, which have Labor, Liberal, Greens and Independent councillors. What has been the result of the extended clearways that have been put on Sydney Road, Brunswick? The time saving as a result of these extended clearways has been 14 seconds. This government is going to drive small business to the wall, throw people out of their businesses, throw people out of work for a 14-second time saving. Fourteen seconds is not even enough time for a person on a tram when they get home to see one of the government's stupid self-promotional ads. They would only catch the last half of it. For 14 seconds this government is going to kill small business and throw people out of work.

The government spent $20 million on fairy lights for the West Gate Bridge. Talk about putting your failure up in lights! Actually it does explain something: we now know why this government has increased liquor licensing fees by $20 million. We know where it is going to get the funding for the fairy lights, because the only thing it has increased revenue from by $20 million has been liquor licensing. We see where the money is now going — to the fairy lights on the West Gate Bridge. This is the Brumby government's transport legacy. It is a litany of disasters.

The worst thing about this motion is not the self-congratulatory, self-promotional deception in its claim that Victoria has the best transport network in Australia but the fact that it does not recognise that it has problems at all. The government has gone beyond spin; it is now completely into self-delusion. Members of the government actually believe this stuff, and that is the saddest thing. This explains why the government is completely out of touch and needs to be out of office come 27 November. It has had 10 years, going on 11 years, to get it right, but things are going backwards — they are not getting better but getting worse. The government is in denial. It does not understand how bad the situation is. It does not understand how the impact of its failures is hurting ordinary Victorian families.

The government's transport legacy is ticketing machines that will not start, trains that will not stop and tracks that seem to buckle whenever the sun comes out. This is a terrible transport trifecta from a terrible and terminal government. The fact that members of the government have come in here and argued that Victoria has the best transport system in Australia shows how out of touch and delusional they are. Come 27 November the people of Victoria will have the chance to sweep away the failures of the last 10 years and replace the government with one that will get to grips with fixing transport in Victoria.

Mr CRUTCHFIELD (South Barwon) — I hope to bring a regional country perspective to this matter. Unfortunately The Nationals appear not to be speaking in this debate. I hope they will speak, because they might provide an interesting perspective on this issue, particularly on roads, on which their views sometimes differ from those of members of the Liberal Party.

In terms of investment in the Victorian transport plan, I will be proud to take it to judgement day in November. The government unashamedly has a plan for all corners of Victoria, unlike the Liberal Party, which committed some 637 days ago to putting forward a transport plan that has still not seen the light of day. The two opposition speakers on this matter of public importance today, one of whom is the shadow Minister for Public Transport, have offered no articulation — or even a hint — of what the opposition's transport plan will be, even after the Leader of the Opposition has said he will progressively put forward his visionary transport plan for Victoria for decades to come.

One thing the Leader of the Opposition has said which concerns regional members — I note that the member for Lara is in the house — is that he would review the Victorian transport plan. That conjures up visions of what was done by the last Liberal state government in the Kennett years. In the last financial year of its time in power it spent just $60 million on public transport. In its 2009–10 budget this Labor government provided $6 billion worth of public transport projects. There is a stark difference between those figures, and that is a reminder to the public about which party is committed to funding and improving public transport.

There is no doubt there are problems to be fixed, and we will continue to invest in fixing those problems, whether it be through track maintenance, additional rolling stock or the 4.3 regional rail link — —

An honourable member — $4.3 billion.

Mr CRUTCHFIELD — $4.3 billion — a large commitment from the federal government towards the regional rail link. I hope that is not one of the projects that the coalition is talking about cutting from the $38 billion Victorian transport plan. I know Geelong people would judge the coalition very poorly if it were. The regional rail link has been very well received. I have experienced the blockages at North Melbourne railway station, where Geelong services compete with metropolitan train services, and they are painful. The regional rail link will deliver faster and more reliable services and will result in a dramatic increase in patronage, particularly — being parochial — for the Geelong region.

Will the coalition cut the $2.8 billion river crossing, which the people of Geelong are looking forward to in the medium term? The M1 project is nearing completion, and Geelong people have been patiently looking forward to the full opening of what I think is a $1.3 billion project that will benefit not only Geelong commuters but also Geelong businesses. Those links are important not just for residential commuters but are economic drivers in their own right.

During the last few minutes of my contribution I will focus on country roads. The government has a strong message for Geelong on public transport, whether it be the Geelong railway station upgrade, other station upgrades, the new station at Marshall, the dramatic changes in timetabling for commuters or the soon-to-be started 1000 additional car parking spaces that we have announced for Marshall station. We will soon be starting the first tranche of 300 car parking spaces for commuters at Marshall station. This is a very good story to tell.

In the 637 days since the announcement during the Kororoit by-election campaign that the Liberal Party would put forward its public transport plan — we are still waiting for that — the government has been opening stages of my favourite project, the Geelong Ring Road, between Corio and Waurn Ponds, a $380 million part of what has been the most positively received project in my electorate bar none. I continually get people thanking the government for the vision it had in 2002 and reminding us that it was the previous federal Liberal member who for years refused to match the funding for that project. They also remind us of the state Liberal Party's silence on the issue. The opposition believes the state of Victoria should fund the ring-road on its own. By its silence the opposition indicates it believes the federal government should not contribute on a 50-50 basis to what is recognised as a joint state-federal government project.

The current state Liberal opposition has form, because that view continued on stages 4A and 4B of the ring-road, and I congratulate my colleague Darren Cheeseman, the federal member for Corangamite, for delivering the matching funding for stages 4A and 4B. If people go down to Geelong now, they will see massive construction works. Stage 4A is well progressed and we are soon to start 4B, which will link to Princes Highway west. That is something that our friends opposite would have liked Victorian taxpayers to fund on their own.

The opposition's form continues. Now we are looking at the first stage of the duplication of Princes Highway west, something the state government argued that the federal government should fund on a 50-50 basis, as it should Princes Highway east, which at least one part of the coalition acknowledged should be federally funded. I noticed that The Nationals policy at the previous election argued that both Princes Highway west and Princes Highway east should be part of the AusLink funding agreement with what was at the time a federal Liberal government. That is in stark contrast to what the members for Polwarth and South-West Coast have said, and I am certain they will be reminded by their councils of the view they took that Victorian taxpayers should pay for a national road all the way through to Winchelsea and potentially up to Colac.

Thankfully that is not the view of members of The Nationals. They said they would be lobbying the federal government for a 50-50 funding split for that road. That has not occurred in Geelong, and Geelong people are very conscious of the lack of dedication to a position on federal funding and the position of the Liberal Party, particularly the member for Polwarth. It is of note that there was recently a publicity stunt by the federal opposition leader, Mr Abbott, who fortunately was not involved in a serious car accident but came very close to it. It is ironic that that stunt was on a road to which he has committed not one dollar. He has still not committed to matching the $110 million we have committed to the Princes Highway duplication to Winchelsea, and he certainly has not put up 1 cent for the duplication from Winchelsea to Colac.

I note that the member for Polwarth said he would commit $80 million to duplication of the highway from Geelong to Winchelsea. That would not have gone one-third of the way. That was the Liberal Party's proposed contribution. The cost of the project is $220 million, half from the federal Labor government and half from the state government. These governments are delivering

those projects. The Liberals again have form on this option down Geelong way. They threw out a figure that was nowhere near the full cost of that project in respect of the Geelong Ring Road.

They did it with the Torquay secondary school. They said they would provide $5 million for some mystical place in Torquay. The actual cost they are now coming up with is $20 million.

They have form from a costing perspective, and they certainly have form in not supporting legitimate federal money for Geelong to relieve the cost burden on Victorian taxpayers and allow us to continue road upgrades in areas around South Barwon such as the Mount Duneed Road, where we have spent some $6.3 million upgrading the road and the roundabout.

Mr TILLEY (Benambra) — Amazement and astonishment are probably the best words to describe my reaction when I first saw the matter of public importance the member for Tarneit wanted to debate today. I was amazed because the member for Tarneit, who moonlights as the Minister for Roads and Ports and was formerly chief of staff to the then Premier, Steve Bracks, has chosen this forum to celebrate 10 years of personal failure as one of the most senior members of this government from day one.

It is also apt to say I was amazed and astonished at the speech the member gave today. I wonder if he is living on another planet. Whether they live in the country or the city, Victorians are hurting because this minister is so arrogant, so out of touch and because he so clearly has no clue what is happening each day to every Victorian family. The words 'dishonest' and 'brazen' probably best describe the claims made here today by the member for Tarneit.

As an aside, I must admit I had to laugh as I read further into the member for Tarneit's matter of public importance, especially where he talks about wanting the people of Victoria to be informed, because we all know how keen the member for Tarneit is on informing people. Here is a question for the member for Tarneit: if he is so keen on the idea of informing the people of Victoria, why does he not inform the people of Victoria about his role in informing people that their telephones are tapped? If the member for Tarneit is so keen on informing people, why does he not come into this place and inform us of any discussions he has had in his role as the member for Tarneit in his role as the Minister for Roads and Ports or in his previous role as chief of staff to the Premier, of informing any person he knew to be subject to covert surveillance by Victoria Police and/or the Office of Police Integrity of that fact? If the minister had the conviction to come into the house now, we could ask how many people he informed who were not authorised to have such covert surveillance information under various Victorian laws.

Mr Hudson — On a point of order, Acting Speaker, I thought this matter of public importance was about public transport; I did not understand it to be about telephone tapping. Perhaps you could bring the member back to the question.

Mr R. Smith — On the point of order, Acting Speaker, the member for Melton has already raised issues of integrity, and the member for Benambra's comments are in keeping with that.

The ACTING SPEAKER (**Mr K. Smith**) — Order! It has been a very wide-ranging debate which I understand is in regard to transport. I am sure the member for Benambra will now come back to transport.

Mr TILLEY — It is a point of honesty and integrity. On transport I challenge the minister to put his money where his mouth is. Let us get to the facts about Labor's failure in public transport. The member for Tarneit wants us to believe Labor should be congratulated because it has delivered on public transport. That is patently dishonest, because Labor has failed to deliver on all its promises. The transport plan the member wants to be feted for in this place is the fifth — it is not the first — transport plan since 2003. Funnily enough, we have had roughly the same number of transport ministers since that date.

Labor did not deliver on its first, second, third or fourth plans and is yet to get even close to delivering on its fifth, but we have seen self-congratulatory backslapping today and over the last 10 years, and the self-aggrandising statements have been flowing freely from those poor souls on the other side who know no better. It is completely dishonest, because instead of more rail lines, sleepers, train carriages, ticketing systems, on-time services and signals, all Labor has delivered is billions upon billions of dollars in project overruns, years and years of delays and cancelled service after cancelled service.

It is simple maths time now: how can 11 words add up to roughly $2.5 billion — cost blow-outs on regional fast rail, Southern Cross station and myki. Labor's $494 million contract for the myki public transport smartcard was awarded in July 2005 to the Kamco consortium. Five years later the total cost of myki has blown out to in excess of $1.4 billion. Worse still, myki is not fully operational, there is no firm operational date

from government and as recently as last week we heard throughout Victoria in the print and electronic media that the Premier has started to soften the ground to dump the system before the next election if it all gets too hard. It does not matter whether you are in the country or the city, myki is an absolute disaster and one which will not be fixed anytime soon.

We heard about regional fast rail in earlier contributions. Labor does not want us to remember this, but we remember that everyone was going to get super-fast trains that would go everywhere for the great low price of just $80 million. Labor's regional fast rail to Ballarat, Bendigo, Geelong and Traralgon eventually cost taxpayers almost $1 billion. That is a cost blow-out of around $900 million. Is that just an oops or simply an absolute disgrace? These trains, which Labor claims are super-fast trains, are slowed in summer because Labor does not trust the infrastructure. This case is pathetic. This government is pathetic. It cannot stand up and ensure safety on rail infrastructure through the state of Victoria.

In my own electorate the north-east rail corridor project is over budget and late. The Wodonga rail bypass, which was originally funded just before Labor came into office, is running 10 years late as well. For 10 years Labor has promised and re-promised to get the job done. It has to be the longest train delay in Victorian history. Each day I draw breath I hope that we may be getting closer. Let us see what happens.

There are still numerous unanswered questions of this government: when will construction of the bypass be completed? When will the first passenger service between Wodonga and Melbourne depart? When will the government honour its 2001 commitment to local business regarding the rail spur? It is continual dishonesty, because despite Labor insisting that it has a $38 billion transport plan, it cannot tell us where the money is coming from. Exactly who is going to pay? In excess of $30 billion of the $38 billion is unfunded and has yet to be accounted for.

It is good to see that the Minister for Roads and Ports has not forgotten the practice of traditional Labor Party accounting — spend, spend, spend; no return on investment; no accountability and no idea where the next dollar is going to come from. That is the sort of accounting that Alan Bond, Bernie Madoff, Gough Whitlam, Jim Cairns, John Cain and Joan Kirner would be proud of. For 10 long years Victorians have faced year after year of delay, and billions of dollars in cost overruns. Ten long years, and $1.3 billion has been spent on a ticketing system which still today does not work. Ten long years, and a new public transport operator says that Victorian public transport infrastructure is so bad that Melbourne commuters are at risk of catastrophic accidents caused by dangerous train lines. Broken rails, old wooden sleepers and old components were also identified as a danger on busy lines. Metro Trains Melbourne's tender documents stated:

> Buckles are of particular concern as, apart from being disruptive when they occur, these have the potential to cause derailment of trains or collision with structures or trains on the adjacent lines, with catastrophic consequences.

Yet the government has the cheek and the gall to come into this place today and congratulate itself on a job well done. What a joke!

Whether as the most senior government adviser or as a cabinet minister, the Minister for Roads and Ports has his handprints all over the government's list of failures. Labor's record of delivery is atrocious. There can be no other way to describe the waste of time, money and opportunity: all thanks to Labor.

A coalition government will get the basics of Victoria's rail system right. It will focus on fixing the track ballast and its drainage; replacing timber sleepers with concrete sleepers; replacing, not refurbishing, as Labor has done, points and crossings and signals so we can keep Victorians safe. The Liberal Party will most definitely focus on the safety of public transport users with the deployment of our protective services officers at train stations, because people are not safe on public transport under Labor. This continues to be a disgrace and has gone on for far too long. Labor just does not get it. During a recent tour, the great Australian rock band AC/DC played its new song *Rock'n Roll Train*. The lyrics sum up Labor's record on public transport in the best way: 'Runaway train, she's coming off the track'.

Mr HUDSON (Bentleigh) — It is a great pleasure to speak on this matter of public importance put forward by the Minister for Roads and Ports. The Victorian government not only has a plan, it is actually spending money on the plan. If the opposition had bothered to have a look at the budget, it would have seen that this year alone we are spending $8 billion implementing the Victorian transport plan.

The member for Benambra cannot seem to make up his mind. He does not know whether we are spending no money or wasting a whole heap of money. He does not even know what the figures are, because he has not bothered to do the work and have a look at them. The whole point is that the Victorian transport plan is a comprehensive plan. It is an integrated plan with short, medium and long-term goals. If you have a look at

what has been achieved over the last year, you can see that it is being given effect to.

We have already started work on the $750 million Peninsula Link project. The grade separation at Springvale Road in Nunawading has already been completed. We have started work on the upgrade of the M8 ring-road.

Mr R. Smith interjected.

Mr HUDSON — The member for Warrandyte knows that at the last election the opposition went with a policy for five rail crossing upgrades at a cost of $200 million. The Nunawading railway crossing upgrade cost $140 million. Which government do you reckon would deliver these rail crossing upgrades? Not one with the member for Warrandyte in it, that is for sure.

The $1.39 billion M1 upgrade is well under way, and we hear the opposition describing that as a waste of money. There is the construction of extra lanes to relieve congestion, the introduction of state-of-the-art freeway management systems to improve traffic flows and reduce crashes, and of course the strengthening works on the West Gate Bridge.

If you look at public transport, you will see we are introducing onto the metropolitan rail system a new train every month for the next three years. If you look at regional trains, you will find we have added an extra thousand seats on our regional rail in the last year. If you look at the regional rail link, you will see work has started on the construction of that link, with work on platforms 15 and 16 at Southern Cross station.

To put into context the $8 billion we are spending this year, in the seven years it was in power the Kennett government spent $7 billion altogether on roads, rail, hospitals, schools, every other bit of infrastructure. We are spending $8 billion this year, yet the opposition has the hide to come in here to say there is no funding in this plan. The money is being spent, and it is delivering results. Now what the opposition wants to do is trash the plan. It is saying, 'All bets are off. We will honour the existing commitments, but the rest of the plan is out the window'. What the opposition does not seem to understand is that unless you plan today, you will build nothing tomorrow. You will build nothing because unless you have a plan you are not going to make good decisions, and good plans shape good decisions.

The opposition has learnt nothing from 2006, when it said about the Geelong Ring Road that a Liberal government would not proceed with the Geelong bypass route option 1 nor the proposed extension, that a Liberal government would rule out Labor's option 2 but would continue to support the Geelong bypass. But guess what? In the bottom line, in the actual policy, there was not a dollar for the Geelong Ring Road. And guess what? Option 1 has been built, the people of Geelong are happy, the people of Victoria are happy, the bypass is in place and travel times around Geelong have been reduced.

The problem with opposition members is that they are found wanting whenever they are given the opportunity at an election to make commitments, to put their dollars where they say their commitment is. They promised in 2006 to build the Frankston bypass for $250 million. Guess what? The Frankston bypass cost $750 million. They were out by $500 million. Opposition members promised to get rid of five level crossings for $200 million but the crossing at Springvale Road, Nunawading, alone cost $140 million. Opposition members promised to extend the rail line to South Morang for $12 million but in fact it will cost $562 million. They were out by $550 million.

Members of the opposition are ripping up the Victorian transport plan because in their hearts they really could not spend $38 billion. That is what is behind their incredulity today that any government, this government, would actually commit that amount of money towards building a transport system in Victoria.

The opposition is putting at risk a whole raft of projects. In the south-eastern suburbs, down in Mordialloc and Bentleigh, the $80 million Dingley bypass from Perry Road to Springvale Road will create a road connection from the South Gippsland Highway through to Westall Road which will carry 30 000 to 40 000 vehicles a day. In the outer eastern suburbs the Cardinia Road railway station will service the growing populations of Officer and Pakenham, which are predicted to grow by 40 000 people in the next 10 years. The opposition's plan for outer suburban roads at the last state election was to cost $98 million. Under this transport plan we are committing $1.9 billion to outer suburban arterial roads to provide better connections between growing areas. Those projects would be cancelled by the opposition.

The biggest hoax of all which is being perpetrated by the opposition relates to public transport. The opposition knows — because Sir Rod Eddington and all the transport experts have told us — that if we want to cater for the exponential growth in public transport in Melbourne, we have to unclog the central arteries of that system. We have to build the Melbourne Metro rail tunnel, which will run from Footscray down through the Parkville university and hospital precinct, under the

CBD, along St Kilda Road and out to the Domain as a minimum first stage. It is a $4.5 billion project which will provide a dedicated rail line for Sydenham and Sunbury rail services with 20 trains an hour running in each direction. The growth of those suburbs is exploding because of the number of people who are moving into those areas, and if we do not go ahead with the project we are going to continue to clog up the system as all of those extra train services approach Southern Cross station and the inner city rail loop.

We have already committed $775 million, which is to be allocated in 2012–13, to commence that important Metro rail tunnel, which will be a quantum leap in travelling in the Melbourne metropolitan area. However, what members of the opposition are saying here today is that they will scrap that project. Presumably they will also scrap the 32 new next generation trains, which are to cost $2 billion and which will run along that system to make sure that we can transport 40 000 people an hour in both directions.

The member for Polwarth, the opposition's transport spokesman, has made it absolutely clear that those projects will be scrapped. He would not commit to the Melbourne Metro rail tunnel when he was on ABC radio with Jon Faine last year; he backed away from it. He said the opposition had a back-to-basics approach: back to concrete sleepers, rail signals and track maintenance — I think he referred to it as ballast today — ignoring the fact that in the new franchise agreements an extra $500 million is going to be spent on rail maintenance over the next eight years, bringing the total amount spent on track maintenance, on concrete sleepers and on that signalling system to $1.8 billion.

The member for Polwarth has said, and the Leader of the Opposition confirmed it in the *Cranbourne Leader* of 3 March, that the opposition is going to scrap all of those projects that are essential to Melbourne's growth and livability and essential to making sure that Melbourne's commuters and its rail freight can efficiently move around this city.

What can we expect in the future? Who do you believe will deliver a transport plan? Will it be the opposition that spent $60 million on public transport in 1999 or the Brumby Labor government that committed $5.3 billion to public transport in last year's budget? That commitment is why we will deliver on transport and the opposition will not.

Mr BURGESS (Hastings) — It is a pleasure to stand and speak on this matter of public importance (MPI). When I first read the topic for this MPI I half expected to see the panicked Minister for Public Transport come running in here this morning saying, 'Hang on, I was only joking', because seriously he must have been only joking.

To understand what this MPI is really about you have to understand what the Labor Party is about. I have heard people try to explain the differences between the Labor Party and the Liberal Party. They say that the Liberal Party is about a means to an end, politics is about a means to an end and gaining political power is about a means to an end, but with Labor everyone seems to agree that the means and the end are the same. It is all about getting political power; it is all about staying in power, and members will say and do anything to stay there.

Much of the approach of the Labor Party can be explained by reference to its background of involvement with the union movement. What we see from members of the union movement is that regardless of the truth they know that if they say things loudly enough and often enough people will end up either believing them or ignoring them and hoping they go away. In this situation we are getting exactly the same thing again. The Labor Party is again taking every opportunity to try to get the chanting done. It is chanting that it has a public transport plan. It is chanting that it knows how to run the public transport system, but clearly it does not.

This disingenuous approach by the Labor Party is not new; it has been going on for some time. One need only look back at the disgraceful performance of the Cain and Kirner governments to see that. That disgraceful performance has been overtaken only by the disgraceful performance of the Bracks and now Brumby governments in not being willing to admit that they even got anything wrong. After the abysmal situation that those governments got this state into, have we ever heard a member of the Labor Party say they got anything wrong? No. Instead they chant, 'Seven dark years'. That is what it is all about for this government. Members just keep on chanting, regardless of whether it is the truth or not, and that is how they get their message through.

It really takes some thinking to understand that these people went away and instead of sitting down and working out the mistakes they had made and working on a way to make things better, like any other organisation or group of people would have done, they thought, 'What we will do is just chant that it was not us. It was Kennett who made the mess, and eventually, hopefully, people will believe that'. I am here to tell

government members that people do not believe them and that people have long memories.

Once we understand how the Labor Party works and thinks, it makes it much easier to understand what this MPI is about.

Honourable members interjecting.

The ACTING SPEAKER (**Mr K. Smith**) — Order! If the members for Warrandyte and Albert Park want to have a discussion, they should go outside. The member for Hastings has the floor.

Mr BURGESS — Most people struggle to tell lies, and they find the discomfort of such ongoing deceit difficult to bear. Harking back to 1992 and before that, the Cain and Kirner governments had driven this state almost into bankruptcy. They were paying public servants with State Electricity Commission cheques and could not meet interest repayments. But have we ever heard members say that was the case? Have we ever heard them take even the smallest bit of responsibility for that catastrophe? No. We have not because they do not. They never take responsibility. This MPI is just another clever use of parliamentary processes to try to drive their mantra home to the community that they are doing a good job.

One only needs to look at the government's incessant advertising every night on television where, regardless of what sort of performance it is giving out there in the marketplace, regardless of whether the services are being delivered, it tells you every night that they are being delivered. The government is reliant on the fact that at least some people will believe that. To date some people have believed it, but that belief is quickly running out.

If anybody doubts that this government is manipulative of this community to that extent, they just need to go and reread the Minister for Planning's leaked memo. That should be an eye-opener and a heads-up for everybody in Victoria of what this government is really about.

The Labor Party is strong on saying it is going to do things, promising it is going to do things and saying it did them, but in effect it is really doing nothing. We stood here around about nine months ago discussing a similar MPI — it was about rail safety — and what has happened since then? Nothing. Things have got worse. Things in my community are exactly the same as they were then. When we look at the railway crossings that have killed people in my electorate, we see this government has done nothing to address them. The Bungower Road crossing that has shown itself to be a death trap sits in the same circumstances it was in nine months ago.

Then there is the myki fiasco. This government is so arrogant and full of itself that it could not simply take an off-the-shelf product that was proven to work. No, it had to do something that would be branded as its and its only. The Premier's arrogance has cost Victorians at least $350 million and three years delay, and myki is still as misplaced as this Premier's conceit.

On an early morning trip on the Stony Point line recently, people were saying en masse that they do not want myki, that they do not have myki cards — and who can blame them? Frankston station is a fairly large interchange hub, but it has no myki infrastructure, and yet smaller stations further down the track — at Somerville, for instance — have myki ticketing machines. They do not work, but they are still sitting there, and they have been vandalised. This government cannot even protect the infrastructure that it spends Victorian taxpayers money on. But then it finds it impossible to look after Victorians, so why would it be any better at looking after their infrastructure?

Last year the government had a significant opportunity in the Mornington Peninsula bus review to come up with some solutions for public transport problems in the Western Port area. Its review identified major deficiencies, but its action plan completely ignored them. Again that was a great opportunity ignored by this government.

My community struggles to move backwards and forwards across the Mornington Peninsula. It needs transport solutions, but what has the government done about that? Nothing. Other services are quite sparse. The Hastings community has difficulty reaching services that the government has now relocated to the end of High Street. What transport has the government put in place to allow the elderly or single mothers, who often do not have cars, to reach those services? Again, nothing. It has been left up to local clubs and organisations to organise shuttle services. That is a complete failure by this government.

Again getting back to the issue of railway level crossings, the Mornington-Tyabb Road crossing was said to be almost impossible to upgrade. Within three weeks of the death of a young expectant mother it was upgraded. The next crossing along the line — the Bungower Road crossing — has cost another local life. Again there are promises but nothing has come about.

This government refuses to invest in the safety of Victorians. As if the Bungower Road crossing was not

bad enough, there is now a situation where because the government is not willing to invest in the safety of Victorians, it is unwilling to put in place a pedestrian crossing to enable people to cross at that crossing. What it is in fact doing is forcing pedestrians out onto the road to take their chances with cars and trains alike. It is a death trap. I am told the reason this has been held up is that two years ago similar work was done at a crossing nearby at a cost of $61 000 and VicTrack is now demanding $250 000 for the same type of work. It is an absolute disgrace.

There are regular cancellations of trains on the Stony Point line and they are often running late. Commuters often find themselves on buses that do not find their way to the station in time to reach the connecting trains. One basic and undeniable fact is that the longer this government continues in power, the worse things will get.

Mr DONNELLAN (Narre Warren North) — It is an honour to speak on the matter of public importance today. I am firstly going to look at the initiatives the government has put in place and make a direct comparison with the last term of the Liberal government and, quite specifically, the impact of the last term on the city of Casey. Total spending on roads in Casey by the last Liberal government was $3 million in total. That is not a lot of dough. All the Liberal government could offer for road initiatives in the city of Casey, one of the fastest growing areas in Victoria, was $3 million. That is not a lot.

I am just going to briefly read out some of the projects that have occurred since I have been a member of Parliament and a little bit prior to 1999. We have had the Belgrave-Hallam Road run-off-road-crash treatment, Wellington Road to Heatherton Road, at a cost of $1.1 million; new signals at the Berwick-Cranbourne Road and Enterprise Avenue intersection at a cost of $2 million — already above what the Liberal Party offered in its last term; the Berwick-Cranbourne Road duplication, Greaves Road to Pound Road, at a cost of $8.9 million; the Baxter-Tooradin Road realignment at Fisheries Road, Devon Meadows, at a cost of $900 000; and the Cranbourne-Frankston Road duplication, Scott Street to Hall Road, at a cost of $21 million. It is starting to get embarrassing, because in comparison to our achievements what the Liberal Party did for the city of Casey, which I represent, was very little.

The Hallam bypass was an initiative of the Liberal Party — I would not dare claim credit for that — but at the end of the day it was completed by us 17 months ahead of schedule. Hallam Road South got new signals at a cost of $1.7 million; the Hallam Road duplication, from Hallam bypass to James Cook Drive, was completed at a cost of $9.9 million; at Hallam Road there were new intersection signals at a cost of $2.1 million; the Heatherton Road–Belgrave-Hallam roads intersection upgrade was completed at a cost of $2.5 million; the Narre Warren-Cranbourne Road duplication, from Princes Highway east to Fleetwood Drive, was completed at a cost of $1.5 million; and the Narre Warren-Cranbourne Road duplication, from Princes Highway east to Golf Links Road, was completed at a cost of $22 million.

We had the Narre Warren–Cranbourne bus bay works built in Narre Warren South at a cost of $145 000; the Narre Warren-Cranbourne Road pavement rehabilitation, from Greaves Road to Pound Road, at a cost of $3 million; the Narre Warren-Cranbourne Road bridge rehabilitation works over Hallam main drain at a cost of $460 000; and the Narre Warren North Road duplication from Magid Drive to Ernst Wanke Road at a cost of $7 million. It is amazing. The Narre Warren North Road duplication was completed at a cost of another $2.2 million, and the Pakenham bypass was jointly funded by the state and federal governments for $242 million.

The suggestion we have had so far from the Liberal Party that not much is happening, for argument's sake, in my area, as the members for Bass and Hastings would know, is completely untrue. In the local area I represent this government has undertaken substantial work building the place to make it possible for people to move around the electorate, get to school to drop their kids off, get to work and the like.

Further, there is the Shrives Road bridge rehabilitation at a cost of $730 000; the South Gippsland Highway and Baxter-Tooradin Road intersection upgrade at a cost of $2.4 million; the South Gippsland Highway shoulder sealing from Clyde-Five Ways Road to the Bass Highway at a cost of $3.5 million; the Thompsons Road run-off-road-crash treatment at Evans Road at a cost of $1.5 million; and the Western Port Highway duplication and South Gippsland Freeway duplication to Thompsons Road at a cost of $26 million. Black spot safety upgrades costing $2.9 million occurred at Princes Highway, Baxter-Tooradin Road, South Gippsland Highway, Pound Road, Shrives Road, Ballarto Road, Western Port Highway and Berwick-Beaconsfield Road. The list goes on and on.

The suggestion that this government has not undertaken substantial works to meet the needs of my local community in my area is of great concern. It is simply not true when you compare it to the $3 million the

Liberal Party offered in its last term to the City of Casey, which was the total road funding over that whole period of two and a half or three years. It did nothing. It is simply not right to come into this house today and suggest that somehow or another nothing has been happening with this government.

All members opposite have to do is look at the recently opened Berwick railway station park-and-ride facility, which was completed at a cost of another $1.1 million. They could also look at the Cranbourne-Frankston Road duplication, from Hall Road to the Western Port Highway, which was completed at a cost of $30 million; or at the Narre Warren-Cranbourne Road duplication, from Centre Road to Pound Road, which was completed at a cost of $7.4 million. I would be shocked if anyone dared to suggest that that is not doing enough for my community. If I hear one more complaint from the City of Casey that it is not getting its proper share of road funding, I will probably give up and retire straightaway! It cannot get more than 10 times more than any other council in the whole of Victoria it has already received.

At the end of the day you have to look at basic facts. The rhetoric is fine, but if you look at what we have done, you see that we have completed substantial works. More broadly, let us have a quick look at what other things we have done in my local area. The member for Hastings suggested that railway crossings were not being dealt with, but in the seat of Mitcham, where I used to work, the government has just completed a $140 million investment at the level road crossing at Nunawading. It has been a long-time saga.

I remember when the Liberal Party was running against us in Mitcham it made promises — even before that it had made promises — to deal with that level crossing, but it never happened. The Liberal Party simply did not do anything about it. It was all about promises, promises, promises. It had many years to deliver the level crossing, but it did not do it. At the end of the day we did it. That is the difference: we did the job. The Liberal Party promised but it did not deliver.

Consider the Middleborough Road level crossing, and you will see that again we did it. The suggestion that somehow or another these things are not being dealt with is contradicted by the basic facts. If you drive over Middleborough Road, you see it has been completed. It is not a promise; it has actually been done. In the time we have been in office we have rebuilt many of the areas around Victoria, and we have done a mighty job. For my residents who use the M1 we have delivered new lanes on the Monash Freeway and new ramps on the West Gate Freeway. As these parts of the M1 are fully opened up there will be substantial improvements for people going into and coming out of the city. There is a major upgrade on the M1, and at the end of the day residents in my area will say, 'Thank you very much!'. We have also finished the EastLink project. That is another major substantial improvement for residents in my area in getting into and out of the city, or getting to their work in the east when perhaps they live in the south-east. We have delivered it. We have also started the toll-free Peninsula Link project, and that will be another project that benefits people in my area who head down to the beach and the like for their recreational activities.

The suggestion from the Liberal Party that nothing is being done is a joke. If you look at the channel deepening project, I remember that the Liberal Party was all over the place saying, 'We are not sure we want to do it; we are not sure what we really want to do here; we will have an each way bet'. It did not put much money on the nose, it just said, 'We'll be nice to everybody'. It is a bit like its attitude toward hoons, which was to give a wink, wink, nudge, nudge and say, 'Look hoons, it's not too bad. We don't want to punish you, even if you are behaving like morons and potentially putting people's lives in danger. We don't think that is too bad! We'll give you a wink, wink, nudge, nudge, and you can keep hooning around'.

It is a bit like the speed cameras. The great furphy put out by the Liberal Party, the member for Polwarth and people like him, is to say, 'It's just a revenue raiser. It is another wink, wink, nudge, nudge, to those who are breaking the law'. Opposition members say, 'We are not going to punish you too much if you break the law. We think that is all right'. It is a mixed message from the Liberal Party: 'We don't mind the speeders, we don't mind the hoons, we love youse all'. It is the Jeff Fenech sort of policy where they say, 'We love everybody. We want all your votes. We don't mind if you speed. We don't mind if you break the law. We don't mind if you nearly kill people while you are behaving like a hoon because we think that is all right in the Liberal Party'. But that is not all right; it is inappropriate behaviour.

At the end of the day the Liberal Party has to stop sending these mixed messages; it has to get a policy. That would be a blessing: a policy that people could read and know what the Liberal Party stands for. It is about not standing for everything and anything that will get it a vote, but actually having a clear, concise, specific policy and a clear, concise transport plan and knowing which way it is going. At the end of the day this is about the Liberal Party saying what it stands for and not just that it does not like the Labor Party, which

is pretty much why it came to be. It needs to have a policy and a philosophy on where it wants to take this great state of ours. At the end of the day this state is performing magnificently, but the Liberal Party hacks at and bags everything that comes along. It says it likes the hoons and the speeders, it likes everybody. 'We love youse all', is the policy, and that is about it.

Mr WELLER (Rodney) — I rise today to speak on the matter of public importance raised by the member for Tarneit — that this house congratulates the Brumby Labor government for delivering on initiatives in the $38 billion Victorian transport plan to provide the state with the best transport network in Australia. The member tried to condemn the Liberals and The Nationals. We have to get to the stage where this Parliament, mainly the government, actually does something about transport. The government has come in here this morning in denial that there is a problem. All we have heard from the government side of the chamber is that there is nothing wrong; everything is fine and it has done everything that could be done, which is totally wrong. The government should tell that to the people who were waiting on the platforms for a train this morning. They should tell that to the people who were stuck in traffic on all the major arterials this morning, doing less than 40 kilometres an hour. It needs to understand there is a problem. This government is in denial; it does not hear and is not listening to the problems with which the community is confronted.

All we ever get from this government is another plan. Since 2003 there have been five plans. The trouble with this $38 billion plan is that only $8 billion of it is funded. Rather than a $38 billion plan, it is really an $8 billion plan. Labor's record on delivery since 1999 has been ordinary. It has made promises and remade promises at each election. It made promises in 1999 that have not yet been delivered. Why should the community of Victoria and the travelling public of Victoria believe the government with the plans it has now, especially when it does not have the funding?

The Premier has forged a reputation for failing to deliver on transport systems across country Victoria. In the Rodney electorate the government is trying to force a Murray River bridge crossing at Echuca-Moama — and this directly affects my electorate — despite considerable opposition to its location. The Brumby government has bullied the Campaspe Shire Council into supporting the mid-west bridge corridor. The government has pressured councillors into believing they will not get a second river crossing at Echuca-Moama unless they accept the mid-west crossing. The problem with the mid-west bridge is that it is clearly not in the best interests of the community. The negative aspects of the mid-west bridge alignment will include a substantial increase in vehicle noise; the loss of aesthetic appeal in the tourism and residential areas of Echuca; the loss of public and recreational and educational facilities within the tennis club and Victoria Park precinct and the former secondary college; and the potential for increased traffic levels in the port of Echuca precinct.

Despite strong opposition to the proposed alignment, I must stress that substantial progress has been made through the current mid-west investigations into the second river crossing. The problem with the corridor could quite easily be resolved through an alignment modification and further negotiations. Instead of bullying the local community, the government could be working with the community to have the mid-west 2 alignment, which I put forward during the discussions. The mid-west 2 alignment would take the road away from Warren Street, so we would resolve the problem with the cemetery. There was a problem with extra traffic going down Warren Street. If there was a funeral procession, the cars would have to do a right-hand turn across the traffic. My suggestion would resolve that problem. It would also resolve the problem of taking out six tennis courts. It would leave the amenity of the tennis court area as it is. It would resolve the problem of the amenity of the houses because it would take the road 200 metres away from the houses. It is a far better option, and it is the one that the vast majority of people in Echuca understand and want.

We are being led by the minister to believe we cannot have the diversion for cultural heritage reasons. The frustration felt by the people of Echuca is that it would be diverted across an old tip site and a paddock that has not been farmed for up to 50 years. We believe the government is being unreasonable in bullying the community into accepting a less than optimal route despite what the community desires. The community will continue to fight for that. The government needs to start listening to communities when it comes to transport issues.

I turn to Labor's regional fast rail project for Bendigo, Ballarat, Geelong and Traralgon. It was meant to cost taxpayers $80 million but, as we have seen, this government has never been able to manage money and the cost blew out to $819 million, a blow-out of $839 million. This government cannot manage the transport system; it cannot manage major projects.

Labor's $494 million contract for the myki smartcard to be used on public transport was awarded in July 2005. It is now forecast that it will cost $1.416 billion; another

major blow-out. What transport links could we have built with that extra $1.7 billion? The government has blown the money and wasted opportunities to take the state forward. As we all know, myki is yet to be operational for revenue passengers as distinct from the government testers on Melbourne's trams and buses and rural Victoria V/Line trains and coaches. All the government will say is that 2010 will be when it is delivered. The Premier and the Minister for Public Transport will not give a more specific date. We need to know when it will be, or is it going to be similar to last year when the Premier made the call that it would be delivered that year? We saw the rollout on 28 December, but what a debacle it was! It was not ready. It rolled it out before it was ready. It has been an absolute debacle, and we will probably see something similar in 2010.

A coalition government will get the basics right. On the tracks we will ensure that the ballasts are maintained and there will be a wholesale replacement of timber with concrete sleepers — a replacement and not Labor's refurbishment of points, crossings and signals. We will be getting on with the job and doing the things that are right, rather than running an expensive advertising campaign to try to convince the community that there is nothing wrong. The advertising campaign is a waste of time because the community obviously knows there are things wrong. If you are sitting in the traffic and travelling at 40 kilometres an hour in peak hour, or if you are waiting for a train that does not turn up, you know it is wrong. The whole of the travelling community knows this, and no amount of advertising will convince it that there is not a problem. We need to get on and fix it rather than being in denial, as the government is.

Now we get on to the number of times that the trains run late. Despite 6-minute and 11-minute allowances for short and long-distance trips before a train is regarded as officially late, V/Line has failed to meet its monthly punctuality target of no more than 8 per cent of trains being officially late for, as at January 2010, 41 consecutive months on the Geelong–Marshall line; 31 consecutive months on the Seymour line; 29 consecutive months on the Bendigo line; 24 consecutive months on the Traralgon and long-distance Bairnsdale line; 36 of the last 41 months on the Ballarat line; 20 of the last 22 months on the long-distance Warrnambool line; and 25 of the last 28 months on both the Echuca and Swan Hill long-distance lines. What you also have to understand is that when the train is late at Bendigo and the passengers cannot get the connecting bus or train to Echuca, then V/Line hires a taxi to send people to Echuca. What a great expense that is! Surely we can get the trains to connect at the same times; there would be a great cost saving.

Just touching on the member for Narre Warren North saying that the opposition is soft on hoons, he needs to read our policy; we are a lot harder on hoons than the current government is. We should remember that Labor needs to keep a promise and do it on budget. Labor has been in office for more than 10 years, and it should have delivered on its promises by now.

Ms GREEN (Yan Yean) — It gives me great pleasure to join the debate on the matter of public importance submitted by the Minister for Roads and Ports. Being the last speaker in this debate, I will restate what this matter of public importance actually says. Many of the speakers from the opposition side have had very little to talk about on the roads and public transport system because they have no policies. The matter of public importance submitted by the Minister for Roads and Ports states:

> That this house congratulates the Brumby Labor government for delivering on initiatives in the $38 billion Victorian transport plan to provide the state with the best transport network in Australia and condemns the Liberal-National coalition for its stated policy to slash projects from the plan and calls on the opposition to inform the people of Victoria exactly which transport projects they would slash.

Opposition members have had the opportunity to do that this morning and they have squibbed it. They will not tell the truth. I am very proud to be part of a government that has a plan for our transport future, both in public transport and on our roads.

We have a record of delivery. There is an absolutely huge list of projects we have delivered in my electorate alone. On roads there is the Greensborough bypass; the $17.2 million bridge over the Plenty Gorge which provides three lanes of traffic in both directions and, for the first time, bike lanes and pedestrian access; the $34 million duplication of Plenty Road from Mill Park to South Morang, including traffic signals at one of Melbourne's worst intersections at McDonalds Road; the $29 million duplication of Cooper Street in Epping; and the $13 million extension of Edgars Road.

We have delivered new traffic signals at High and Cooper streets, Epping; at Plenty River Drive and Diamond Creek Road in Greensborough; at Yan Yean Road and Ironbark Road in Yarrambat; at the roundabout at Civic Drive and Diamond Creek Road; and at Main and Elizabeth streets in Diamond Creek. We have also put in new pedestrian signals at McDonalds Road, Epping.

We have delivered complete new bus routes for the first time between Diamond Creek and Eltham; Greensborough and South Morang; Mill Park Lakes and Epping; and Epping and North Epping, including the Aurora Estate; as well as the TrainLink bus and complete new services connecting Greensborough to Lower Plenty, Yarrambat, Doreen, Mernda, South Morang and University Hill. Many of these communities had no services whatsoever. We are in the process of doing the planning work for a yellow orbital SmartBus which will deliver rapid east–west transport to many employment and education hubs, including for the first time Melbourne Airport. We have upgraded bus routes between Eltham, Research and Warrandyte, and Greensborough and Whittlesea. We have restored evening services and weekend services that were cruelly cut by the Kennett government.

On rail infrastructure, we are taking out the manual signalling which still existed between Greensborough and Hurstbridge, which was the oldest signalling system on the Melbourne train network. We have invested $52 million in the duplication of the bridge between Clifton Hill and Westgarth, taking the capacity through that junction from 13 trains an hour to 20 trains an hour for the Epping and Hurstbridge lines. We have put in more spaces, bitumen and, for the first time, lighting in the car parks at Wattle Glen and Epping stations. Donnybrook station has many more services, and people using that station can now use a zone 2 metropolitan ticket. The list goes on and on.

As part of the Victorian transport plan, I, along with the Minister for Public Transport, am very pleased that last week we saw the beginning of the early works for the massive project of extending the rail line to South Morang. It is not just a simple single-track extension like the one costed at $12 million by the Liberal Party at the last election; it is a $650 million project which will deliver a duplicated track from Keon Park all the way to Epping and a double track extension from Epping to South Morang. The design allows for future extension to Mernda. It includes grade separations: it will not just provide improved public transport services to that growing Plenty Valley corridor, it will provide grade separations at the spaghetti intersection around the Epping station to improve road movements and also bus movements. There is a complete redesign, with an overpass which will not just improve public transport but also road transport movements into the future. It will also ensure that at South Morang there will be a complete grade separation at Civic Drive and another one in between. It will provide for new stations at South Morang, Epping and Thomastown.

But what do we see from the other side? Members opposite have committed repeatedly over recent months, in the *Herald Sun,* in the *Cranbourne Leader* and in other places, to tearing up the Victorian transport plan. If those opposite are elected, the South Morang project will grind to a halt. Twelve million dollars will not deliver that project so Liberal Party members and their fellow travellers, members of The Nationals, need to come clean on which part of the South Morang rail extension project will not be delivered. Will it be the new station at Thomastown? Will it be the disability access for the first time at that station? Will it be the increased stabling at Epping, which will deliver more transport services?

The opposition has already belled the cat. As part of the South Morang project increased stabling is to be provided and planning works are under way now for that increased stabling, which will mean more services from Epping. What we have seen from a member for Eastern Metropolitan Region in the other place, Mrs Kronberg, is a deceitful campaign throughout the Eltham community opposing train stabling, which is part of this very important project. She treats the people of Eltham and Nillumbik as idiots by saying that this is bad for the environment. How could improved public transport services be bad for the environment? People in my community are definitely smarter than that.

When it was last in government the opposition had a secret plan to close the Hurstbridge line beyond Eltham, and I think the work done by Mrs Kronberg in the Eltham community in undermining public transport is evidence that if it were to — perish the thought — sit on the government benches again we would see the Liberal Party dust off that old plan to remove completely rail services beyond Eltham, to Diamond Creek, Wattle Glen and Hurstbridge. We will not allow that to happen. The government has a $38 billion plan which plans for the future and is delivering. I was with the minister last week to see the early works being started for South Morang.

My community also does not want to see the cancellation of the most necessary north-east link, which will connect the Eastern Freeway under the Banyule Flats along the Greensborough Highway up to the northern ring-road. It is an important link. If the opposition tears up the Victorian transport plan, that necessary project connecting Melbourne's freeways and offering my community better access to the city either will not occur at all or will be taken through Nillumbik's pristine green wedges. I support this matter of public importance. Well done, Minister!

STATEMENTS ON REPORTS

Public Accounts and Estimates Committee: Audit Act

Mr WELLS (Scoresby) — I rise to speak on the Public Accounts and Estimates Committee's *Inquiry into Victoria's Audit Act 1994 — Discussion Paper* dated February 2010. I turn firstly to the chair's comments where he says:

> The aim of the inquiry is to review the legislation in its entirety, paying particular attention to innovative opportunities to progress it to leading-edge status.
>
> … It establishes the Auditor-General's operating powers and responsibilities as Parliament's auditor of government and its agencies in the public sector.

The discussion paper sets out the role of the office of Auditor-General and Parliament and its roles with the Victorian courts, operational powers and possible amendments, mainly of a procedural nature, which are covered in the other sections.

The issue to which I would like to refer is in section 5.2.1 which is headed 'Right of access to premises and records of the private sector contractors'. We currently have the ability for the Auditor-General to audit the private sector when it is contracting its services to the government, and this report will look at that role more closely to see whether the powers need to be increased.

Page 59 of the discussion paper makes a number of comments about the Auditor-General, but some of the points we need to cover and which the committee is looking to investigate include:

> a power under section 11 for the Auditor-General to require any person, including contractors, to appear before him or her and produce documents considered relevant to any audit; and
>
> right of access for audit purposes under section 12, overriding secrecy restrictions and cabinet confidentiality, to any information held by government agencies.

The problem, as the committee sees it, is that:

> The potential constraint that could be faced by the Auditor-General would be magnified if serious concerns were formed by the Auditor-General on the quality and effectiveness of an agency's monitoring of contract performance or of the contractor's performance. In such circumstances, attempts by the Auditor-General to form an opinion on the efficiency and effectiveness of service delivery could be impeded if problems were experienced in the gathering of key audit evidence through the normal avenues such as via the contractual obligations of the service provider in consultation with the responsible government agency.

The Auditor-General has stated to the committee the reason he is wanting these amendments. He said:

> This proposal would ensure that the Auditor-General continues to have complete and unfettered access to third-party information which is relevant to an audit and would close a potential loophole, rather than have to rely on a contractual arrangement between the agency and the third party.

Based on what the Auditor-General says, he makes a very good point, but the question then is: why is the contract not written in such a way that it would ensure all documents would be available to the government agency and to the Auditor-General? There is obviously a problem in the way we are writing the contracts. There are many public-private partnerships (PPPs) and they run into hundreds of millions of dollars, so it is important that the Auditor-General has access to all documents that relate to those contracts.

The point remains: why do the current contracts not include provisions which allow the Auditor-General to have full access to those documents? That is the very first point. But on the flip side, when we say that the Auditor-General can have unfettered power to enter the private premises of a business, does the power of the Auditor-General just remain with the contract that he or she is investigating or does the Auditor-General have the ability to look at other contracts that business may have with the government at that particular time?

Therefore there are two compelling pieces of information that need to be looked at. The committee will be looking for input from the wider community, especially from the private sector and especially from those who are already participating in PPPs with the government, to explain how the contract system is working at the moment and what needs to be amended to fix the problems.

Outer Suburban/Interface Services and Development Committee: impact of state government decision to change urban growth boundary

Ms BEATTIE (Yuroke) — It is with some reluctance that I rise to talk about the inquiry into the impact of the state government's decision to change the urban growth boundary, because as members know, the legislation to move the urban growth boundary was shamefully defeated in the upper house by a coalition of parties which has not come up with any ideas about what to do about infrastructure in the outer suburbs or what to do about Melbourne's dwindling land supply.

If you want to look at Melbourne's dwindling land supply, there is no better case than in the city of Hume, where basically we have one developer left with property to go to market. Members on this side of the house understand what having one developer with marketable land will do to the price of land. It goes without saying that it will increase the price of land.

The committee put some hard work into the inquiry. I congratulate some members of the committee, who understand the outer suburbs. Particularly I would like to congratulate the member for Yan Yean and the member for Melton, who both have a really good understanding of life in the outer suburbs.

I would like to talk about a couple of the report's findings. The first of the findings is that:

> …the provision of infrastructure in Melbourne's new growth areas is necessary and a form of GAIC

growth areas infrastructure contribution —

> is an appropriate mechanism for collecting contributions for this vital infrastructure.

Finding 2 is:

> The committee notes that it would be irresponsible for the state government to expand the UGB

Urban growth boundary —

> without a GAIC mechanism to provide vital infrastructure for these new communities.

They were findings of the committee.

I note also that there is a short minority report. Very little work seems to have gone into that minority report. I see it is only two and a half pages long, with a lot of big spaces in it, so it is clear that not much work has gone into it. It seems as though it is a report that is just there for the sake of submitting a minority report.

An issue which pertains particularly to my electorate is that as a result of the shameful defeat in the upper house of the proposed move of the urban growth boundary (UGB) and the legislation dealing with the introduction of the growth areas infrastructure contribution (GAIC), planning is not able to go on in the outer suburbs.

One of the big infrastructure projects that has been talked about around Hume, and certainly down to the city of Wyndham, is the outer metropolitan ring-road, the E6 transport corridor. That is a huge project that will deliver Melbourne, if you like, a brand-new ring-road which will ease the current congestions around the city. I was listening to the debate while I was in my office, and I noted that Liberal Party members were constantly carping on about traffic around the city. Here was a chance to relieve some of that traffic by getting these big infrastructure projects into place, and what did they do? They produced a minority report and in the upper house shamefully defeated the legislation.

Mr Dixon — Hear, hear!

Ms BEATTIE — 'Hear, hear', the member for Nepean says. Life might be pretty good down in Portsea and they might not want many people going down there to interfere with their lifestyle, but I can tell the member that in Hume we want new people coming in. We encourage people to come to Hume, so we do need that infrastructure. The movement of the boundary, along with the proposed GAIC, was a wonderful opportunity to get that infrastructure in place, and I think two of the members for Western Metropolitan Region in the other place, Bernie Finn and Colleen Hartland, should come out and explain to the people of Hume why their — —

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

Environment and Natural Resources Committee: approvals process for renewable energy projects in Victoria

Mrs POWELL (Shepparton) — I would like to make a brief statement on the Environment and Natural Resources Committee's report on its inquiry into the approvals process for renewable energy projects in Victoria, which was tabled in February. The committee looked at the planning and development of renewable energy projects in Victoria and in my contribution I would like to concentrate, as the committee did, mainly on wind farm developments.

It is important that we get the planning, implementation and development right for wind farms because they affect many people's lives. They have a huge impact on people's lives, whether that is through the placement of the wind farm development, whether it is due to the environmental impact or to the social impact. The social impact arises from not allowing the community to object to or support a project that comes into its area. There are some people who support wind farms; there are others who do not support wind farms, and their voices should always be heard.

The committee also looked at the health impacts of wind farms. A number of stories have been reported in the media about people feeling that their health has deteriorated because of the close proximity of wind farms to their homes or properties. Those voices need

to be heard, because it is important that people's amenity and lifestyle are not impacted on by any sorts of development. However, the government is trying to remove the local voice by removing local councils as the responsible authority. I will talk about that in a moment.

Councils shared a number of their concerns with the committee. One of their concerns is their lack of capacity, both in terms of expertise and resources, to process and facilitate project applications and developments. What the government should be doing is supporting those councils and giving them the appropriate resources to develop that expertise. They also should be training the planners so that they have the necessary expertise. Secondly, councils are concerned about the timing of the release of information about wind farm projects. Thirdly, the Shire of Corangamite told the committee it was concerned that the council had a limited ability to influence the outcome of parts or the whole of projects such as wind farms.

The committee's recommendation 5.5 states that:

> The Minister for Planning be the responsible authority for all commercial wind energy facilities.

This would exclude local government from being the responsible authority for wind turbine developments over 30 megawatts. The non-government members voted against that recommendation and in fact prepared a minority report. The minority report was written by the member for Swan Hill, who is from The Nationals, and by the member for Evelyn and a member for Northern Victoria Region in the other place, Donna Petrovich, for the Liberals. The minority report actually made a better recommendation, if I may say so, for:

> Local councils to be the planning authority for all wind power plants.

Of course this was not supported by the government members. The minority report raised some serious issues. It raised the importance of engaging with and consulting local residents, whose lives, livelihoods and environment may be impacted on by wind farm developments. This is an important issue. The government needs to establish guidelines to assist in the development of constructive relationships between residents and wind farm proponents, to put up ideas about how it can consult with these people whose lives will be impacted, to listen to why they do not want the wind farm or why they do want the wind farm and actually take on board their concerns.

The minority report also said local knowledge needs to be taken into consideration. That local knowledge is about the type of soil, the type of topography — the environment of the area — and the needs of flora and fauna. All these issues need to be taken into account when any development is considered, and this should be done by local councils. The fact that the government has removed the voice of local people by removing the voice of their councils is appalling. I am pleased to see that a minority report is included in the report. I hope people will read that minority report.

Concerns were also expressed by non-government members about the environment effects statement processes. They were very critical of the Brumby government's inadequate resourcing of local government, which does not allow it to deal with the complexity of planning for wind farm developments of less than 30 megawatts. We heard from councils that in some instances they may not have the expertise to do this. The government should ensure that councils do have that expertise. We also heard about the lack of registered Aboriginal parties in some areas, which could also delay projects or lead to them not being processed in the correct way. The government should be looking at that and letting local councils have their voice.

Law Reform Committee: Members of Parliament (Register of Interests) Act

Mr FOLEY (Albert Park) — I rise to make a few brief comments on the Law Reform Committee's review of the Members of Parliament (Register of Interests) Act 1978, which was tabled on 9 December last year.

The review arose from terms of reference provided to the committee to look at the 1978 act, which was groundbreaking at the time given how it implemented a code of conduct and required MPs to disclose certain financial and other interests that have the potential to conflict with their public duties in areas such as land-holdings, shareholdings et cetera. At the time of the tabling of the report the committee's chair noted that the original act was over 30 years old and was well and truly overdue for review.

In making these comments I note that Parliament itself needs to be the keeper of standards around issues such as probity in order to continue to have the confidence of the people of Victoria. The report goes into this point at some length, discussing what has at times been a fraught relationship between the public's expectations and the healthy cynicism with which the community approaches representative democracy. The idea is to

make sure, through this review, that we do not have an unhealthy disconnect between the frameworks of representative democracy and the people of Victoria. That requires the 1978 legislation to be updated.

In 1978 when the Victorian Parliament — I believe it was the time of the Liberal Hamer government — was the first in Australia to adopt a code of conduct and register of interests for members of Parliament it was very much at the forefront of a national move. This has served Victoria well as it reflects our overall fairly good record on parliamentary standards of disclosure over many years.

However, the Law Reform Committee drew the conclusion that Victorian MPs need to review the code of conduct, the system of advice and the system of declaration of interests around them to reflect the changing pressures of an increasingly complex society where the role of government, the service delivery of public goods and issues around private gain can be complicated. Equally the need to ensure the disclosure of reporting mechanisms of interest and potential points of conflict for members is an area that has seen much development over the last few decades in comparable jurisdictions. In short, Victoria needs to catch up in this area.

The committee's report includes 35 areas of recommendation, which I will not detail at great length. In short, I will point to the fact that the report recommends the development of a new statement of values that will set out important democratic values for members of Parliament; the development of a broader code of conduct containing enforceable rules around managing conflicts of interest, personal conduct and the use of public resources; and a change to the existing register of members' interests to make it more effective and transparent. In this respect I was pleased to see that the annual statement of government intentions foreshadowed that the government will be tabling its response to the committee's report and introducing arrangements to reflect the direction of the report.

The committee has correctly identified that members of Parliament are subject to pressures that require us to collectively ensure that we have in place rigorous systems to maintain the integrity of representative democracy in the 21st century. We need systems in place to register interests of a personal or income-related nature so as to identify potential points of conflict and make sure public duties and private interests do not conflict.

In this regard I draw the Parliament's attention to the recommendations regarding trusts. One witness, Mr Donohoe from the parliamentary press gallery, said there is no requirement for disclosure as to who has trusts, what they have an investment in and what the relationship between trusts is. We do not know what sort of trust it is, whether it is a blind trust, what the trust's interests are in or how it relates to the member, their spouse or other family member. In that regard I think it is important that recommendation 15 of the report be acted upon. I particularly draw the Parliament's attention to recommendation 13, which takes the approach of having a series of bands for declarations around income, investments, land, gifts and travel contributions.

Education and Training Committee: geographical differences in the rate in which Victorian students participate in higher education

Mr DIXON (Nepean) — I wish to make a few comments regarding the Victorian government's response to the parliamentary Education and Training Committee's inquiry into geographical differences in the rate in which Victorian students participate in higher education.

I will start by looking at two recommendations which I think are probably the most important ones to come out of the committee's report. The first is that the Victorian government advocate to the federal government for an increase in student income support payments taking into account the cost of living. The second is recommendation 7.2 that the Victorian government advocate to the federal government that young people who are required to relocate to undertake tertiary studies be eligible to receive youth allowance. These are two very good, key recommendations, and they are brave recommendations considering the make-up of the committee — it is a majority government committee that is chaired by a member of the government. The committee felt that it needed to send a strong message to Canberra that this is an important issue.

Over the last 12 months we have seen the importance of that. We have seen a number of students in regional and country Victoria who have been seriously affected by the federal government's changes. It is good to see that a bit of common sense has prevailed in Canberra this week, with the parties sitting down and talking about this, because there are students who have now been caught up inadvertently in the stalemate that has existed in Canberra. I am pleased to see that the government is supporting this in principle, and once again I would like to say — —

Mr Delahunty — Only in principle? It should be stronger.

Mr DIXON — The member for Lowan says it should be stronger than that, and that is a key point, but considering the make-up of this majority government committee they are brave recommendations but recommendations that needed to be made.

Moving on, recommendation 3.4 is:

> That the Victorian government support increased completion and higher achievement in the VCE, particularly among underrepresented groups by —

there are a number of suggestions —

> assisting smaller schools to expand VCE subject choices;
>
> developing a scholarship program for VCE students …
>
> expanding accelerated learning programs;
>
> supporting schools to offer access to university-run tertiary extension studies that can contribute to ENTERs; and
>
> providing online written and interactive extension and revision materials.

We felt these were key issues as we visited country Victoria, and they are practical ways in which students in small country areas can be supported when they are preparing for their university education and competing with other students who are perhaps studying at larger colleges and in Melbourne.

The government's response was that it would further consider that. I would like to take this opportunity to encourage the government to do that and to move quickly to some sort of conclusion. Hopefully the government's further consideration will take into account the recommendations the committee made, because those recommendations are based on what we found at the coalface in small country towns and education institutions through talking to parents, teachers, students, employers and anyone involved in tertiary education. These were the key things we thought would make a difference.

Recommendation 4.1 on page 17 is:

> That the Victorian government implements a statewide program aimed at raising aspirations towards higher education for students from underrepresented groups. The program should:
>
> engage students from the early and middle years …

That is very important. The recommendation continues:

> raise awareness among students and their families of higher education as a worthwhile and viable post-school pathway;
>
> integrate and resource targeted programs to assist students …
>
> integrate aspiration-raising activities with other strategies to address the barriers to higher education participation … and
>
> include a rigorous program of evaluation and research.

This is a key recommendation by the committee. Once again the government has said it will further consider this. I take this opportunity to encourage the government to seriously consider these recommendations. This whole issue of aspirations and how you grapple with them is an airy-fairy concept. It is a long-term cultural issue and requires cultural change on behalf of communities and families, schools and students themselves. The recommendations we have made address those sorts of aspirational issues.

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

Education and Training Committee: geographical differences in the rate in which Victorian students participate in higher education

Mr HERBERT (Eltham) — It is a pleasure to speak on the government response to the inquiry into geographical differences in the rate in which Victorian students participate in higher education. I say at the beginning that this is a good committee. There is a fair bit of give and take and accommodation of a wide variety of views. People are passionate about education, and in the entire time the committee has been established, some seven years, it has had only one dissenting report. That does not mean we always agree on all things, and on a number of the issues in this report it is fair to say there were contested viewpoints.

In speaking on the government's response it is worth highlighting the context in which this inquiry occurred — that is, a massive reform agenda for the higher education sector at both state and federal levels. The commonwealth's Bradley review recommended widespread changes to the funding and operation of universities and to the delivery of regional services. That report came out, and the commonwealth government was considering it. It followed the state government's commissioning in April 2009 an expert panel to develop the Victorian government tertiary education plan, which was chaired by Professor Kwong

Lee Dow, who is eminent in his field, and which will set the parameters for higher education in this state.

It also comes in the context of the $316 million 'Securing jobs for your future — skills for Victoria' program. This is a great initiative which gives universal entitlements to vocational education and training to all Victorians. It is a massive agenda for skills that will look not only at how Victoria can give job opportunities to people seeking education and increase jobs through education but also at how we can position our economy through skills development in a global market and how we can tap into the high-tech, high-value-adding, biotech, nanotech, emerging green industries market that is the future of this state's industrial precinct.

The report came in the context of a lot of policy development happening out there. It also came in the context of a massive increase in recognition by state governments in particular of the importance of regional economies and regional centres, and the need to build those economies through skills development.

When you look at some of the facts in this you see that in capital alone there has been something like $37 million spent by the state government on universities in Victoria through the Regional Development Infrastructure Fund. The government has contributed to TAFE something like $261 million in capital and equipment and massive amounts in regional Victoria that is doing a lot to underpin those economies and skills development.

Like the shadow Minister for Education in his comments with regard to the report and the government's response, I too was delighted to see that the government gave an incredibly comprehensive response to the recommendations. It was a thoughtful response in the context of all the reform activity that was happening. It supported the vast majority of recommendations. Others that were not necessarily supported but are under consideration were explained in the context of the massive changes that are happening and the positioning of Victoria in the rollout of the Victorian tertiary education plan, the commonwealth agenda et cetera.

The committee made recommendations on the issue of student income support, and I was delighted to see that not long after those recommendations the federal Minister for Education reviewed the scheme and made changes so that students who took a gap year in 2009 were not disadvantaged. That was one of the big sticking points for the committee, and it was comprehensively addressed by the commonwealth minister. It is an absolute outrage and a disgrace that the Senate knocked back those recommendations to the disadvantage of thousands of country Victorians who will not get student support in this country.

CREDIT (COMMONWEALTH POWERS) BILL

Second reading

Debate resumed from 24 February; motion of Mr ROBINSON (Minister for Consumer Affairs).

Mr O'BRIEN (Malvern) — I rise to speak on the Credit (Commonwealth Powers) Bill 2010. I note at the outset that the opposition will not be opposing this bill. The purpose of this bill is to adopt national consumer credit legislation, to refer Victoria's legislative powers over certain consumer credit matters to the commonwealth Parliament and to provide for transitional matters.

It has been a long time coming since the genesis of this national legislation for consumer credit. The consumer credit website, which is run by the federal Treasury, notes:

> The Council of Australian Governments (COAG) reached an in-principle agreement on 26 March 2008 that the Australian government would assume responsibility for regulating mortgage credit and advice, including non-bank lenders and mortgage brokers, as well as margin loans. COAG also agreed to investigate what other credit products, such as store credit and personal loans, best sat within the commonwealth's regulatory responsibility.
>
> Subsequently, on 3 July 2008, COAG agreed that the Australian government would assume responsibility for regulating all consumer credit products.

I stop at this point to note that while 2008 may have been the time when COAG formally agreed to this change, a lot of work was done by the previous federal government in relation to consumer credit laws and reforms. While the culmination of a lot of that work may take place under the Rudd government, I think it is also fair to acknowledge that a lot of work was undertaken by former federal ministers such as Chris Pearce and Joe Hockey and others in relation to bringing this scheme to fruition.

The website also states:

> The development of a national consumer credit regime is an important initiative that will address the deficiencies that have long existed in credit regulation by establishing a consistent and robust consumer credit protection framework that is flexible, competitive and adaptable for a rapidly evolving sector both domestically and internationally.

> At the 2 October 2008 meeting, COAG also agreed to the implementation plan for the government to assume responsibility for all areas of consumer credit.
>
> The government agreed to implement national credit regulation in two phases, to make the transition as smooth as possible.
>
> It was agreed that phase 1 will be in place by mid-2009 and phase 2 by mid-2010.

It is obvious from the fact that we are debating this bill in the Victorian Parliament in March 2010 that the original timetable has not been adhered to. Phase 1 will be in place, fingers crossed, by 1 July 2010. Phase 2 will hopefully be in place by 1 January 2011 in some areas and 1 July 2011 in others.

This has been a bit of a delayed process, but opposition members do not oppose this bill because we think it is sensible that consumers have a uniform set of credit regulations across Australia.

Consumer credit regulation does seem to be one of those areas in which it makes little sense for either business or consumers to have six different states with different sets of regulations and then for there to be a different set of commonwealth legislation lying over the top of that.

This transfer of responsibility to the commonwealth will also have some resource implications for Victoria in that work which used to be undertaken by Consumer Affairs Victoria (CAV), amongst other regulators, will now be undertaken by the Australian Securities and Investments Commission (ASIC). I asked the Minister for Consumer Affairs whether he could provide indications to me as to what sort of resources may be freed up as a result of this transfer of enforcement responsibility from Victoria to the commonwealth. In a letter from the minister dated 5 March 2010 I was advised:

> The resource impacts are minimal. The Consumer Affairs Victoria annual reports for the past five years identify the following court or tribunal proceedings during the past five years under the CC(V) act where CAV has been a party.

In terms of prosecutions concluded, there were nil in 2004–05, four in 2005–06, one in 2006–07, nil in 2007–08 and nil in 2008–09. In terms of civil actions concluded there were five in 2004–05, one in 2005–06, nil in 2006–07, three in 2007–08 and three in 2008–09.

This suggests either that Victorian consumer credit laws are being upheld very well by both consumers and businesses in Victoria or that perhaps this is an area in which CAV has not been particularly active compared to some others. With the transfer of these enforcement responsibilities to the commonwealth, I hope that ASIC will take a keener interest when it comes to weeding out any people operating in this important consumer area who should not be there by virtue of their failure to abide by the rules. Consumer credit agencies can obviously deal with people who are in vulnerable positions. We think that proper education, combined with the proper enforcement of laws, is a good way to go, and we certainly hope ASIC will be able to ensure that this is done.

As an aside, it was interesting that the letter I received from the Minister for Consumer Affairs had on it the fax header of the office of the Minister for Finance, WorkCover and the Transport Accident Commission. I wonder whether the Minister for Consumer Affairs is doing his own work or whether he is contracting it out to the office of the Minister for Finance, WorkCover and the Transport Accident Commission. Perhaps he can advise me of that in his summing up.

While the opposition is not opposing this bill, there have been some concerns raised about aspects of it which I think do bear mentioning in the Parliament. An issue has been raised by the Scrutiny of Acts and Regulations Committee of this Parliament. In *Alert Digest* No. 3 of 2010, which was tabled this morning, SARC reported that a number of concerns had been raised about the interaction of Victoria's Charter of Human Rights and Responsibilities with some of the aspects of the national credit legislation which is being adopted by the Victorian Parliament through this bill. This seems to be a constant source of concern for SARC. The committee notes:

> The committee has reported on several occasions that cooperative regimes like the national credit legislation may undermine the charter's protections in several respects.

This is not just a concern that SARC has raised in relation to the bill before the house: it is a concern that SARC has raised in relation to a number of national schemes this Parliament has been a party to, so it is not good enough for the government to simply say, 'We have this Charter of Human Rights and Responsibilities which is a terribly important thing for Victorians, and every time we get to a piece of national cooperative legislation we are going to happily ignore the concerns raised about potential breaches of that charter because it comes under federal law'. The government might think it is doing well by saying, 'At least we are being honest and admitting where we are trampling on rights under the charter'. I do not know that many people who are affected by these matters would particularly praise the government.

It is important that if the government wants to get on its high horse about its Charter of Human Rights and Responsibilities it should be complying with that charter. What SARC has said in its report is that the committee is very concerned that the government has failed to comply with the charter in relation to this bill. At page 5 of *Alert Digest* No. 3 of 2010 the Scrutiny of Acts and Regulations Committee referred to the operation of the charter and discusses how that works in relation to the adoption of the national consumer credit protection legislation. The committee stated:

> The committee therefore draws Parliament's attention to the statement of compatibility's remarks about the operation of the charter and to section 24 of the National Consumer Credit Protection Act 2009 (commonwealth).

That is because the Parliament has the option of departing from the national scheme by excluding specified provisions. In the instance of the bill before us we have departed from the national scheme in relation to matters such as retaining interest rate caps. Again, that is a matter which we on this side of the house support, but what SARC is saying there is that the government, if it has the will, is able to depart from aspects of the national legislation. If the government wanted to be serious about protecting the rights it believes are contained in the Charter of Human Rights and Responsibilities, it has the option to do so. It is not a defence for the government to say, 'It is a national scheme; we have to take it lock, stock and barrel'. Quite clearly the government does not have to take it lock, stock and barrel; the government can exclude certain aspects of it, and if the government had a mind to be consistent with its own charter, it could do so.

The Scrutiny of Acts and Regulations Committee went on at page 7 of the *Alert Digest* to refer to section 295 of the National Consumer Protection Credit Act. Because of the limited time available I cannot read slabs of SARC's report into the record, but I note that it says:

> … the committee considers that section 295 of the National Consumer Protection Credit Act 2009 (commonwealth), may be incompatible with the charter's right against compelled self-incrimination.

Again, one would have thought that would be a fairly significant right in the charter, and SARC is pointing out that there is a very real possibility of incompatibility.

Moving on, at page 8 the SARC report states:

> Section 151(1) … requires a person who is charged with causing the publication of a non-compliant credit advertisement that mentions his or her name to prove that he or she did not cause its publication. The committee observes that section 151(1) engages the charter right of criminal defendants to be presumed innocent until proved guilty of an offence.

Again, you would think that would be one of the more important rights contained in the charter. The report goes on at page 9:

> In light of section 151(1)'s reversal of the onus of proof in relation to the essential issue of the defendant's actual involvement in the offence, and the resultant risk of wrongful conviction, the committee considers that section 151(1) may be incompatible with the charter's right to be presumed innocent.

I hope that government members who are speaking on this legislation — if not the members, then the minister in his summing up — will seriously come to grips with what SARC has said on these matters. As I said, it is simply not enough for the government to say, 'It is a national scheme, and we have to accept all of it'. The government does not have to do that. The bill before the house quite clearly provides for carve-outs where the government chooses to not subject Victorians to aspects of the national legislation. If the government wants to take care of those concerns that have been identified by SARC, the vehicle for doing that exists in the legislation before us. That the government has chosen not to do so suggests that the government does not take the views of SARC seriously, which is a concern because SARC has a well-deserved reputation on both sides of this house as being a thoughtful body that does not engage in hyperbole and takes its role as a scrutineer very seriously.

Either the government believes that the SARC's views are not worth seriously responding to or it is prepared to say that it is sacrificing what it sees as fundamental human rights contained in its charter for the benefit of national credit schemes. Either way it would be an interesting argument for the government to have to make before this house, and I hope that the minister does the house the courtesy of responding to these issues in summing up.

Turning to the operation of the bill itself, it provides for Victoria to adopt the national consumer credit law that was passed by the federal Parliament in 2009. I understand the state of Tasmania has already adopted that legislation and has referred powers to the commonwealth. The effect of this bill is for the Victorian Parliament to adopt that national consumer credit protection legislation.

Sitting suspended 12.59 p.m. until 2.04 p.m.

Business interrupted pursuant to standing orders.

QUESTIONS WITHOUT NOTICE

Rail: infrastructure

Mr RYAN (Leader of The Nationals) — My question is to the Premier. I refer to Metro Trains Melbourne's asset management plan, which amongst other items warns of 'the potential to cause derailment of trains or collision with structures or trains on the adjacent lines, with catastrophic consequences', and I ask: did the government provide Metro's assessment to the director of Public Transport Safety Victoria, and if so, when was the response and will the Premier now make public that report?

Mr BRUMBY (Premier) — My understanding of the question from the Leader of The Nationals is that he was referring, as he was yesterday, to the bid documents that were submitted by Metro Trains Melbourne. They were bid documents considered by the bid committee. In relation to rail safety, as I made very clear yesterday, the system is approved by the rail safety regulator.

Mr Ryan — On a point of order, Speaker, in fairness the Premier may not have heard the latter part of the question. What I asked him was whether the asset management — —

Honourable members interjecting.

Mr Ryan — I do not think the Premier heard the question. By leave, I wish to ask the question again.

The SPEAKER — Order! Is leave granted?

Leave granted.

Mr RYAN (Leader of The Nationals) — My question is to the Premier. I refer to Metro Trains Melbourne's asset management plan, which amongst other items warns of 'the potential to cause derailment of trains or collision with structures or trains on the adjacent lines, with catastrophic consequences', and I ask: did the government provide Metro's assessment to the director of Public Transport Safety Victoria, and if so, when, what was the response and will the Premier now make that response available?

Mr BRUMBY (Premier) — I answered the question previously, but if I could just add to it, the asset — —

Dr Napthine — So you didn't give it to him.

The SPEAKER — Order! I ask for some cooperation from the member for South-West Coast.

Mr BRUMBY — That plan to which the Leader of The Nationals has referred was submitted to the Department of Transport in April 2009, as the honourable member is aware. Page 93 of the document actually states that:

> The existing track condition is in general fit for purpose to meet safety requirements for the annual tonnage of traffic carried, although it needs enhancement to meet operational performance requirements and the predicted increase in traffic demand.

Mr Ryan — On a point of order, Speaker, the Premier is debating the question. The question is directed to the issue as to whether the report was provided to the director of Public Transport Safety Victoria.

The SPEAKER — Order! I do not uphold the point of order. The question referred to Metro's asset management plan, to which the Premier was referring.

Mr BRUMBY — As I indicated in my answer to the first part of the member's question, and as I indicated in answers to questions yesterday, the system is assessed as safe by the rail transport safety regulator.

Tourism: government initiatives

Ms RICHARDSON (Northcote) — My question is for the Premier. I refer the Premier to Labor's commitment to make Victoria the best place to live, work, invest, raise a family and also visit, and I ask: can the Premier advise the house how this commitment is being recognised by the attraction of interstate and overseas visitors?

Mr BRUMBY (Premier) — I thank the member for Northcote for her question, a very good question about the success of our state in attracting new tourists from interstate and overseas. We are proud of the fact that people want to visit our state. We are proud of the fact that our share of the national tourism market has increased.

The international visitor survey results for 2009 were released today, and they show that Victoria recorded its biggest ever share of Australian international tourists in history — the biggest ever share. Despite all the scaremongering by the opposition, it is the biggest ever share.

Thirty per cent — almost 1 in 3 — of international tourists who visit Australia now come to our great state of Victoria. The opposition may not care about this but we do, because more tourists coming here equals more jobs; that is what it means to Victorians. Our tourism industry — —

An honourable member interjected.

Mr BRUMBY — I will come to you in a moment! Tourism employs 184 800 people and is worth nearly $16 billion to our economy. If you think of the events and the strategies we have in place, if you think of the great livability we have in our state, it is no wonder that so many people are coming to our state. This year we have the Spring Racing Carnival and the 150th anniversary of the Melbourne Cup. In the last year we have had sell-out musicals like *Jersey Boys* and *Wicked*. We have had Winter Masterpieces, another great Labor initiative, and only a Labor government could have developed that great initiative.

Honourable members interjecting.

Mr BRUMBY — We have the Winter Masterpieces exhibitions on Dali and Pompeii and the Melbourne Food and Wine Festival, for which we have substantially increased funding. Through our — —

Honourable members interjecting.

The SPEAKER — Order! I ask all members for some cooperation, particularly the Deputy Leader of the Opposition.

Mr BRUMBY — We have certainly come a long, long way since people were appointed to the tourism board even though their hearts were not in the job!

Mr Wells — Another Brumby attack!

Mr BRUMBY — You've lost your way.

The SPEAKER — Order! I ask for some cooperation from the member for Scoresby.

Mr BRUMBY — The international visitor survey shows that Victoria recorded 1.5 million international visitors for the year ended September 2009, an increase of 51 000 visitors compared to 2008. That is better than New South Wales, which fell by 2.1 per cent, better than Queensland, which fell by 4 per cent, and better than the national average, which dropped by 0.2 per cent. Our biggest growth came from key markets in India and China. In 2009 we had the highest ever number of Indian tourists visiting Victoria — 50 700, a 26 per cent increase over the previous year. I am proud to say too that there were 163 000 Chinese visitors to Victoria in 2009, a 1.8 per cent increase over 2008, and almost half of all the Chinese tourists who came to Australia came to Victoria. I am pleased to say too that — —

Mr K. Smith interjected.

Mr BRUMBY — They came despite the member for Bass. They visited everywhere in Victoria except his electorate. They know to stay away!

The SPEAKER — Order! Premier!

Mr BRUMBY — The other great thing about these statistics is that the growth in tourism was shared across the state. In regional Victoria tourism growth, in what has been a very difficult year because of the global financial crisis, has also been very strong. If you look over the last decade you will see that we have had extraordinary growth in our share of international tourists.

We set out as a government to increase Victoria's share. We were not happy with the share that Victoria was achieving in 1999. We were not happy at all. We were achieving just 25 per cent of those international visitor nights. I am proud that through our policies and our strategies we have lifted that to 30 per cent. That strong growth has translated into new opportunities and new jobs for Victorians. One of the reasons our state did not go into recession, as predicted by the member for Scoresby — deep recession — —

The SPEAKER — Order! Premier!

Mr BRUMBY — Deep recession as predicted in Victoria by the alternative Treasurer was that we put the right economic plans in place. In terms of this achievement in tourism, it reflects well on the great partnership we have with tourism operators, with airlines, with Melbourne Airport and with the federal government. Putting all of that together, this has given us a great result for our state. We are proud of this result because what it means is more jobs for more Victorians.

Department of Transport: suicide prevention committee

Ms WOOLDRIDGE (Doncaster) — My question is to the Premier. I refer to the fact that Metro Trains Melbourne stated in its tender documents that the government's suicide prevention committee, convened by the Department of Transport to look at suicide mitigation strategies, had not met since 2007, and I ask: given that the Minister for Mental Health has previously stated, 'We must all work together to address the impact on our communities to reduce the toll of suicide' and 'we can't afford to ignore it', can the Premier confirm that this committee did not meet at all for almost two years leading up to April 2009, and how many times has this committee met since then?

Mr BRUMBY (Premier) — That is a very detailed question, and I will take it on notice.

Health: government initiatives

Mr NOONAN (Williamstown) — My question is for the Minister for Health. 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 initiatives to improve health care for all Victorians?

Mr ANDREWS (Minister for Health) — I thank the member for Williamstown for his question. I was delighted to be at the Williamstown Hospital with the member for Williamstown this morning to celebrate a modest but important expansion of service delivery capabilities there — an expansion of the important renal dialysis unit services. The member for Williamstown, unlike others, is well briefed on the activities at Williamstown Hospital. He is a strong supporter of service provision at that hospital.

This is a great example not only of the power of increased investment and more dialysis sessions closer to home but also of partnership. We know that the way to deliver better health services and achieve better health outcomes is through a true and strong partnership going forward.

This $1 million project is a combination of $400 000 from the Victorian government together with a substantial bequest from a local philanthropic source and community fundraising through an opportunity shop and other endeavours. It is a great example of the story of Victorian health: a strong partnership between the community, the government and the dedicated clinicians at that health service who do such fine work.

Yesterday I was pleased to visit, with the Premier, the Monash Medical Centre in my local area and to see fantastic progress on a pregnancy assessment unit there, giving women, particularly women who experience difficulties in the latter stages of their pregnancies, dedicated support not through the emergency department but directly through a purpose-built facility so they are able to get the best care for themselves and their babies. Some $4.8 million has been provided in a positive and practical response to the baby boom, giving women in Melbourne's growing south-eastern suburbs access to the better care that they need. It will support not only the doctors and nurses at Southern Health but also the many women who are and who will continue to benefit from those additional birthing suites. In order to continue to improve and to provide even better care and to meet the challenges that no doubt face our health system we need those strong partnerships to get even better and stronger.

Much has been written and spoken about the reform of our health system in recent weeks. A couple of observations that have been made cannot go unchallenged. One was the recent commentary that by some estimates there is inefficiency in our system to such an extent that up to 20 per cent of funding is wasted in our system. That is neither accurate nor fair on the doctors and nurses who work across our health system. They work hard every hour of every day to make sure every patient gets the best possible outcome. It is simply not fair and not accurate to make that claim, and I will not let that claim go unchallenged.

In relation to efficiency, there is no better example than our recent partnership with the commonwealth government around additional episodes of elective surgery. It is a partnership that has been called a drop in the ocean by some, but it is an important partnership and one that tells a story of the efficiency, commitment and dedication of our doctors and nurses across the system. As honourable members would remember, $60 million was provided in partnership with the commonwealth government to treat more patients and to treat them faster. It was the biggest blitz we have ever seen in our state. We as a government made a commitment to do 9400 extra episodes of elective surgery, and we in fact delivered, through the efficient care and hard work of our doctors and nurses, 13 500 extra episodes of elective surgery. That is what a partnership can deliver for patients right across Victoria. In fact in Victoria we did almost one in two of the nation's extra elective surgery activities under that blitz.

Mr Hulls — How many?

Mr ANDREWS — We did almost 50 per cent of the extra surgery activities.

This government is absolutely committed to reform and making a good system even better. I put on the record that press club speeches do not treat more patients. What is more, words will not cut waiting lists. Only more money and a proper partnership will treat more Victorian patients and treat them faster.

Minister for Planning: media plan

Mr BAILLIEU (Leader of the Opposition) — My question is to the Premier. I refer to the document entitled 'Minister for Planning Justin Madden media plan' dated 24 February, which was sent to the Premier's office and which has now been made public

through the media, and I ask: will the Premier confirm that similar media plans had been previously received in the Premier's office from the planning minister's office, and, if so, how often?

Mr BRUMBY (Premier) — I would not have, and I do not think the Leader of the Opposition would expect me to have, any knowledge of the matters he has raised.

Honourable members interjecting.

The SPEAKER — Order! I warn the member for Polwarth. I suggest to him that one more outburst like that and he will not stay in question time.

Mining warden: future

Mr HARDMAN (Seymour) — My question is to the Minister for Energy and Resources. 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 outline to the house what the government is doing to help the mining industry in regional Victoria?

Mr BATCHELOR (Minister for Energy and Resources) — I thank the member for his question because I know this member is continuing his strong advocacy for bringing jobs to regional Victoria. The mining industry in Victoria is valued by the Victorian government. It plays an important role in regional Victoria, providing jobs and employment, and it makes a significant contribution to our state economy.

The estimated number of people employed in the Victorian mining industry is almost 13 000. That is the highest level of employment in this industry that has occurred over the last 10 years. Mining's contribution to gross state product increased from just over $2 billion in 1999 to over $5 billion in 2008–09.

Just last week Northgate Minerals celebrated the 2 millionth ounce of gold that has been produced from its mine here in Victoria. Earlier this year I announced the third round of Rediscover Victoria drilling grants, which will help the industry search for a range of minerals, including gold, silver, copper and nickel, right across the state from East Gippsland to the northern and western parts of Victoria.

Today I am pleased to announce that the government will recommend to the Governor in Council that John Butler be appointed as Victoria's new mining warden. Many members will know that John Butler is a former Victorian Crown counsel. He is highly regarded and highly respected. John Butler will bring a wealth of administrative law expertise to the role of mining warden, which oversees the resolution of disputes between mining licensees and other parties. The mining warden is a statutory appointment made by the Governor in Council, and I will be recommending to the Governor that John Butler be appointed as soon as possible.

The executive director of the Victorian division of the Minerals Council of Australia, Chris Fraser, has welcomed the government's announcement. I will quote Chris Fraser:

> It is reassuring that the Victorian government has recognised the need to maintain the office of the mining warden as the state transitions to a more effective disputes resolution process for the mining industry.

That is from Mr Fraser of the minerals council here in Victoria. The Brumby government understands it is important that Victoria's mining industry and land-holders have a mechanism to resolve disputes, and this will continue to be delivered by the new mining warden. We are standing up for Victorian jobs by driving investment in communities right across Victoria, and having a well-respected mining warden doing that job is an important part of our strategy.

Minister for Planning: media adviser

Mr BAILLIEU (Leader of the Opposition) — My question is to the Premier. I refer to the 'Minister for Planning Justin Madden media plan' dated 24 February, which details amongst other things the government's oversight of a corruption of the planning process in this state, and I ask: will the Premier now confirm that the media adviser in question forwarded the media plan to the Premier's office, as instructed by the Premier's media unit for whom she worked, or has the Premier for the last two weeks made absolutely no inquiry of his office regarding this scandal?

Mr BRUMBY (Premier) — I thank the Leader of the Opposition for his question, which I think most members would have difficulty understanding.

Honourable members interjecting.

Mr BRUMBY — They would, because it does not make sense. I think it is well known publicly and in this place that that media plan was prepared by that person — she has since been removed from that position — and provided to the Premier's media unit. I do not see the plans of ministers, and you would not expect me to, as I said in response to the previous question by the Leader of the Opposition, so I am not sure what the point of the Leader of the Opposition's question is. Ministers — and I am sure shadow

ministers and leaders of the opposition — often prepare media plans, and I am sure they are circulated internally.

In relation to the unsaid matter to which the Leader of the Opposition did not refer, which is the Hotel Windsor, on the day that I became aware of that matter and the minister became aware of that matter we announced that an independent probity auditor would oversee all the issues in relation to it.

Housing: government initiatives

Ms HENNESSY (Altona) — My question is to the Minister for Housing. 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 outline the steps the government is taking to boost Victoria's stock of social housing?

Honourable members interjecting.

The SPEAKER — Order! I warn the members for Kew, South-West Coast, Warrandyte and Bass.

Mr WYNNE (Minister for Housing) — I thank the member for Altona for her question and for her longstanding interest in public and social housing. I am pleased to report to the house that Victoria has reached the halfway mark with works now being under way on more than 50 per cent of the state's record 4500 Nation Building public and social housing dwellings, which have to be completed by 2012. It was a pleasure to be in Wellington Street — —

Mr K. Smith interjected.

Questions interrupted.

SUSPENSION OF MEMBER

Member for Bass

The SPEAKER — Order! Under standing order 124, I ask the member for Bass to leave the chamber for half an hour. Volunteers to join the member for Bass are welcomed by the Chair.

Honourable member for Bass withdrew from chamber.

QUESTIONS WITHOUT NOTICE

Housing: government initiatives

Questions resumed.

Mr WYNNE (Minister for Housing) — Of the 4500 units we need to complete by 2012, we are working to provide — as I have reported to the house previously — one-third of the stock in regional Victoria and two-thirds of the stock in the Melbourne metropolitan area. We are building in municipalities right across the state: in Manningham, 98 units; in Knox, 80 units; in Greater Shepparton, 37 units; in Wodonga, 52 units; in Mildura, 22 units; in Latrobe, 82 units; and in Ballarat, 71 units. We are active right across the state.

It was a pleasure to be in Wellington Street, Collingwood, last Friday where we turned the sod on a $21 million project which is part of the Nation Building project of 86 new 6-star units for low-income Victorians. This is in partnership with the federal government and supported by our housing associations. As the Premier said yesterday, this project will create more than 70 jobs and provide 20 one-bedroom units, 14 two-bedroom units and 52 studio apartments for Victorians in need. Each of these homes will have a 6-star energy rating and be beautifully located, virtually in the heart of the city.

Members will recall that when this program started in 2009 targets were set for each state to deliver new homes at an average cost of about $300 000 per dwelling. Each state, including Victoria, was issued with a target calculated on the basis of a dwelling price of, on average, $300 000. Members will also recall that we had a reduction in funding under the Nation Building project from $1.5 billion to $1.167 billion. This meant Victoria's target obviously had to be reduced to 3889 new homes, with 75 per cent of those — 2917 — to be completed by the end of 2010.

I am pleased to report that thanks to the contribution and leveraging of our housing associations — and as members of the house will recall, we have split our funds 50 per cent for housing associations and 50 per cent for public housing — we will deliver our 4500 units, which is 600 units above what we are required to do by the commonwealth government. This is the most significant building program that has been undertaken by a state government in literally decades. That is on top of the $500 million — a record amount that the Brumby government gave, two budgets ago, to public and social housing. This record commitment and this partnership we have with the federal government is going to deliver 4500 units of housing right across the state.

At the end of the day we have to remember that these projects are about individuals; they are about the people we are seeking to house. The Sunday before last I was

with the member for Preston in Mary Street, Preston, to launch, with the federal member for Batman, Mr Ferguson, a 48-unit development which is being managed by one of our disability housing associations, Housing Choices Australia. This was a wonderful event at which we launched those units, which are disability accessible, and a number of units have been put aside for people with disability.

The most telling point about that launch was afterwards, when a woman came up to me and said quietly, 'I just want to say thank you to the government for delivering these beautiful units to us'. I asked her, 'Where were you before this?', and she said, 'I have just come out of a women's refuge'. We should never forget that all of this public and social housing that we are building is about individuals. That is why the government wants to ensure that it delivers those 4500 units — safe, secure and affordable public and social housing. That is the outcome that we want, and it is a great partnership that we have with the Rudd government.

Mining warden: future

Mr O'BRIEN (Malvern) — My question without notice is to the Minister for Energy and Resources. I refer the minister to his announcement of the appointment of the mining warden on 7 March 2009 for a three-year term, when he stated:

> The mining warden is an independent position. This appointment will mean disputes between mining licensees and other parties can continue to be dealt with swiftly and effectively.

And I ask: is not the real reason the minister has now sacked the mining warden so that the government can move to apply a muzzle to Victoria's independent mining watchdog?

Honourable members interjecting.

The SPEAKER — Order! I ask for some cooperation from the Deputy Premier and also from the member for Malvern.

Mr BATCHELOR (Minister for Energy and Resources) — Wake up Australia; wake up! The Mineral Resources (Sustainable Development) Act (MRSDA) is a key piece of legislation that regulates the resources sector in Victoria. The act empowers a mining warden to undertake a number of functions. These include dispute resolution, administrative review and regulatory, investigative and advisory functions for the resources sector. As I indicated earlier, I was pleased to announce that today we are going to recommend John Butler to the Governor in Council as a highly respected and well-received appointment. Mr Butler brings a wealth of administrative experience to this role. He will oversee dispute resolutions between the mining licensees and other parties — —

Mr O'Brien — On a point of order, Speaker, the minister is debating the question. The question related to his decision to sack the independent mining warden. He has not addressed that matter at all. It is not about whom he is trying to appoint in his place, it is about why he sacked the independent watchdog.

The SPEAKER — Order! There is no point of order. The question clearly referred to the minister's announcement of the appointment of the mining warden for a three-year term.

Honourable members interjecting.

Dr Napthine — On a further point of order, Speaker, in your comments you referred to the appointment of a mining warden for three years. The question did refer to the appointment of a mining warden for three years, but that was in March 2009, which is last year, and the question is why, when that person was appointed 12 months ago, he has now been sacked. That was the point, as you, Speaker, quite rightly said, that the minister now needs to address, and not the current appointment but rather why he sacked the person he appointed only 12 months ago. That is what the question is about and that is why the minister should be brought back to being relevant to that question, and that is the point you were making very well, Speaker.

The SPEAKER — Order! As the member for South-West Coast knows, under standing orders the minister needs to be relevant to the question. I have ruled that he is being relevant to the question. There is no point of order.

Mr BATCHELOR — With the appointment of John Butler we will see the confidence in the office of the mining warden restored.

The former mining warden, Mr Andrew Swindells, was dismissed by the executive council. He was dismissed following a recommendation by me to the cabinet. He was dismissed following an assessment of concerns raised about his performance and his conduct under the MRSDA — the relevant act — and also the Public Administration Act. He was dismissed under the provisions concerning failing to perform under those acts. I no longer had confidence in him. I would caution the member for Malvern that he not get embroiled in some grab for cash.

Lake Mokoan: decommissioning

Mr CRUTCHFIELD (South Barwon) — My question is for the Minister for Water. Can the minister update the house on the works to decommission Lake Mokoan, and is he aware of independent advice on whether the government's decision to decommission Lake Mokoan was the right decision?

Mr HOLDING (Minister for Water) — I thank the member for South Barwon for his question, because like all members on this side of the house he understands that for a number of years the government has had a strong commitment to proceeding with the decommissioning of Lake Mokoan.

Last week I was pleased to join with former members of the future land use committee for the Lake Mokoan and Winton wetlands area and others from the local community and the local council who had been involved in the process of working through all the issues that had been raised by the decommissioning of Lake Mokoan to mark the milestone of the breaching of the Lake Mokoan dam wall. I was pleased to mark this occasion, because this is a commitment that the government takes very seriously.

Lake Mokoan is a man-made lake, constructed in 1971, and it is Victoria's most inefficient storage. It loses 50 billion litres of water through evaporative losses every year. At the same time it is Victoria's most inefficient method for delivering irrigation water to irrigators. In fact it worked at 25 per cent efficiency. This means that, for every 1 litre of water that was delivered to an irrigator from the Lake Mokoan system, 3 litres of water was lost getting it there.

So you would imagine there would be strong support for the government's decision to decommission Lake Mokoan to return some badly needed water to the environment and to assist in putting in place some alternative arrangements to support irrigators and the local community, but in fact there were those who were so concerned about this decision that they sought the intervention of the Auditor-General. One commentator wanted the Auditor-General:

> … to investigate concerns about the flawed and incomplete information underpinning key decisions and the lack of integrity in the whole process.

Unfortunately sometimes the Auditor-General actually takes the advice of the member for Benalla. This morning the Parliament had the benefit of the Auditor-General tabling the Lake Mokoan and Tarago Reservoir report. I would like to report the findings of this report to the Parliament.

Ms Asher interjected.

Mr HOLDING — The member for Brighton says, 'I bet you would', and you can bet I would want to report this to the Parliament. The Auditor-General concluded:

> Both the reconnection of Tarago Reservoir and the decommissioning of Lake Mokoan were the most suitable options to pursue on environmental and cost grounds. Advice to government was comprehensive and robust.

The Auditor-General went on to conclude:

> The governance structures and approaches to decision making and project implementation by the governing bodies were appropriate and sound for both projects.

The main findings of the Auditor-General include the following:

> The decision to decommission Lake Mokoan was based on sound technical advice and comprehensive community consultation. The investigation of alternatives to full decommissioning and flooding risks included consultation with stakeholders, consistent methodology, relevant data and appropriate technical advice.

An honourable member interjected.

Mr HOLDING — One member interjects that it was a sham. That reflects the approach taken by the opposition. It calls for the investigation and then it declares the results a sham.

In relation to the liability of irrigators the Auditor-General went on to conclude:

> Audit found the most defensible scenario was that supply reliability was between 91 and 93 per cent in 2004 when the commitment was made.

This was the commitment to make sure that irrigator reliability was not reduced.

> Supply reliability of 92 per cent has been achieved as a result of the 2009 water entitlement buyback process.

Promise delivered, according to the Auditor-General. He went on to find:

> The risk of flooding to Benalla as a result of decommissioning Lake Mokoan was also an area of community concern, based largely on the belief in the community that Lake Mokoan was part of a flood mitigation strategy.

The Auditor-General concluded:

> Decommissioning Lake Mokoan will not raise the flooding risk for Benalla and its region, as Lake Mokoan was not used for flood mitigation.

Honourable members interjecting.

The SPEAKER — Order! Government members will come to order, and that includes the member for South Barwon.

Mr Thompson — On a point of order, Speaker, my understanding is that quoting from a tabled report is not in accordance with the procedures of the house.

The SPEAKER — Order! I do not uphold the point of order.

Mr HOLDING — Under the heading 'Access to information' the Auditor-General went on to say in relation to the process that the government had followed:

> Overall, the public's access to information was very good as the technical reports and articles about the project stages and the concerns raised were on the dedicated project website.

The Auditor-General concluded.

> There has been a stream of information …

The Auditor-General further concluded.

> The community has been kept up to date …

In relation to access to grievances the Auditor-General concluded:

> There was a transparent process to consider and respond to grievances …

In relation to community engagement the Auditor-General concluded:

> Despite concerns expressed regarding stakeholder engagement and the water entitlement buyback process, the irrigators were consulted thoroughly. Represented by a group of irrigators and a VFF subcommittee, they entered into extensive negotiations with the department.

The government is strongly committed to decommissioning Lake Mokoan. Rather than being lost to evaporation, 50 billion litres of water will be returned to stressed river systems like the Murray, like the Snowy, like the Goulburn and like the Broken river systems. Irrigators have been provided with an alternative water supply, where one was available, with the reliability that was promised by the government at the time, and $20 million has been put aside to provide for the rehabilitation of the Winton wetlands, as one of the greatest wetland sites that we will have anywhere in Australia. There will be a massive boost to tourism for the Benalla region as a consequence of this far-reaching decision that the state government has taken.

We welcome this report from the Auditor-General, but more importantly the community welcomes the commitment this government has to making sure we use our available water as efficiently as we can. Nobody who says they support greater water availability for communities in northern Victoria could possibly sit by while a storage that lost 50 billion litres of water to evaporation every year was allowed to continue. Nobody could sit by while an irrigation system that operated at 25 per cent efficiency was allowed to continue. We have made the hard decisions in relation to this question and many other key water issues, and we are pleased to be judged by people right across Victoria based on the far-reaching visionary water policies that we have put in place. We welcome this report and we welcome the opportunity the communities have to be provided with comprehensive information on a critically important water project that will return vitally needed environmental water to stressed river systems.

CREDIT (COMMONWEALTH POWERS) BILL

Second reading

Debate resumed.

Mr O'BRIEN (Malvern) — I return to my contribution on the Credit (Commonwealth Powers) Bill. Before the break I was discussing the fact that this bill provides for Victoria to adopt national credit protection legislation. In adopting that legislation it makes provision for carve-outs. I have made reference to carve-outs before in the context of the Scrutiny of Acts and Regulations Committee's recommendations and reports on the bill. Clause 7 of the bill provides that certain matters are excluded from the reference. The carve-outs include:

> (a) the matter of making provision with respect to the imposition or payment of State taxes, duties, charges or other imposts, however described; or
>
> (b) the matter of making provision with respect to the general system for the recording of estates or interests in land and related information —

et cetera.

There are a number of areas where the state of Victoria has not been subject to the Uniform Consumer Credit Code, the forerunner to this national system of regulation. It obviously makes sense that those exclusions from the reach of the federal legislation should continue to apply.

A number of other matters are also excluded. Clause 12 states that certain provisions of the federal legislation that would otherwise apply will not apply to a

prescribed person. A prescribed person includes the Crown, a public or local body, or a local council within the meaning of the Local Government Act 1989.

There are also some issues in relation to caps on interest rates which have had application under Victorian legislation. These will not be subject to the national consumer credit legislation because the federal legislation does not have provisions in place to deal with these matters, or at least not in the same way as is being done in Victoria.

I have sought views from a number of stakeholders and industry bodies in the course of my preparation for this debate. I am grateful to the Consumer Action Law Centre (CALC) for its advice on this matter.

Mr Wynne interjected.

Mr O'BRIEN — The minister says, 'They are good folk', and they are indeed; I have had dealings with them as shadow Minister for Consumer Affairs. I think when I was at the bar I acted pro bono for that organisation, or perhaps one of its forerunner bodies, against an odious individual named Mr David Tweed who used to make a handy living out of sending out low-ball share offers to vulnerable people who did not appreciate the value of their shares. He made a lot of money by forcing or persuading them — —

Mr Wynne — Coercing.

Mr O'BRIEN — He coerced them, as the minister said, into signing contracts in a way that did not disclose the true value of the shares. When I was at the bar I did some pro bono work from time to time. One of my happiest memories is of defeating Mr Tweed in one of these applications. He was trying to force a very ill invalid pensioner to hand over shares he had received in the float of the NRMA in Sydney. That was one of those cases where a barrister could walk home with a spring in their step having done something good for the community. Knocking off the interests of that grub, Mr Tweed, was one of those days.

I have had something to do with the Consumer Action Law Centre in the past. They are strong advocates for looking after consumer interests. In relation to the bill, the organisation has flagged that the bill is not controversial and that it simply makes the arrangements necessary to effect the transfer of regulatory responsibility for consumer credit from the states and territories to the commonwealth.

The joint CEOs, Catriona Lowe and Carolyn Bond, make some points that I should put on the record. In relation to interest rate caps they said in an email:

> We support the fact that the bill, in repealing most of the Consumer Credit (Victoria) Act, does not repeal sections 39 and 40 of that act. These are the provisions that set the interest rate caps (sometimes called the usury caps) for consumer lending in Victoria. It is widely accepted that these need to remain at least until the new national laws have had some time to operate, to determine the extent to which the caps add or detract from the new national obligations. Other states and territories that have an interest rate cap are also retaining these caps. However, note that amongst jurisdictions that do have interest rate caps, Victoria is the only one whose caps apply only to the interest rate of a product and are not 'comprehensive', that is, do not include fees and charges on a product. In Victoria, this has led to widespread avoidance of the cap by fringe lenders through the charging of high fees. In NSW, ACT and Queensland, fees and charges are taken into account in determining the overall interest rate of the loan product, providing consumers with more genuine protection against usury.

On that issue the Consumer Action Law Centre makes a reasonable point. On the question of whether the interest rate caps should be all-inclusive — that is, whether the effective interest rate, which includes fees and charges, should be legislated for or whether it should simply be the interest rate — it appears clear that Victoria is a bit out of step with the other states. While these interest rate cap matters are not being repealed in the Consumer Credit (Victoria) Act, I hope we will see a situation at some stage where there will be uniform and consistent national legislation that provides a proper level of protection to consumers. If Victorian consumers can have a limit set on the interest rates they are charged for particular forms of consumer credit but there is no limit set as to the amount of fees and charges that can be bundled in with those interest rates, then there remains potential for exploitation that raises concerns. The member for Footscray, as a former minister in this area, might have something to say about that, but I take on board the point made by the Consumer Action Law Centre.

Another matter raised by CALC that I will refer to relates to finance broking. CALC has expressed some concern that certain provisions of part 4A of Victoria's act should be retained until the new national laws take effect. Part 4A deals with finance broking. The centre says part 4A of the existing Victorian legislation should be retained:

> … otherwise there will be a gap in regulation during which time consumers will be exposed to unregulated broking practices — exactly why part 4A and now the new national laws are needed.

Some reasonable points are made in relation to that, and it would be good to hear the minister's views. Given that all states, territories and the commonwealth have acknowledged the importance of having national regulation of finance broking, it would seem to be an

odd situation if there were a gap in the transitional arrangements which meant that in Victoria in effect there was completely unregulated finance broking. At the moment we have what is called a negative licensing system for finance brokers under which you are able to operate as a finance broker unless you fall foul of certain legislative criteria. Arguably it is not as onerous a level of regulation as positive vetting, but it is still an important, and we would say appropriate, level of regulation that we should have negative licensing for finance brokers.

What the Consumer Action Law Centre is suggesting is that the way this bill is structured with its transitional provisions is that there might be a gap where there would be no regulation of finance broking in Victoria. If that were to be the case, it would obviously raise some significant concerns, and I would hope the government would move to address those concerns to ensure that Victorian consumers were not exposed to completely unregulated finance broking for a period.

Overall CALC was quite supportive of a move to national regulation, and that is why I was interested to also receive correspondence from the Australian Bankers Association which indicates it is also supportive of this move. It seems a little odd. In politics we often expect to see consumers and bankers not necessarily being ad idem on regulatory matters, but both organisations are saying they think the move to a national scheme is a good one. As I have previously indicated, it seems a bit odd to have six or seven different systems of consumer credit regulation across Australia given that much business is transacted across state borders.

There are a couple of other matters I would like to mention briefly. One is clause 17 of the bill, which provides that certain powers and functions may be conferred on ASIC. Subclause (1) states:

> The Minister, or a person authorised in writing by the Minister, may enter into an agreement or arrangement with ASIC for the performance of functions or the exercise of powers by ASIC as an agent of the State, even if those functions or powers are or may be conferred on another person or body by or under a law of the State.

I asked at the briefing what the purpose of that provision was, and I was advised there may be times when the state will want to hand over investigations or information to ASIC in the performance of its duties. That all sounds quite sensible on the face of it, but I notice that it is a fairly unlimited drafting provision. It does not even provide that the ability of the state to get ASIC to act on its behalf is limited to consumer credit matters. You might say that is to be inferred by the nature of the act, but I question whether that limitation would stand up.

If we are proposing to give any sort of enforcement powers to a federal agency, we need to be very clear and careful about what we are handing over, the terms on which we are handing it over and what implications that might have for Victoria. There is an argument that there should be some greater clarity in that clause. The minister responded to my concerns about this, and his advice in his letter dated 5 March 2010 is as follows:

> Clause 17 allows the minister to enter into an agreement or arrangement with ASIC for the performance of functions or the exercise of powers by ASIC as an agent for Victoria. This would allow, for example, the minister to enter into an agreement whereby ASIC would act as an agent for Victoria in relation to an investigation or court proceedings which arose under the Uniform Consumer Credit Code prior to its repeal. The laws of agency ensure that the minister remains ultimately responsible for any functions conferred upon ASIC pursuant to an agreement made under clause 17.

It may be the case that the minister has the ultimate power over what ASIC does, but the laws of agency also mean that if there is ostensible authority provided to an agent from the principal, that may nonetheless have legal effect, so I am not sure that the minister's answer adequately addresses my concerns on that matter.

With the little time remaining I turn to the issue of legal proceedings. There are transitional provisions in place in relation to legal proceedings. Where legal proceedings are on foot in a state court they will effectively be deemed to have been transferred to a court exercising federal jurisdiction upon commencement of this bill. I have been assured that means there will not be any requirement for repleadings or refiling of documents. It will essentially be a case of picking up where the parties have left off the day before. When it comes to tribunals it is a little different. There is not the ability to have that sort of transfer, because there is not a federal tribunal that would exercise jurisdiction in the same way as a state court can exercise federal jurisdiction. In that case any proceedings that have been undertaken under the Uniform Consumer Credit Code will continue at the Victorian Civil and Administrative Tribunal through a grandfathering provision.

The last point I make on this bill is that it provides the ability for Victoria through the Governor in Council to revoke the powers of referral to the federal Parliament and to revoke the reference. We think that is very important. We are supporters of sensible cooperative federalism; we are not supporters of handing over all powers, money and responsibility to Canberra. We

believe we are a sovereign Parliament that should be debating and making laws for the benefit of our citizens, but where there can be benefit to citizens through cooperative federal schemes we on this side of the house are certainly prepared to look at them, and we have done that in the past, for example, with industrial relations powers.

It is very important that we retain the ability to take the powers back if the current or any future federal government or federal Parliament were to misuse those powers in a way that did not benefit the citizens of this state. We make the point that that is a very important provision for those on this side of the house gives the Victorian government the ability, through the Governor in Council, to revoke the powers of referral to Canberra, and that is an essential safeguard for us. Having said that, I can also say we believe the move to national consumer credit legislation offers benefits for consumers and businesses. It has been supported by industry groups for both the consumer and business, and to that extent it also meets with no opposition from this side of the house.

Ms THOMSON (Footscray) — I rise with great pleasure to support the Credit (Commonwealth Powers) Bill. I am delighted to see this bill in the house. As was alluded to by the previous contributor, I have had some dealings with consumer credit laws and the uniform credit mechanisms available in the past to state ministers and the commonwealth. It has been difficult to move swiftly and quickly to benefit consumers when there have been obvious areas where uniform legislation has been required to be passed. The process for passing that legislation usually required ministers to meet and then we would set up a working group of the various consumer bodies that would go to work on it. The legislation would be passed through the Queensland Parliament, because it had only one chamber and people thought it would be quicker to pass, but of course it had to fit in with Queensland's priorities and therefore it could drag out for years.

In fact there was plenty of legislation that we would have liked to have seen implemented but which was never put in place during our three four-year periods, simply because it would get bogged down in the process of just getting the legislation assessed. If you were trying to get things done, it was a very frustrating process, which is why we saw irregularities from state to state. Issues would affect states differently. Queensland would have certain issues that it needed to address immediately but which would not necessarily affect other states. Here in Victoria we would have things that affected us immediately, and we would want to respond quickly to those rather than wait for the processes of the UCCMC (Uniform Consumer Credit Code Management Committee), as we used to call it.

It was a frustrating process. It is important that we look to transfer to a national system where most of the financial sector is regulated by the federal arena. It is with great pleasure that we are here today to see that put in place. It is a better way to regulate this sector. It is better for those who work and occupy this sector as well as for consumers. We will see a tightening up in a number of areas that we could not tighten up in our jurisdiction simply because we were one cog in the armoury available. In a national environment, where other players could be involved in this space in Victoria, it was important to be careful about how we operated legislation independently of other jurisdictions. It is fantastic to see that we are moving ahead and that we have a federal government keen to make sure we protect consumers through this process.

A couple of questions were raised in relation to SARC. The Scrutiny of Acts and Regulations Committee's comments on section 295 of the National Consumer Credit Protection Act were that it agreed it was reasonable to limit the charter's self-incrimination rights for people who had chosen to participate in credit activities and had therefore assumed certain duties and obligations.

The committee questioned whether the Australian Securities and Investments Commission's powers might extend to matters unrelated to credit or to persons who had not voluntarily taken on the duties and obligations associated with engaging in credit activities. The clear focus of ASIC's investigative powers under the national credit legislation, and in particular under section 247 of the National Consumer Credit Protection Act, is credit activities and those engaging in credit activities.

The Chief Justice of the Supreme Court case of *Re Application under the Major Crime (Investigative Powers) Act 2004* [2009] made it clear that the decision in that case did not amount to a blanket determination that the right against self-incrimination could not be limited and that it could be justified in each individual context. The national credit laws relate to the regulation of complex financial products where evidence of an offence will usually be within the knowledge and records of the relevant operator and is difficult to access in any other way. The scheme seeks to protect vulnerable consumers from unscrupulous conduct, and limitation on the right against self-incrimination is reasonable in this context and is aimed to prevent those responsible for wrongdoing from escaping liability.

There will be more said on this, but this can be a most frustrating area. When you are dealing with credit new products and new scams arise all the time and consumers are ripped off all the time. It is a case of trying to be one step ahead and being armed and able to deal with that.

We now will have in place a greater regime for regulating financial brokers, which is a fantastic achievement. Yes, there are some issues around provisions that will not come into place for another six months. However, when those provisions are in place they will be stronger than the current provisions, they will protect consumers better and they will be regulated. We will not see fly-by-nighters coming in from Queensland, ripping off our consumers and racing back off to Queensland, nor will we see the reverse occurring.

We will have a registration scheme available for financial brokers. We will keep in place the requirement in Victoria for there to be alternative and independent dispute resolution mechanisms in place. That is crucially important. There are two areas that I want to single out. One is in relation to the Motor Car Traders Act. There is a cooling-off period of three days, which members may be aware of. This bill protects that in legislation. When buying a motor car we can be confident there is a cooling-off period before we progress with that transaction. That is important, given the expense of a motor vehicle, because for most people it will probably be the second-largest expense they will have outside the purchase of their home.

Mr O'Brien interjected.

Ms THOMSON — Yes, but that is ongoing. Children are the most expensive item you will ever invest in.

The issue of interest rate caps was an issue on which Victoria chose to act independently of the Uniform Consumer Credit Code. We did that because Victorian consumers were being hit with obvious rip-offs.

This is the one area in which I hope the federal government will look at legislating even more tightly than we have in Victoria to protect the most vulnerable consumers in my community who are involved in large, short-term payments of interest rates. Protecting them is vitally important, and I am looking forward to the outcome of reviews in that arena. Whilst this piece of Victorian legislation goes some way to doing that, we still have some way to go and the best way has always been to do it under a national scheme.

I am pleased to see this legislation before the Parliament. I am also pleased to see that we are going to strengthen some components of the measures we already have in place in Victoria and that this legislation does not just meet the lowest common denominator nationally but looks at the best possible protection for consumers. That is important, and it is why it has taken so long to get to this point. Having the Rudd government commit to ensuring that we see those protections is another example of federal and state Labor governments being able to work together to bring about the best possible outcome for consumers, an outcome that protects them while understanding the need to balance that protection against regulations that businesses find easy to comply with but that make it very clear to them what their obligations are; regulations that are easy to meet if they are doing the right thing but which are heavy-handed when they are not. That is what this bill is all about, and I am pleased to be able to support this piece of legislation.

Dr SYKES (Benalla) — I rise to contribute to the debate on the Credit (Commonwealth Powers) Bill. As the member for Malvern has indicated, members on this side of the Parliament see a lot of merit in this national approach to credit and as a result we will not be opposing the bill.

I touched on the principle of a national approach last night during the debate on the Livestock Management Bill. It makes sense, and once the national scheme is fully implemented we will have one system of regulation of credit in Australia administered by the Australian Securities and Investments Commission.

A key component of the national credit laws will be the introduction of a single, uniform licensing system for those engaged in credit activities. Another feature is that licensed credit providers will be required to be members of an approved dispute resolution scheme. A further important aspect of this legislation is that people who are licensed will be required to assess the suitability of a credit product for a consumer's stated objectives and financial circumstances.

If we just look at that aspect of the legislation for a moment, several things need to be considered. They include the amount of the loan in relation to the value of the property being offered as security. That is important, particularly in rural situations where the value of a property can tumble quite rapidly if a person goes through extreme circumstances like the last decade of drought. Similarly, the issue of interest rates needs to be factored in when making a judgement on the suitability of a product. The interest rates should be related to the risk associated with the lender making the

money available and not based on the ignorance, lack of knowledge or degree of desperation of the person seeking the loan. Also, the interest and capital repayment schedule needs to be able to be accommodated by the person taking out the loan. For people on steady incomes it is relatively easy to work out their disposable income after basic living costs have been met and judge their ability to meet interest and capital repayment commitments. In the case of primary producers, income and costs can go up and down and the net amount of money left can be quite variable. In the last decade of tough times a lot of primary producers and associated businesses and members of the community have experienced very tight cash flows which mean they have come under pressure in meeting their interest and capital repayment schedules.

That leads to another consideration which is that there should be appropriate flexibility in payment schedules. I saw that applied locally in Benalla three or four years ago when a large company put off about 60 people. A number of those families were desperate about their inability to meet their house repayments because their income had ceased and they were living from week to week. I should say that whilst initially some of the lending institutions were rather hard-nosed about helping these people, some discussions with them on my part and other intervention resulted in a reasonable approach being adopted in most cases, and where the long-term prospects for that person or family still looked fine, things such as repayment holidays were provided and that helped people to get through a tight time.

The other concern I have in relation to credit products is the ignorance of the people borrowing the money. One classic example is people who have a high level of credit card debt when everyone knows that credit cards have very high interest rates relative to other lending options. What intrigues me more is when people use credit cards to pay off other credit card debts. That, to me, is simply not sustainable.

If we look at the issue of dispute resolution, I experienced a situation where I think I could have benefited from a better form of dispute resolution. I loaned a friend a considerable sum of money — $80 000 — for a joint business venture. He defaulted on that loan after a number of years and despite repeated assurances that he would repay the loan the money was never forthcoming. Eventually I handed the debt collection to a registered debt collector on the basis that it would take 25 per cent commission if it could retrieve the money by negotiation or by letters and that method. After rather modest attempts on its part to recover the money in that way, the debt collector recommended that we proceed to legal proceedings. Interestingly enough, its commission then went up from 25 per cent to 50 per cent.

I reluctantly proceeded down that path and a legal hearing was organised. In going into the hearing the person supposedly representing my interests came to me and asked what the minimum I would accept was. I said, ‘An apology and 50 per cent of the outstanding debt’. His response was, ‘We will forget the apology and see how we go on the outstanding debt’. About 5 minutes later he came back and said, ‘We will get you back 50 per cent on a time payment schedule’. For about 10 minutes of work that debt collector pocketed about $20 000. I think that highlights that we need better dispute resolution mechanisms so that people do not get caught up in situations where they are paying through the nose for debt recovery. While this organisation was probably operating within the law, I would have to say that I seriously question its ethics.

The member for Footscray touched on other challenges facing people seeking credit and the various scams that operate. I never cease to be amazed by people still being caught up in the Nigerian scams and various other scams where people purport to come from the Commonwealth Bank or the National Australia Bank or the ANZ.

We come to this quandary which legislators so often have, which is the balancing act between protecting the vulnerable and the ill-informed but also acknowledging that people should take responsibility for their own actions. Regrettably, in the case of credit — and for the life of me I really do not understand why — there seems to be a large proportion of people who are wooed by misleading information. It may be smartly marketed information but at other times quite crudely marketed offers of finance. You really have to wonder at times how far legislators have to go to protect certain people from their own foolhardiness.

Returning to the general thrust of the bill, we on this side of the house endorse the notion of a national scheme, the key component of that scheme being a uniform licensing system. That makes sense so that we have uniform standards applying nationally. We also endorse the requirement for an approved external dispute resolution scheme, and I have reflected on my own experiences to highlight what can happen if dispute resolution is not more tightly managed. Perhaps underpinning all of this is the requirement for licensees to assess the suitability of the credit product for the consumer’s stated objectives and financial circumstances. If that is done properly, hopefully we will have fewer consumers getting themselves into the

situation of taking out loans or credit which they will have great difficulty repaying. This is a common-sense move providing uniformity from a national perspective. With those remarks I indicate that I have no opposition to the bill.

Mr NOONAN (Williamstown) — I rise to speak in support of the Credit (Commonwealth Powers) Bill. Having listened earlier to the member for Footscray, who is a former Minister for Consumer Affairs, it is pretty clear that much work has gone into the formation of a national approach in this area, and I congratulate the member for Footscray on her work during her time as the responsible minister.

The passage of this bill through the Victorian Parliament will transfer to the commonwealth the constitutional powers necessary to support the enactment of the National Consumer Credit Protection Act 2009 and the National Consumer Credit Protection (Transitional and Consequential Provisions) Act 2009.

The origins of this bill can be traced back to a Productivity Commission report released in May 2008 entitled *Review of Australia's Consumer Policy Framework*. Overall the report concluded that Australia's consumer policy framework has 'considerable strengths' but that parts of the framework required an overhaul. One of those areas requiring attention was consumer credit. The commission stated:

> Responsibility for regulating the provision of consumer credit and related advice by finance brokers and other intermediaries should also be transferred to the Australian government as soon as practicable, with ASIC as the primary regulator.

The commission also stated:

> The current division of responsibility for the framework between the Australian and state and territory governments leads to variable outcomes for consumers, added costs for businesses and a lack of responsiveness in policy making.

The commissioner essentially concluded that addressing these problems would have significant direct benefits for consumers whilst enhancing competition, productivity and innovation.

In line with the Productivity Commission's recommendations the Council of Australian Governments agreed to transfer the regulation of credit to the commonwealth, and that referral formed part of COAG's *National Partnership Agreement to Deliver a Seamless National Economy* in 2008. At the time the Prime Minister said that the partnership agreement was 'the most significant regulatory reform that we have achieved as a nation in more than a decade'.

Our Premier expressed on behalf of Victoria his support for transferring credit regulation powers to the commonwealth. His reasoning back in 2008 was, as he stated:

> … to remove unnecessary regulation to make it a seamless national approach … is going to help businesses and is going to help them compete in both the national and international economy.

The Premier formally signed the COAG national credit agreement in December 2009. The commonwealth worked very closely with the state and territory governments during this phase and also undertook consultation with industry and consumer groups, as would be expected. This led to the development of the National Consumer Credit Protection Bill late last year, which was debated in the commonwealth Parliament. That bill was passed and received royal assent on 15 December 2009, and there was a subsequent amendment bill which passed a couple of weeks ago, on 25 February. The passage of these bills paves the way for a single, uniform national credit law, which is very timely because the products and providers in the credit industry are becoming increasingly complex and diverse and it would seem that credit is abundantly available. Indeed over the last 12 months I think I have probably received up to half a dozen offers from lending institutions to extend the limit on my credit card or take up other loan offers. It is little wonder the amount of personal and household debt by Australians has never been higher.

There have been some unscrupulous operators in the credit industry. The Australian Securities and Investments Commission (ASIC) produced a report in 2008 entitled *Review of Mortgage Entry and Exit Fees* which shone a particular light on mortgage brokers. We know that mortgage or finance brokers act as intermediaries between the lender and consumer and are something of a by-product of our competitive mortgage lending market, particularly over the last decade.

A comparative study revealed that Australian mortgage brokers have high fees when compared with countries such as the US and the UK. Brokers normally receive 0.75 per cent of the entire loan amount up-front and 0.25 per cent is paid annually in a trail commission, according to the report. This arrangement has encouraged some brokers to recommend the lending institution that gives them the highest fees rather than the most suitable loan to the consumer.

The ASIC report referred to a statement in a Productivity Commission report that:

> Finance brokers are generally compensated by credit providers, not the consumer seeking the information. This may create conflicts of interest, and provide opportunities for less reputable brokers to take advantage of some consumers by, for example, placing loans with a lender that is more expensive but that pays a higher rate of commission to the broker.

In a March 2008 report by ASIC entitled *Protecting Wealth in the Family Home — An Examination of Refinancing in Response to Mortgage Stress* brokers were shown to use what is known as 'equity stripping' to deceive some consumers. In that report ASIC analysed three borrowers who had refinanced essentially to save their family homes. The analysis found that the refinancing cost them on average 27 per cent of the equity they had already accumulated in their homes. The borrowers incurred a minimum of $20 120 in fees and charges. In all three cases the brokers arranged loans with higher repayments. The refinancing therefore did not address, even in the short term, the underlying problem of the borrowers' lack of capacity and their need for a significant reduction in repayments. As a result, unfortunately within 12 months of the refinancing, these borrowers had lost their homes or defaulted to such an extent that their loans were irretrievable.

Clearly these are worst-case examples, but real life examples nonetheless. They demonstrate that there can be a power imbalance related to a consumer's belief that brokers will give them independent advice and act in their interests. Until now mortgage brokers have been under no obligation to do so, although I understand there has been a code developed, at least in Victoria, which has received general support.

Under the National Consumer Credit Protection Bill mortgage brokers will be licensed in Victoria for the first time. They will be obligated to give the best advice and to ensure that the consumer is able to pay the loan back. They will also have to join an independent resolution scheme, and this is significant, particularly given that almost one in three loans are originated by brokers. Brokers will have to register with ASIC in order to operate legally.

The new national credit laws will cover both credit providers and credit service providers such as brokers. The national legislation creates a new regulatory approach built on responsible lending and consumer protection. It ensures that the lender or broker verifies that the consumer will be able to pay back the credit; that the lender or broker must have the capacity to lend the credit in the first instance; and that lenders and brokers must meet minimum training requirements and have adequate financial and human resources to meet their obligations. It will ensure that lenders and brokers must meet decent standards of conduct, particularly around the provision of basic information to the borrower. It will ensure that advice to consumers includes fees and charges that they will pay up-front before the loan is suggested or entered into. It will also require that advice be given to consumers about what commissions the lender or broker will receive for selling the consumer that loan. Lenders and brokers will have to be part of an external dispute resolution procedure which has to be approved by ASIC. We know that the commonwealth government has made a commitment to invest $66 billion in credit reform and ASIC oversight under this new national regime.

In conclusion, we understand the consequences of poor regulation of credit and related services and their impacts on consumers. Irresponsible lending or ill-informed borrowing can contribute to a potential debt trap. The Productivity Commission's report clearly identified a need to develop a national framework for credit laws across the country. It determined a need to plug some gaps and inefficiencies in the state-based credit regulation system. This bill follows the path already established by the Tasmanian and Queensland parliaments, which late last year transferred constitutional powers to the commonwealth to better regulate consumer credit. Victoria will follow suit with this bill, ensuring the delivery of a single, standard, national regulation of consumer credit for all Australians. I thank and congratulate the Minister for Consumer Affairs for introducing this bill into the Victorian Parliament and commend Consumer Affairs Victoria for its work in standing up for consumers and supporting a uniform set of credit laws across the country.

Mr MORRIS (Mornington) — We are again dealing with a bill which will pass some of Victoria's legislative powers to the commonwealth. Once again the role of the state Parliament is being handed away — handed away on an issue that can have a very significant impact on the day-to-day lives of many people. The reality is that in the 21st century if you have credit problems, the opportunity you have to live a useful life, reach your potential and have a decent standing of living is substantially diminished.

We have heard in the debate that this measure is part of a national business and regulatory reform agenda agreed to by the Council of Australian Governments. This portion of the agenda in part stems from a Productivity Commission report delivered in early 2008

which proposed that the regulation of credit be passed to the Australian Securities and Investment Commission (ASIC). I want to make it very clear that I support the intent of the reform. We have a national economy. We have national bodies like ASIC which are more than capable of administering it. We have in most cases national market operators, and we have national markets.

As the minister noted in the second-reading speech, those involved in the provision of credit will under this proposal be subject to a single system of regulation. The Productivity Commission proposed that the regulator should be ASIC, but is it going to be the best regulator? Quite frankly, I do not know, but I am prepared to accept the view advanced by the Productivity Commission that that is the appropriate body.

My concern with the bill is a more general one — that is, about the impact of the process, particularly the cumulative impact of the process on the federation. The Productivity Commission report was delivered in April 2008, yet this government was elected in November 2006 and the Rudd government in October 2007, well before any of this information was in the public domain. So these proposed national reforms have not been the subject of any discussion in the community; they have not been argued in the context of an election campaign; they have not been tested by a public vote.

If you compare the process that has been undertaken in this case with the process that led to the federation of the colonies and the determination of powers, which were eventually identified under section 51 of the constitution, you see that that process probably took far longer — it went on for well and truly over a decade, probably closer to two decades. The powers that were identified in section 51 of the constitution were clearly known to most of the participants in the public debate.

I have no doubt that even if this proposal were tested in the way that the section 51 powers were tested, it would be supported because it makes sense. The question really is whether the way we are going about this is an appropriate way to reshape our federation, because at the moment we are reshaping millimetre by millimetre, issue by issue, power by power, without any reference at all to the impact those changes have on the whole framework and without any reference to the impact on budgets, whether it is the state budget or the federal budget. There has been no discussion about who is regulating these matters at the moment and what the impact of these changes will be, because clearly those employees are probably not going to wind up going to the Australian Securities and Investments Commission. I simply raise that as an example, not as a matter that I am seeking a response to. Is this the best way to deal with changes to our federation? I think not!

I also want to make it clear that I am not someone who wants to turn the clock back. The specific powers that were conferred on the commonwealth in 1900 to commence operation in 1901 were appropriately limited powers.

Mr Jasper — Limited powers.

Mr MORRIS — As the member for Murray Valley interjected, they were limited powers and appropriate for the time. We need to accept — in my view it is a good thing — that Australia is a totally different place from the days when the House of Representatives sat in this chamber. I would not want to go back to that extremely limited framework. We have moved on, and I suspect that is why section 51(xxxvii) was built into the constitution, but referrals were always intended to be optional, and my understanding is it was always intended that they be capable of being reversed. There is a view — I understand it is untested, but there is considerable backing for it — that the commonwealth could successfully oppose any move by the state of Victoria to recover these powers. That is something that we cannot answer now; that is something we do not know, and I suspect if we find that the answer is not to our liking, it will be too damn late to do anything about it.

Why is it necessary to pass the bill? What is the impetus? It is clear that the Uniform Consumer Credit Code is not working as well as it perhaps could. It is working in the context of a national market and national institutions and so on. It also probably has a fair bit to do with the structure we have in place. If you have a look at the details of the bill, you see that, apart from establishing the national framework, we are amending the Consumer Credit Victoria Act, the Credit Administration Act, the Business Licensing Authority Act, the Duties Act, the Fair Trading Act, the Goods Act, the Interpretation of Legislation Act, the Motor Car Traders Act, the Partnership Act, the Supreme Court Act and the Victorian Civil and the Administrative Tribunal Act. In all 40 clauses of the some 60 clauses in the bill deal with amendments to Victorian acts. There has been no shortage of opportunity to streamline the system before today, and there has been no lack of opportunity to streamline in turn rather than handing over powers.

Is the system that is proposed going to work any better? Certainly the Scrutiny of Acts and Regulations Committee indicated in the *Alert Digest* it tabled this

morning that cooperative regimes like the national credit legislation may undermine the operation of the Charter of Human Rights and Responsibilities. It expressed concern about the lack of appropriate parliamentary scrutiny, and it has identified two specific aspects of the National Consumer Protection Credit Act 2009, section 295 and section 151(1), with which it has considerable concerns. It refers to the Parliament, as it frequently does, for its consideration the question of whether these issues and the minister's claims in the statement of compatibility are in fact appropriate.

These are significant issues, if not problems, with this bill. There are questions about the process. There are questions about the impact of this legislation on the citizens of Victoria. There are questions about the impact of the cumulative effect of this bill and similar bills on the health of our federation. There are real concerns about the impact of the commonwealth legislation on the rights claimed for all Victorians by this government under its Charter of Human Rights and Responsibilities. Despite these known flaws, the government appears to have made little effort to address them because they remain in the bill that is before us.

I acknowledge that the nature of the reforms themselves is not in dispute. The reforms are supported but the process is not. If we are to succeed in modernising our federation, it is not the ministerial councils and the Council of Australian Governments that we need to bring with us; we need the participation and the endorsement of the people of the federation, not only the people of Victoria but the people of all the states. To date that participation has not been sought nor has it been welcomed.

Mr SCOTT (Preston) — It gives me pleasure to rise to support the Credit (Commonwealth Powers) Bill 2010, which, as other speakers have outlined, is a bill to refer powers to the commonwealth in order to establish a new national credit protection regime under commonwealth law.

I want to touch upon a few aspects of this new regime. Firstly I turn to the uniform licensing scheme for those engaged in credit activities, as was outlined in the second-reading speech, including credit providers, finance brokers and others who provide credit assistance or act as intermediaries. Persons or organisations that do this will have to hold an Australian credit licence from 1 July 2011.

The other aspect which is significant is the consumer protections that exist, including the requirement for licensees to be members of an approved external dispute resolution scheme. As a member of Parliament a number of constituents have come to my office with issues around credit contracts and other consumer affairs problems related to credit. Access to an external dispute resolution scheme is an important aspect of any scheme which regulates credit because it allows there to be a third party which can discuss and resolve problems without the requirement to seek redress in courts or other tribunals.

Another important aspect of the bill is the provision that credit providers be required to take into account the circumstances of individuals when providing products and not to recommend products which are inappropriate for their circumstances. This is an important aspect of the regime because one of the key problems you get with the provision of credit is the selling of inappropriate products without there being requisite checks on a person's ability to pay or whether those financial products meet the needs of the consumer.

The member for Benalla touched on this problem and proffered that he was unaware of the cause of this. In behavioural economics there is a theory which relates to the term 'hyperbolic discounting' where persons receive discounts at different rates over time. The classic example that is given is that people are more willing to accept $1 today than $3 tomorrow but would never dream of accepting $1 in seven days but $3 in eight days. The rate at which people discount does not accord with the normal understanding, prior to the rise of behavioural economics, of a constant discounting rate of, say, 10 or 8 per cent, depending on the interest rate. In fact the discounting rate is much more rapid and then levels off much more quickly than predicted by what was previous economic wisdom.

This can be described by the use of a very simple term — that is, 'impatience'. When people want something immediately they are willing to have a high level of discounting for instant gratification, but if the gratification is delayed slightly, the same level of discounting does not take place. This gives rise to practices such as payday lending, where the emphasis is on access to cash in the form of instant loans. Those who provide the ability for people to instantly receive money require in return a high level of interest or repayment, which may not be in the interests of the consumer. This raises significant issues for anyone regulating this area. If you make a determination on purely economic terms, what you get is people acting in predictable ways against their own interests, because human behaviour does not meet the classic definition of constant discounting.

This also raises a question that is always difficult for any Parliament to deal with: at what point does the Parliament intervene to protect people from themselves? At what point should we restrict the freedom of all persons to protect people who have a greater propensity for hyperbolic discounting because of problems. This is a very difficult issue which I think parliaments will always wrestle with, because there is never a simple answer to those problems of when you intervene to protect people from themselves.

Hyperbolic discounting has also been associated with other social problems — drug use, drug dependency and gambling dependency — in addition to credit problems. People who are subject to it are the reverse of the sorts of people who will stoically save over a period of time or enter into long-term saving arrangements in order to meet their needs. For instance, hyperbolic discounting has also been associated with people who do not save for their retirement. This is a problem in society. The research shows that most people have a propensity towards hyperbolic discounting but that in some persons it is greater than in others. I am not suggesting that there is a causal relationship between these two, because it is always difficult in these circumstances to establish causality, but I think this is an interesting theory which provides an insight to anyone examining these areas. It is a matter of looking at how people actually behave and the psychological results of people's behaviour when determining economic theory, not just making a series of assumptions and then expecting people to meet those assumptions, particularly assumptions about rational actors within a market.

The provision requiring credit providers to take into account whether the product is suitable for the consumer's stated objectives and financial considerations is an important criteria for meeting this exact problem. It is always going to be difficult, and there is never going to be a perfect solution to that sort of problem, which frankly goes to the flawed nature of human beings over the aeons, but it is an important consideration that there is now an onus on the credit provider to take those issues into consideration. In providing the product they sell, credit providers have to take into consideration the needs and sustainability of the product for the consumer.

I think this bill is a good piece of legislation. I think state-based regulation of credit is always going to be problematic in the modern era, particularly given that modern communications technology means that people can provide services across boundaries. There are a whole range of issues that mean the regulation of credit is probably best done at a commonwealth level. I am particularly glad to see the inclusion of consumer protection provisions such as the external dispute resolution process and the requirements for credit providers to ensure they assess the suitability of credit products for the consumer's stated objectives and financial circumstances. These are important aspects that will protect consumers into the future. I commend the bill to the house.

Mr JASPER (Murray Valley) — I am pleased to join the debate on the Credit (Commonwealth Powers) Bill 2010. The intent of the bill is to adopt national consumer credit legislation, to refer Victoria's legislative powers over certain consumer credit matters to the commonwealth Parliament and to make transitional provisions. The Council of Australian Governments (COAG) has agreed to facilitate national consumer credit legislation to be enforced by the Australian Securities and Investments Commission. This is being achieved through Victoria and other states adopting the commonwealth national consumer protection legislation and referring to the commonwealth the power to legislate in support of amendments to the commonwealth legislation, and by Victoria repealing the relevant parts of the Victorian legislation that will be dealt with by the commonwealth.

I must say from the outset that whilst I acknowledge the bill is part of the reform agenda being implemented between the state and federal governments, I certainly have concerns with the overall thrust of what is happening in Australia where we have the three levels of government — federal, state and local. I live along the border between Victoria and New South Wales, and the northern border of my electorate, which extends for some 200 kilometres, is in fact the New South Wales-Victoria border. One of the issues I have worked on for many years is eliminating border anomalies between the two states. There was a little work done on this during the 1980s and 1990s, but in this century the current government has brought some semblance of reality to the elimination of border anomalies by moving in that direction.

Many people I speak to about the border between the two states indicate to me that we need to be working harder on border anomalies. Indeed they often say to me that in Australia we need only one government at a federal level and regional or local governments. As a person who has represented the seat of Murray Valley in the state Parliament for 34 years, I support the system of three levels of government we have in Australia. I express great concerns about the changes that are being implemented and the powers that are being shifted to the commonwealth government by the federal and state

governments through COAG and other arrangements. I think we will find in the long term that this will be to the disadvantage of the states.

From 1996 to 1999 I was a member of the Federal-State Relations Committee. I thought that committee did some excellent work in looking at the relationship between the federal and state governments and trying to maintain the importance of federalism.

The original pulling together of the states in 1901 was driven by the fact that some areas should be managed by the federal government and other areas should be managed by the state governments. I think we need to remember that the federal government was set up by the state governments coming together and deciding that there should be certain powers given to the federal government. In 1942 the commonwealth government took over the power to raise revenue through taxation and hence support the states. Since that time we have seen a gradual transfer of powers to the federal government, and in the last few years we have seen more emphasis in that direction.

I refer to two reports. The first is the first report from the Federal-State Relations Committee's inquiry into overlap and duplication and is dated October 1997. The first recommendation of that report states:

> The Federal-State Relations Committee recommends that Victoria seek improvements in the consultative framework on treaty matters in the Australian federation. In keeping with this, Victoria should further develop its current procedures for consulting with the commonwealth on treaty matters; should consider developing new procedures where current procedures are inadequate; and should encourage other states and the commonwealth to do likewise.

What we see in that first report is that reference is made to treaties. They were being dealt with by the federal government — it was agreeing to treaties which were being adopted throughout the world and which then became part of the treaties adopted right across the Australian continent, including all of the states within it.

I go to the second report of that same committee, which is dated October 1998. This report looked at Australian federalism and the role of the states. It is interesting to read just a couple of paragraphs from the executive summary to that report. It states:

> A federal system of government has a number of distinct virtues. Regional autonomy, ensured by mechanisms of decentralised decision making, allows for government which is closer and more responsive to the demands of its citizens. At the same time, the national government is able to achieve common purposes where national uniformity is desirable. These virtues of federalism are upheld by the structure of federal government, in which the commonwealth and the state governments share their sovereignty over the common territory of Australia.

The finding of that report following on from the paragraph that I have just quoted states:

> Australia is a country of significant regional diversity. Federalism as a system of government serves Australia well and the virtues of federalism — a responsiveness to regional diversity through decentralised decision making — must be enhanced and preserved. The states and the commonwealth must cooperate to uphold the virtues of federalism.

That sums up my views as regards the relationship between the federal and the state governments and trying to maintain a balance between those areas which are being maintained by the state government and those which should naturally go to the federal government and indeed looking to try to achieve uniformity across Australia with particular issues.

But if we find that that sort of thrust is pressed too far, the commonwealth will have far too much power and the states' powers will be continually reduced, and this is a great concern that I have with the legislation before the Parliament. Indeed in future we will see problems with state parliaments right across Australia being able to protect their sovereignty.

I am a member of the Scrutiny of Acts and Regulations Committee (SARC), and its most recent *Alert Digest* expresses some concerns with this legislation. In fact I will quote some of the areas of concern mentioned in the report which was tabled in Parliament this morning. Reverse legal onus was one of the issues of concern raised in the first part of this report. Reverse evidential onuses are another change being implemented which the committee saw as being to the disadvantage of people within Victoria.

I understand the thrust of the legislation and some of the comments made by previous speakers but I also indicate that we have a Charter of Human Rights and Responsibilities which is used to examine all legislation before the Parliament. The Nationals opposed the charter but now that it has become part of the law within Victoria it needs to be addressed. There are six pages within the latest *Alert Digest* relating to the charter because SARC was concerned that this legislation does not provide appropriate protections under the Charter of Human Rights and Responsibilities.

Time will not permit me to go through all the issues of concern but a range of issues is covered in the six pages presented in the report and was discussed earlier this week. While there may be some great merits in the bill before the Parliament trying to achieve uniformity and

protection for credit providers and for consumers, we also need to understand that the legislation should meet with the requirements of legislation within the state of Victoria and ensure that we are able to protect the rights of the states, in this case Victoria.

I refer members to the *Alert Digest* and recommend they read the issues of great concern raised in it. Self-incrimination is one of the issues of concern raised in the six pages. The *Alert Digest* goes on to talk about a range of issues relating to the bill and particularly to section 295 of the National Consumer Protection Credit Act 2009 and self-incrimination, which is referred to in section 151(1) of the National Credit Code. We need to be clear on the implications of legislation as it affects Victoria and take note of the comments made in the *Alert Digest*.

From the decisions we took earlier this week the committee is writing to the Minister for Consumer Affairs bringing to his attention concerns it has in relation to the Charter of Human Rights and Responsibilities and not being able to utilise the provisions of that act — which is now part of the Victorian scene as far as legislation is concerned — to review this legislation.

We have concerns about legislation where we are transferring powers to the commonwealth, and we need to be careful to protect states' rights into the future and maintain a balance between the states and the commonwealth so far as powers are concerned and to protect our rights into the future as part of the commonwealth.

Ms KAIROUZ (Kororoit) — I have pleasure in contributing briefly to the debate on the Credit (Commonwealth Powers) Bill. The overall objective of the bill is to support a single uniform regime for regulation of consumer credit by transferring the constitutional powers to the commonwealth government.

The bill will basically transfer the constitutional powers that are necessary to support the enactment of the National Consumer Credit Protection Act 2009 and the National Consumer Credit Protection (Transitional and Consequential Provisions) Act 2009, also known as the 'national credit laws'. The bill will adopt the initial text of the national credit laws and allow the commonwealth to amend those laws, but these amendments are restricted to matters relating to credit or consumer leases within the meaning of the initial national credit laws. The bill specifies that the commonwealth powers to amend the national credit laws do not include a power to make amendments in relation to certain specified areas of the state legislative responsibility. These matters of state legislative responsibility are 'carved out' from the commonwealth's amendment power, and this is very important to note.

In April 2008 the Productivity Commission released a review of Australia's consumer law framework, and it identified flaws in the jurisdiction-based regulation of consumer credit. In particular, it noted gaps in coverage, variations in requirements across jurisdictions and the lack of ability for the law to respond quickly to rapidly changing credit markets.

The Productivity Commission recommended the transfer of responsibility for the regulation of credit to the commonwealth government to be administered by the Australian Securities and Investments Commission, known as ASIC. In line with this recommendation and to ensure consistency in regulation across Australia and to address gaps in the current scheme, the Council of Australian Governments agreed in 2008 to transfer the regulation of consumer credit to the commonwealth.

The transfer of this regulation is a key milestone in the COAG national partnership agreement to deliver a seamless national economy. Once this national scheme is fully implemented those involved in the provision of credit will be subject to a single system of regulation administered by ASIC, and consumers across Australia will have consistent remedies and protections available to them.

As members of Parliament our constituents often come in and tell us about the issues and problems that they have with purchasing credit and the protections that they thought they had which do not exist. Hopefully consumers across Australia will be given enhanced protection under the new national credit laws.

These reforms are the subject of an intergovernmental agreement known as the national credit agreement, which was signed by the Premier in 2009. The agreement provides for the adoption of a single national legislative scheme for the regulation of consumer credit, therefore protecting consumers.

We heard before that some opposition members felt there was not enough consultation on these reforms. Extensive consultation was required on the transfer of the regulation of consumer credit to the commonwealth, to be administered by the Australian Securities and Investments Commission. A national regulatory impact statement was prepared by the commonwealth and exposure drafts of the national credit laws were released for public consultation. In excess of 70 submissions were received in relation to the exposure drafts, and the

national credit laws were the subject of a Senate inquiry. The Senate Standing Committee on Economics received 59 submissions on the national credit laws and released an inquiry report in September last year.

During the development of the national credit laws the commonwealth consulted with an industry and consumer consultation group which included the Australian Finance Conference, the Australian Bankers' Association, Abacus, the National Financial Services Federation, the Investment and Financial Services Association, the Financial Planning Association, the Financial Ombudsman Service, the Credit Ombudsman Service, the Law Council of Australia, CHOICE, the Consumer Action Law Centre and the Consumer Credit Legal Centre. During this consultation process some other ideas were put forward about aspects of the national credit legislation, and these were certainly looked at and discussed, but generally there was widespread support for this reform.

It is important to note that Victoria will have an ongoing role in overseeing the implementation of this regime. Victoria will review its operation and will consider any future proposals to amend the national credit laws. This is a good piece of legislation. I commend it to the house and wish it a speedy passage.

Mr WAKELING (Ferntree Gully) — It gives me pleasure to rise to contribute to this debate on the Credit (Commonwealth Powers) Bill 2010. As you would know, Acting Speaker, this is a bill that I am passionate about and one on which I wish to make a contribution.

This legislation seeks to adopt national consumer credit legislation and refers Victoria's legislative powers over certain consumer credit matters to the commonwealth Parliament. This legislation will also provide for a range of transitional matters. In essence the bill will seek to do three main things. Following an agreement of the Council of Australian Governments that facilitated national consumer credit legislation which is to be enforced by the Australian Securities and Investments Commission, the bill will see Victoria adopting the commonwealth national consumer credit protection legislation. It will then refer to the commonwealth the power to legislate in support of amendments to the commonwealth legislation. Finally it will result in the repeal of relevant parts of Victorian legislation that will now be dealt with by the commonwealth.

This is a significant issue, and I want to talk more broadly about federal-state relations and the enactment of federal legislation. In 1996 the former Kennett government ceded its industrial relations powers to the commonwealth. The state Employee Relations Act then in operation was repealed and its powers were referred to the commonwealth. The then commonwealth Workplace Relations Act picked up the reference for employers bound by Victorian state awards or those employers who were bound by industry sectors which were covered under schedule 1A of the Workplace Relations Act.

The ceding of powers from various states to the commonwealth is a vexed issue. In my former role as a national industrial relations practitioner I saw firsthand the difficulty of having a national scheme of business regulation. It caused great angst for many major companies in this country when trying to apply legislation with respect to workers compensation, industrial relations and the like. I can see there is a definite need for greater harmonisation of legislation, but simply ceding powers to the commonwealth is not in itself an answer to all woes. One only needs to look at the recent debate we have had about the federal government's health package plan to see that. This nation has been founded on a federation developed out of states which were formerly colonies, and there is certainly a need for this issue to be more broadly debated.

Concerns have been raised about the bill before the house. It is interesting to note the concerns which have been raised by the Scrutiny of Acts and Regulations Committee in *Alert Digest* No. 3 of this year. Those concerns relate primarily to areas of self-incrimination and the presumption of innocence, and more particularly the reversal of the onus of proof in relation to the essential issue of the defendant's actual involvement in an offence in light of section 151(1) of the act. Given this government prides itself on its charter of human rights, when one looks at the legislation that is before the house one can see that in many ways the government's own legislation seeks to breach that charter.

Concerns have been raised about the operation of this bill. Whilst there are obvious benefits to having a national approach in respect of consumer credit, I think we still need to have a much broader debate about state and federal relations.

Mr HOWARD (Ballarat East) — I am pleased to speak on the Credit (Commonwealth Powers) Bill, which as we have heard from previous speakers has come about because of a Council of Australian Governments agreement. The states have acknowledged that the federal government is in a good position to oversee credit issues across the country and ensure a consistent approach to the regulation of this

important sector. This having been agreed, the federal Parliament has put in place a series of credit laws that essentially aim to provide national consumer credit protection, and it is now appropriate that the state formally cede these powers to the federal government.

I have considerable concern about the way credit is available across our community. In the past if people wanted to borrow money, they would go to a bank with which they had an association and they would borrow or not borrow the money depending on the bank's determination of their ability to repay the loan. In recent years we have seen the advent of the credit card. More and more people are encouraged to take on credit and make use of credit cards, which can be convenient and handy for some people but can lead others further into debt than they are able to deal with.

We have seen short-term moneylenders setting up shop across the state. I am particularly concerned about the number of such moneylenders in Ballarat. I am also concerned about pawnshops, which appear to provide great opportunities for people to gain credit by putting some of their household items into hock for a short period of time because getting them back is very expensive. It is a very expensive way of gaining extra money and perhaps not the best way for someone who needs money.

I have had a number of discussions with people who work in the Ballarat welfare sector to gain an understanding of their dealings — through providing either support or financial planning advice — with individuals and families who have found themselves in more debt than they can afford.

I have been pleased to see that the state government, through Consumer Affairs Victoria, has tightened up regulations with regard to moneylenders in a range of ways, but there is still more to be done in that area. In putting these issues in the hands of the federal government I trust it will continue to tighten up on credit providers. Among other things I understand that it has established a system for registration of mortgage brokers, which I think is useful. The federal government should also look at how people can get into credit trouble and the responsibility of credit providers to ensure before money is loaned that it is in the interests of the people borrowing the money — that they are in a position to pay the loan back. It is important that the government ensure that people in vulnerable positions who want to access funds are not preyed upon and do not find themselves paying much higher interest rates than are appropriate.

I am happy to support this legislation. I trust that the federal government and the Australian Securities and Investments Commission, the oversight body that will be verifying various issues associated with credit protection, will be carrying out their roles of protecting vulnerable Australians well. Through this national approach we will see consistency across the states. Credit providers in one state will have to follow the same rules as providers in other states. We will be ensuring that they operate responsibly and ethically and that dealers who offer credit but do not do so in an ethical way will not be able to operate.

I therefore wish this bill a successful passage. I trust that under the new national credit protection system we will see the continued extension of appropriate safeguards to protect vulnerable Australians and that the credit system will operate well into the future.

Mr CRISP (Mildura) — I rise to make a contribution to the debate on the Credit (Commonwealth Powers) Bill 2010. The Nationals in coalition are not opposing the bill.

The bill adopts national consumer credit legislation and refers Victoria's legislative powers over certain consumer credit matters to the commonwealth Parliament and provides for transitional matters.

In a little more detail, what we are doing is adopting the commonwealth's National Consumer Credit Protection Amendment Act 2009 and the National Consumer Credit Protection (Transitional and Consequential Provisions) Act 2009 and referring certain matters relating to the provision of credit and certain other financial transactions to the commonwealth Parliament for the purposes of section 51(xxxvii) of the commonwealth constitution, in addition to making some other transitional and consequential provisions.

The Council of Australian Governments agreed to facilitate the national consumer credit protection legislation, which will be enforced by the Australian Securities and Investments Commission (ASIC). This is being achieved through Victoria and other states adopting the commonwealth national consumer credit protection legislation, referring its powers in support of amendments to the commonwealth legislation and repealing relevant parts of state legislation that will not be dealt with by the commonwealth.

The adoption of commonwealth laws and the referral of powers to the commonwealth by this bill may be revoked by Victoria's Governor in Council. A transitional regime has been set up whereby regulated consumer credit providers and finance brokers must

apply for a licence from ASIC by 1 July 2010 to continue operating, and by 1 July 2011 all relevant entities must be licensed to operate by ASIC. Legal proceedings under the Victorian legislation in the courts will be deemed to be federal proceedings while legal proceedings under way in the Victorian Civil and Administrative Tribunal will be grandfathered until their finalisation.

I would like to thank the member for Malvern for his detailed dissection of this bill earlier in the day. There are a number of issues particularly for Victoria, and I would particularly like to focus on clause 12, which deals with the exclusion for Victoria of caps on interest rates. These will not be subject to the national legislation as Victoria has chosen to retain them. In retaining them I believe Victoria should maintain uniformity with the federal government on some of those provisions around the caps, which means that these residual parts of the existing legislation will need maintenance as time goes on.

The member for Malvern also raised some very real concerns over fees and charges and said limits are needed in this part of consumer credit. This is a concern as much of the work on consumer law coming through my office comes when people have not paid a great deal of attention to the contracts they have got themselves into. Although the contracts are legal, people find themselves in trouble and in need of assistance from consumer advocates. In particular, high penalty interest rates can be charged and fees added on top of that.

On the positive side, this legislation removes another cross-border anomaly. Much of regional Victoria, particularly in the north and west, borders another state, and where you have shopping centres and people moving backwards and forwards there is considerable difficulty with different consumer laws operating depending on where people live and have paid for goods. This change is welcome. There are still plenty more cross-border anomalies to go. This is one less, but I am afraid that as fast as we get one off the list another one is added.

There is also a need to protect consumers and give them some confidence. We live in and see advertised an 'If you want it now, you can have it now' culture, and it has many pitfalls. Uniform protection is desirable particularly, as I have said, in regional Victoria with its cross-border dimensions. It is also useful to have a uniform approach in regional areas to help people in tight times. Drought, water shortages and poor commodity prices have impacted very heavily on the rural sector these past few years. One's property may be in one state and one's credit provider in another, and difficulties in that regard have come about in the past.

I come to credit cards, which are a great temptation and sadly may end with debt collectors. There have been changes in legislation in recent times regarding debt collectors, but they remain within state control. We have commonwealth credit laws that may well move through uniformly, but Victoria has a different debt collection regime to other states, so there will be complications. However, this is sensible legislation which The Nationals are not opposing.

Ms BEATTIE (Yuroke) — It gives me great pleasure to rise to speak on the Credit (Commonwealth Powers) Bill. The main purpose of the bill is to support a single uniform national scheme for the regulation of consumer credit by transferring constitutional powers to the commonwealth Parliament. This is amongst a whole suite of acts that we are bringing into line with national schemes. These schemes should be national in character, and I am pleased to see that all the states have signed up without any undue trauma, because credit ought to be in the sphere of the commonwealth Parliament.

Previous speakers have talked about credit history. If you cannot get credit, you probably think credit laws are too tight, and if you can get lots of credit, you might think they are not tight enough. We have seen people who have been caught up with various credit schemes and been taken advantage of. This bill will hopefully stop some of that, but it will mainly transfer to the commonwealth Parliament the constitutional powers necessary to support the enactment of the National Consumer Credit Protection Act.

It will also adopt the initial text of the national credit laws and will allow the commonwealth to amend those laws. The amendments are restricted to matters relating to credit or consumer leases within the meaning of the initial national credit laws. The bill specifies that the commonwealth's power to amend the national credit laws does not include a power to make amendments in relation to certain specified areas of state legislative responsibility.

The transfer of the regulation of credit was recommended by the Productivity Commission and adopted by the Council of Australian Governments in 2008. The reform is among the agreed reforms to the national partnership agreement to deliver a seamless national economy. There has been general support from both consumer groups and the industry for national reforms, but there will always be some criticism. Some lenders and brokers might argue that the new

responsible lending requirements are far too restrictive and onerous.

Consumer groups sometimes oppose the delayed commencement of some responsible lending requirements, but people really have nothing to fear from responsible lending requirements. If all lending requirements were responsible, I would think people in the industry would in the main be happy with them, because that would ensure that credit was repaid. In my electorate some people put all their money into the purchase of a new house, and perhaps when they move into the house they think they can go to Harvey Norman and get so many years interest free, but they do not read the small print. What they find is that if they have not repaid the whole amount by a certain specified date, they will be charged interest from day one, so they could have furniture that is four years old but be paying interest from four years ago.

Many people get caught out with that. I am not criticising Harvey Norman at all, because if you read the small print, it is there, but I worry that some people are encouraged to take out quite significant amounts of credit when they are not fully cognisant of all the facts. In financial circles people talk about having 'Harvey Norman debt', which is not a good thing. I urge people to read all the fine print rather than blaming the retailers. I know it is tedious, and I am sure some people have to get new glasses to read some of the print as it is so small, but I would urge all people entering into any sort of credit arrangement — —

Mr Walsh — It sounds like Labor Party policy.

Ms BEATTIE — I thank the member for Swan Hill for his support of my speaking about this. The member for Swan Hill and I would urge all people to read the fine details of any contract they are entering into, whether it is with Harvey Norman, a bank or some organisation like Cash Converters. We should read the small print.

However, this bill places the regulation of all consumer credit with the commonwealth Parliament. It is a good scheme. People living on one side of the Murray River should not have a different suite of credit laws from those living on the other side of the Murray River. With those few remarks, I commend the bill to the house, and I urge people to continue to read the detail.

Motion agreed to.

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

Third reading

Motion agreed to.

Read third time.

STATUTE LAW AMENDMENT (NATIONAL HEALTH PRACTITIONER REGULATION) BILL

Second reading

Debate resumed from 24 February; motion of Mr ANDREWS (Minister for Health).

Mr BLACKWOOD (Narracan) — It is with pleasure that I rise to speak on the Statute Law Amendment (National Health Practitioner Regulation) Bill 2010. The coalition will not be opposing this bill, but I will take this opportunity to highlight some of the potential benefits of a national registration accreditation scheme and also some of the potential shortcomings and concerns stakeholder groups have with this piece of legislation.

The main purposes of this bill are to amend the Health Professions Registration Act 2005 and other Victorian acts as a consequence of the enactment of the Health Practitioner Regulation National Law (Victoria) Act 2009. The bill will also make transitional provisions for the commencement of a new national health practitioner registration and accreditation scheme and ensure that the Public Records Act applies.

As a bit of background to this bill, the intergovernmental agreement signed by the Council of Australian Governments (COAG) in March 2008 committed the states, territories and the commonwealth to establishing a single national registration and accreditation scheme for health practitioners.

This legislation is also reflected in changes made in 2007 to the Victorian Health Practitioners Registration Act, known as the HPR act, which saw the creation of one act to register the 12 health professional boards in Victoria and provided for the Victorian Civil and Administrative Tribunal to hear complaints about serious professional matters. This framework and the role of VCAT underpin the operation of the new national registration and accreditation scheme for the health professions.

To implement the national scheme the Queensland Parliament introduced legislation in two parts, beginning with the Health Practitioner Regulation (Administrative Arrangements) National Law Bill in

2008, known as bill A. The first piece of legislation established the governance and legal structure of the scheme. In particular it established the entities constituting the national scheme to assist the progress of the scheme's implementation in time for its commencement in July 2010.

That bill established the following structures: the ministerial council comprising the federal Minister for Health and Ageing and the health ministers of the states and territories, which sets the policy direction for the national agency and national boards and approves registration standards; the Australian Health Workforce Advisory Council, whose members will provide independent advice to the ministerial council and will be appointed by the ministerial council; the national agency, the Australian Health Practitioner Regulation Agency, which will have responsibility for administering the scheme and assisting national boards to fulfil their functions; the national office, which will be established in Melbourne and will support the operations of the scheme and have at least one local presence in each state and territory; the agency management committee, the Australian Health Practitioner Regulation Agency Management Committee, which will be appointed by the ministerial council to decide the policies of the national agency and ensure that it performs its functions; and a national board for each of the health professions under the scheme, 10 initially, with local offices in each state and territory where the national board decides it is appropriate.

The first bill did not transfer responsibility or authority for registration and accreditation of health professionals. It simply enabled the implementation of the structural basis for the national scheme.

As part of the process, in a communiqué of 8 May 2009 the Australian Health Workforce Ministerial Council announced that following a period of consultation it had reached a national consensus on how the new scheme would work and agreed that the accreditation function would be independent of governments. This had been a major sticking point for the health professions, whose members were of the view that it should not be the role of politicians to set the standards for the accreditation of health practitioners and health professions, but that it should continue to be the responsibility of the professions through such bodies as, for example, the Australian Medical Council and the learned colleges of medical practitioners.

The national registration scheme to be established under state and territory template legislation will replace the current state and territory health registration boards, providing a single national registration and accreditation scheme for Australian health practitioners. Initially it will apply to the 10 health professions that are subject to statutory registration in all jurisdictions — that is, chiropractors, dental care providers, medical practitioners, nurses, optometrists, osteopaths, pharmacists, physiotherapists, podiatrists and psychologists. In July 2012 professions such as Aboriginal and Torres Strait Islander health workers and Chinese medicine and medical radiation practitioners and occupational therapists will transition to the national scheme. COAG has agreed that the scheme will be operational by 1 July 2010.

Bill B, which was passed by the Queensland Parliament, provides the template legislation for the Health Practitioner Regulation National Law (Victoria) Act 2009, which was passed by this house last November. In Victoria that bill is to be known as bill C1. The Statute Law Amendment (National Health Practitioner Regulation) Bill is referred to as bill C2, being a second bill in Victoria to complete the process for a transition to a national registration accreditation scheme. This bill will contain all consequential and transitional amendments to complete the application of the Health Practitioner Regulation National Law and amendments to the HPR act, in the main to allow for the continuation of the Chinese medicine and medical radiation practitioners boards and to provide for the ongoing regulation of these professions until they join the national scheme on 1 July 2012.

The provisions of the HPR act that relate only to the professions included in the national scheme from 1 July 2010 will be repealed. The bill also makes consequential amendments to other Victorian legislation which refers to the health professions regulated by the national scheme.

This bill contains provisions that allow for the continued operation of the Pharmacy Board of Victoria so that the regulation of pharmacy premises can continue until such time as the new Victorian Pharmacy Authority is established. As indicated by the Minister for Health in his second-reading speech, the government intends to introduce the Victorian Pharmacy Authority Bill in May this year to establish the new Victorian Pharmacy Authority before 1 July 2010.

The bill also includes a transitional provision to allow the current state health profession registration boards to continue operating beyond 1 July 2010 solely for the purpose of finalising their financial reports for the year ending 30 June 2010 to assist them to comply with financial management legislation.

The bill amends VCAT arrangements to ensure that it can continue to have jurisdiction over current arrangements. It also amends definitions in other consequential acts to bring them into line with the Health Practitioner Regulation National Law (Victoria) Act 2009. Many other acts are also amended. The bill amends earlier acts to ensure that the Public Records Act applies to all relevant documents.

By and large there has been support amongst the health professions for a national registration scheme and there is acceptance that there has to be consistency across the states in relation to accreditation standards. Through the consultation process and as a result of the cooperation of health practitioner boards and learned colleges, many of the initial concerns were addressed but there are still some matters which remain unresolved. Concern has been raised about Victoria adopting a bill passed by the Queensland Parliament as a law in Victoria and that this may mean in effect that the Victorian Parliament is handing over sovereignty on health practitioner regulation to another Parliament which is not accountable to Victorians.

On the issue of Victorian sovereignty, the relevance of the suggested takeover of the health system by the Prime Minister comes into question. It is fine for the Premier to publicly refuse to accept the concept of a national takeover of health and quite rightly claim he is doing so in the interests of Victorians but he needs to have a good look at the reasons this proposal is being put forward by the federal government. Here in Victoria we have had 10 years of record income. The Brumby government's budget has more than doubled in 10 years from $19 billion to $42 billion. There is no doubt that Victoria's activity-based system for funding health care is far better than funding mechanisms used by other states.

However, any formula for funding that is not funded appropriately will fail to achieve a satisfactory outcome and that is the problem here in Victoria. We have had 10 years of record income and continuous spin and rhetoric from ministers for health about record investment in health while at the coal face thousands of Victorians languish on waiting lists, in many cases waiting lists with no credibility because of identified manipulation of the figures. Emergency departments just cannot cope with demand, country hospitals are not able to attract or hold doctors, in particular specialists. What the Minister for Health keeps telling us and what is occurring on the ground are poles apart. The Victorian Healthcare Association has identified that Victoria needs a massive injection of funds to plug the gaps in our state health system.

When it comes to health care Victoria's sovereignty is certainly under threat, and the buck must stop with the Brumby government given its failure to manage our health system in a way that protects vulnerable Victorians. If the Brumby government were providing Victorian families with the health services they require and deserve, the Prime Minister, Kevin Rudd, would have no mandate to interfere.

The Minister for Health takes every opportunity he can in this house to rant and rave about the government's record investment in health, and this begs another serious question: where has the money gone? Clearly the minister's ability to manage the health care budget must be in question. It is true that our annual spend on health of around $7 billion is a significant increase over 10 years, and so it should be given the huge increase in our population. I have already indicated that this is not reflected in lower waiting lists, improved access to services or capital investment in country Victoria that would steadily bring facilities up to a 21st century standard.

What is the money being spent on? One example is HealthSMART, the myki of the Victorian health system. HealthSMART is hundreds of millions of dollars over budget, two years late and still not fully implemented. This is putting health care networks around the state to considerable expense as they have to hire more staff and apply more resources to have the system installed. It has also been identified that the ongoing maintenance costs of the HealthSMART system are going to be significant and will add another enormous cost burden to the already stressed finances of most hospitals.

In spite of this appalling situation the minister still insists on ripping at least 1 per cent off the annual funding allocation to our hospitals in the name of productivity, despite the fact that systems like HealthSMART are forcing hospitals to be less productive. The minister knows this and continues to ignore the enormous pressure this is placing on hospital boards and executive management teams. Clearly the minister has failed to manage our health system for the benefit and betterment of all Victorians.

In relation to national registration and accreditation, the sovereignty issue is quite significant. I am not convinced that at a national level a ministerial council comprising state and territory ministers will best represent Victoria's interests and needs. The ministerial council will have eight health ministers around the table, and naturally the issues affecting Victoria will be foremost in the mind of just one minister. The other seven ministers will quite rightly be focused on their

individual state or territory situation. For that reason I think in the long term there will be significant risks for Victoria in adopting this system.

The interests of Victorians have been served very well by the high quality of regulation we have had over many decades. Registration and accreditation standards in Victoria have been stronger than in some other states across a number of professional groups. A serious concern is that the less sharply focused accreditation and regulation arrangements in place in other states could over time be imported into Victoria and we may finish up with a less robust system of health practitioner regulation that will serve the public and the protection of public safety less adequately.

It appears possible that the ministerial council could agree to an amendment that the Victorian health minister may not agree with unless all decisions have to be unanimous, and I understand that this is not the case. While I appreciate that the ministerial council would seek to find consensus, we know that may not always be possible.

I would now like to put on the record some of the comments, both positive and negative, I have received from stakeholder groups in relation to this bill. The Pharmacy Guild has indicated that it has no issue with this legislation and, following positive dialogue with the health department, it supports what is proposed in this bill.

AMA Victoria also recommends that this bill be passed without amendment, but it made some interesting observations in its issues paper, which I would like to put on the record:

> AMA Victoria welcomes the introduction of the Statute Law Amendment (National Health Practitioner Regulation) Bill 2010 to the Victorian Parliament. This bill represents the next stage in the medical profession's wish for national registration of medical practitioners.
>
> Doctors who currently work in more than one state/territory need to register to practise in each jurisdiction. This hangover from 1901 should be removed with each state and territory passing legislation to move to a national scheme from 1 July 2010. The AMA has been fighting for decades for portable, national registration.
>
> The Health Practitioner National Regulation Law 2009 has been passed by the Queensland Parliament, and was adopted as Victorian law with the Health Practitioner Regulation National Law (Victoria) Act 2009. The key objective of allowing for portable registration has been achieved, albeit with a degree of unnecessary and cumbersome bureaucracy.
>
> The Statute Law Amendment (National Health Practitioner Regulation) Bill 2010 is predominantly administrative, with the consequential changes necessary to adopt the national law. It contains minor amendments to over 60 other Victorian acts.
>
> The only issue of substance in the bill is a welcome change that will allow nurses in country hospitals to supply medications in certain circumstances. This should reduce pressure on country doctors, as experienced nurses will be able to supply limited medications in prescribed circumstances rather than calling in the doctor, often during unsociable hours.
>
> Similar arrangements have operated in Queensland successfully for many years, and in other states and the Northern Territory. AMA Victoria expects that the Victorian Minister will adopt the Queensland protocols.
>
> Nurse supply in rural areas is an example of team-based care, where doctors, nurses and other health professionals work together in a collaborative environment. The doctor remains ultimately responsible for the patients' care, but the expertise of nurses is better utilised with appropriate protocols, accountability and insurance protection.

Some real concern is also expressed by midwives about this bill and what they see as a missed opportunity in the drafting of it to address their current situation and role as primary health-care professionals. I will quote from some of the lengthy and detailed comments they have provided on this bill and the national health practitioner regulation legislation. A letter from one midwife states:

> With the passing of the federal government's national health practitioner regulation legislation, and subsequent legislative amendments in states and territories, changes which are claimed will improve maternity care options for women have been made to the regulation of midwives.
>
> Midwives in Australia, and particularly in Victoria, cannot at the present time work to their full professional capacity. This package of reform had the opportunity to
>
> > disable anticompetitive restrictions to midwifery,
> >
> > leading to improved maternity outcomes for mothers and babies,
> >
> > increased choice for consumers and access to midwife-led models of care both in the community and in hospitals, and
> >
> > better career options for midwives
> >
> > with the potential for less attrition from an already stressed workforce.
>
> However, this legislation … and its national counterparts (?) do nothing to address the current state of affairs for midwives. While other comparable OECD countries … recognise the midwife's scope of practice as a primary health-care professional, with responsibility to work on her/his own authority, midwives in Victoria will continue under this legislation to be unreasonably restricted, effectively fulfilling a role of obstetrician's assistant, doing what the doctor orders.
>
> Whether you look at this so-called reform from a consumer choice angle, or from a competition policy Trade Practices

> Act … perspective, or from a professional's right to practise in that profession without interference from another profession, this package is a prime example of socialist health policy being selectively applied to a section of the community, at the direction of the medical profession which has a clear interest in keeping midwifery in the status quo and preventing increased competition. This and other health-related reforms are examples of the federal Labor government's extreme style of bungling bureaucratic micromanagement, as is now progressing with reforms to the management of public hospitals. The roof insulation debacle led to tragedy and loss, and yes, we believe this reform could also result in avoidable deaths and loss.

The letter concludes:

> The federal government's provision of a $120.5 million package to improve access and choice for Australian women, following the recommendations of its *Report of the Maternity Services Review*, is a small 'carrot' which midwives and childbearing women had long awaited. The 'stick', which is not yet fully visible, is a mess of bureaucratic micromanagement, and medically based regulations that restrict access to private midwifery services are not in the public interest. Australian women will be unlikely to achieve greater access or choice as a result of this 'reform'. The greater access is to services that are tightly controlled by the medical profession, and the choice will be more limited than it is today.

Organisational psychologists are similarly very disappointed that their concerns were not addressed through the opportunity this bill provided. In an email to the shadow Minister for Health in the other place, Mr David Davis, one organisational psychologist strongly reinforced his disappointment:

> … My earlier email indicated that our college (and we suspect other APS colleges often delivering non-health services to non-health clients) considers that the diversity of this profession is not being accommodated well by the legislation already passed in this state (as you know … and about which you have expressed grave concerns on the *Hansard* record … on 26 November 2009) and for which we are grateful.
>
> … Following your taking up and representing our concerns last November, the College Victorian Action Group were hopeful that these concerns and issues would be taken more seriously by the Minister for Health and the public servants/bureaucrats in this state — who are, as you know, major sponsors of this legislation. However, as my last email to you today has reported this has largely not been the case.
>
> … We consider — and have always considered since November 2009 — that the 'bill C2' provided opportunities to make some minor adjustments to the overall scheme of things at the national implementation from 1 July 2010 and in subsequent transition stages (to 2012) which could go some distance in ameliorating the barriers to our full participation in this new national scheme and indeed foster our continued evolution within it toward ever higher standards and services to the public at large.
>
> However, sadly this is not the case in our considered view as … evidenced in our comprehensive submission early this month to the Western Australian Standing Committee on Uniform Legislation and Statutes Review — regarding this national law bill — which submission was endorsed by the National Committee of this college.
>
> …
>
> The tone of this comprehensive document is explanatory and it invites engagement to address problems in the public interest. But we regret to inform that in Victoria we consider there has not been an acceptance that there is a problem by the health public servants/bureaucrats running this legislation — although our discussions with them have been cordial.
>
> > In general we would not describe their approach to us as consultative to overcome difficulties.
> >
> > This quality of engagement may be happening at national levels in limited ways — but the point is now is the time for fixing the legislative environment … not later by asking boards like the PBA to shoulder this burden given the total regressive assumptions of their constitution regarding the diversity of this profession, its representation, management and regulation in the public interest.
>
> In addition, the Senate enquiry (2009) into the NRAS concluded that there was a problem in the coverage of the non-health psychology area and urged attention to this. This Senate committee recommendation has evidently been ignored by health bureaucrats in Victoria and elsewhere in this country.

In that email some solutions were proposed to what organisational psychologists see as their particular problems:

> … One immediate small change in the proposed implementation Statute … Bill 2010 before Parliament is to increase the size of the VCAT panel from 3 to 5 with regard to the psychology profession … This change allows for a community representative, as well as a majority of psychologists and a member with legal expertise.
>
> … Another change includes modifying the title of the Health Professionals Act 2005 to read 'Health and Cognate Professions Act 2005', and further to amend the objective of that act to show that it is intended to cover health and cognate professions …

The email goes on to say:

> … Given our view of the general state of readiness of the national legislation to be enacted in this state without severe prejudice to the diversities within psychology, as represented also by this college, we advise that the best solution we can conceive is the deletion of the registration board in Victoria in section 29 … and its reconstitution as to scope to cover especially the specialist psychologist disciplines as represented, for instance, by the APS colleges for a transitional period only …
>
> The enactment of this will provide a local regulatory body broader than the PBA to be able to deal with the cognate aspect of the broadened objectives of the Health Professions Registration Act 2005.

It further states:

> In making these suggestions we consider that none of them are in fact unique in kind or form to the psychology profession as considered by the proposed … bill … there are similar examples of the range of such amendments in the … bill … about to be introduced. This leads us to again ask why the same considerations have not been extended to this profession as have been to the others, giving us character, establishment and significance within the Australian and international society.

In conclusion, it is disappointing that some key stakeholder groups have been ignored in the process of drafting this bill. As I said earlier, the opposition will not be opposing this bill, but in doing so once again it is putting its trust in the Minister for Health to not let Victorians down and to make sure the national registration accreditation scheme operates in a manner that will not disadvantage Victorians or undermine the regulation of health practitioners who provide services that are second to none in Australia. The cost of registration fees is bound to go up: the cost of a layer of bureaucracy that we do not currently have will be introduced and will be quite considerable.

In closing I would like to put a question to the minister: can the minister explain what is going to be done for organisational psychologists, and how are they going to be included in this bill?

Ms MUNT (Mordialloc) — I am pleased to be given the opportunity to speak today in support of the Statute Law Amendment (National Health Practitioner Regulation) Bill 2010. If my memory serves me correctly, I also spoke in support of the 2009 bill that put in place the original legislation for national health practitioner regulation. If my memory further serves me correctly, the opposition supported that 2009 legislation without amendment, and I believe it will also support this legislation.

This bill makes transitional and consequential amendments to the Victorian legislation to allow for the full implementation of the Health Practitioner Regulation National Law (Victoria) Act 2009, which is the bill I have just spoken of, and will commence operation on 1 July 2010. The bill provides for ongoing regulation under the existing Health Professionals Registration Act 2005 of Chinese medicine practitioners and also medical radiation practitioners in Victoria until they join the national scheme on 1 July 2012. The Health Practitioner Regulation National Law (Victoria) Act 2009 establishes a single registration and accreditation scheme for 10 of the health professions from 1 July 2010 — that is, in 4 months. Aboriginal and Torres Strait Islander health practitioners, Chinese medical practitioners, medical radiation practitioners and occupational therapists will join the scheme from 1 July 2012 under transitional arrangements that have been put in place.

The national scheme is a significant reform for the Australian health care system. It will provide additional safeguards for public protection as well as improving workforce flexibility and mobility, particularly in the case of medical practitioner professionals who, as often occurs, move employment from state to state.

This bill contains three categories of amendments: minor technical amendments to the Health Practitioner Regulation National Law (Victoria) Act 2009 to allow for national consistency; transitional and consequential amendments to the Health Professions Registration Act 2005; and transitional and consequential amendments to other Victorian legislation.

The amendments to the Health Practitioner Regulation National Law (Victoria) Act include removing the Public Records Act 1973 from the list of excluded legislation so that state and territory legislation continues to apply and inserting a regulation-making power for minor transitional changes, ensuring that necessary changes are made to give effect to the national scheme.

Amendments to the Health Professions Registration Act represent the main amendments in this bill. These allow for the regulation of Chinese medicine and medical radiation practitioners to continue until they join the scheme on 1 July 2012.

The bill also allows for the continued operation of the Pharmacy Board of Victoria for the purpose of pharmacy premises regulation until the new Victorian Pharmacy Authority is established. The government intends to introduce the Victorian Pharmacy Authority Bill to establish the new authority. In addition, a transitional provision has been included to allow current state health profession registration boards to finalise this year's financial reports. Lastly, there are a number of Victorian acts requiring minor consequential amendments mainly relating to definitions like 'medical practitioner' or 'nurse'.

Other specific amendments allow the Victorian Civil and Administrative Tribunal Act 1998 to continue to carry out its functions in relation to the Chinese medicine and medical radiation practitioner boards; the Drugs, Poisons and Controlled Substances Act 1981 to ensure that the current rights of health practitioners to possess, sell or supply poisons are maintained; and the Minister for Health to authorise, under certain conditions, registered nurses who are endorsed as being

suitably qualified by the national Nursing and Midwifery Board to possess, sell or supply poisons.

On the subject of midwifery and medical practitioners, the opposition has raised a number of issues in relation to midwifery. I am advised that a new framework is currently under consideration by the federal government. This is not yet complete and details are not yet available.

Under those conditions where the federal government is considering that framework it would be premature to include any arrangements for midwives under this legislation at this stage.

This bill, as has been noted by the opposition, is also welcomed by health professionals, in particular the Australian Medical Association, which says, as has been noted previously:

> The AMA Victoria welcomes the introduction of the Statute Law Amendment (National Health Practitioner Regulation) Bill 2010 to the Victorian Parliament. This bill represents the next stage in the medical profession's wish for national registration of medical practitioners.

This bill is in line with how AMA Victoria would like to proceed with national registration. It goes on to say:

> Doctors who currently work in more than one state/territory need to register to practise in each jurisdiction. This hangover from 1901 should be removed with each state and territory passing legislation to move to a national scheme from 1 July 2010. The AMA has been fighting for decades for portable, national registration.

The Health Practitioner National Regulation Law has been passed by the Queensland Parliament, and it also passed through the Victorian Parliament in 2009, as I mentioned. This legislation will complete that process to have a national scheme in place.

The AMA went on to say that the supply of nurses in rural areas is an example of team-based care where doctors, nurses and other health professionals work together in a collaborative environment. The doctor remains ultimately responsible for the patient's care, but the expertise of nurses is better utilised with appropriate protocols, accountability and insurance protection. This bill will also aid in that. As it says, providing this mechanism will reduce pressure on country doctors.

It makes good common sense to have a national accreditation scheme for our medical practitioners where, as the AMA has noted, it is portable from state to state and also where we can have a uniform regulation for all of Australia to aid in providing not only Victorians but Australians with uniform, excellent health care.

In the short time available to me I would like to mention the excellence of the Victorian health system and the wonderful service that our health professionals provide to the people of Victoria. As has been noted by the Minister for Health, the Victorian health system is the best health system in Australia. It is no accident; it has come about as a result of this government's investment into health care for Victorians, not just in the hiring of nurses but also in the capital improvement works that have been put in place in our hospitals, clinics and health-care services. I am proud to have been a part of that.

Once again this legislation reflects our dedication to the health services as our no. 1 priority — perhaps education can be a no. 1 priority too, so we have two no. 1 priorities! It is a high priority of this government to provide Victorians with the best health care that it can. We have not just talked the talk, but we have walked the walk in this regard by investing in these services. I am proud to stand in this Parliament as part of this government and speak in support of this legislation, which is supported by health professionals and by the opposition as another great piece of government legislation.

Mr WELLER (Rodney) — It gives me great pleasure to rise to speak on the Statute Law Amendment (National Health Practitioners Regulation) Bill 2010. May I say at the outset that the members of the Liberal-Nationals coalition will not be opposing this bill. The main purposes of the bill are to amend the Health Professions Registration Act 2005 and other Victorian acts as a consequence of the enactment of the Health Practitioner Regulation National Law (Victoria) Act 2009, to make transitional provisions for the commencement of the new national health practitioners registration and accreditation scheme and ensure that the Public Records Act applies.

The main provisions of the bill ensure that Chinese medicine and medical radiation practitioners boards can continue to operate until their new boards are formed in 2012. It also allows the Pharmacy Board to continue to operate until the Victorian Pharmacy Authority is formed in May and makes arrangements for its continued operation. If that is delayed, a further bill titled the Victorian Pharmacy Authority Bill will be introduced in May.

The bill amends the Victorian Civil and Administrative Tribunal arrangements to ensure that it continues to have jurisdiction over the current arrangements and

amends the definition in other consequential acts to bring it into line with the Health Practitioner Regulation National Law (Victoria) Act 2009 and many other acts. Clause 32 in part 3 also amends earlier acts to ensure that the Public Records Act applies to all relevant documents. The bill also allows other state health boards to remain in operation beyond 1 July 2010 for the sole purpose of finalising their annual reports to 30 June 2010.

As we have said, we will not be opposing the bill, but there are some interesting provisions in it. Clause 4 is a statute law revision to amend a spelling error in section 6(2)(ab)(ii) of the Health Professions Registration Act 2005. Once again, it shows this government is sloppy, and it has been sloppy for a long time. The bill has been introduced to fix up the government's errors, which again shows the sloppiness of the Bracks and Brumby governments, which is not something I would have thought the members of the government would be proud of.

Clause 29 identifies some of the bodies that will be abolished. They are the Chiropractors Registration Board of Victoria, the Dental Practice Board of Victoria, the Medical Practitioners Board of Victoria, the Nurses Board of Victoria, the Optometrists Registration Board of Victoria, the Osteopaths Registration Board of Victoria, the Physiotherapists Registration Board of Victoria, the Podiatrists Registration Board of Victoria and the Psychologists Registration Board of Victoria. They will all be gone, because if we go to a national registration scheme, there will be no need for them.

If the member for Murray Valley were in the house, he would be pleased to see these border anomalies being taken away. The member for Murray Valley, like me, represents an electorate that borders New South Wales. We continually get people coming into our offices with concerns about having to be registered in one state to do building or plumbing and then having to be registered in another state as well, and it is the same for medical practitioners. The member for Murray Valley and I have been to the Border Anomalies Committee, which meets once a year, to highlight all the anomalies which are making it hard to do business in Victoria and New South Wales, particularly if you operate in a border town. We are fully supportive of taking away some of these border anomalies, and that is why we will not be opposing the bill.

I am also supportive of some other provisions contained in the bill. Clause 40(3) amends the Drugs, Poisons and Controlled Substances Act 1981 to provide a new approval power for the Minister for Health. The minister will be able to approve the health services or classes of health services and clinical circumstances in which a poison or class of poison is to be used, sold or supplied. The clinical circumstances apply to a registered nurse or a class of registered nurse. It will be helpful in many rural areas where it is difficult to attract the right number of medical practitioners. The government should be doing more to attract the right number of medical practitioners to rural areas because we in the rural areas deserve the same level of medical services as is enjoyed in any other area of Victoria. Allowing this special class of registered nurse to administer this medication means a doctor is not required to be present.

We also have the case of Stanhope, which is in my electorate and which has had its medical services reduced over the years. In 2000 the then Bracks government reduced the level of service to the Stanhope community. Previously the community had a nurse who was on duty 40 hours a week. Obviously if the community had a nurse who had these qualifications, the town would have a level of service far greater than exists now. I wrote to the minister about this case on 24 February, stating that he needed to make the resources available to Kyabram and District Health Service so that it could have a nurse in Stanhope for 40 hours a week who would be capable of providing the services mentioned in clause 40 of the bill and provide a better health service than the community is receiving at the moment. It would not be the same level of service as applies in the rest of the state, but for emergencies and for the elderly, who find it difficult to get out of town to go to other places, it is important — if the minister can see his way forward once we pass this bill — that we have a nurse with the appropriate qualification in the Stanhope area.

As I have said before, part of the problem is attracting medical practitioners to rural areas. In Rochester we have a brand-new operating theatre. The minister and I have been through it, and it is very impressive. The problem is that because we cannot attract the right staff, the theatre operates only one day a month. There is a need for it — there are plenty of procedures that would be carried out there — but because of the lack of practitioners it operates on only one day a month. This is quite distressing to the people in the area and from further afield who could be operated on in that theatre. There is not a lack of practitioners just at Rochester; at Echuca we have three operating theatres and a lack of practitioners to work in them. There is a problem in attracting practitioners to rural areas, and we need the government to find a way of solving the problem.

With this bill we run the risk of forming another level of bureaucracy. We do not want another level of bureaucracy to cause extra costs for registration and for the people who want to use the services. We have to make sure that when this extra level of bureaucracy is put in place the costs are kept to a minimum. As an opposition we will be keeping a very close eye on this to make sure the government does not compromise and create extra costs. We will also be making sure the level of service to country and rural areas is not diminished at all. The government needs to make sure that with these changes there is no diminishing of the service to the constituents of rural areas. We have to make sure they get the same level of service as anyone else in Victoria. Hopefully this bill through clause 40, which I am very supportive of, will increase the level of service available to people in these areas. We will be following it very closely and keeping a close eye on it.

The member for Mordialloc raised all the things that the government is quite proud of. Let us remember that the government has had record income over the last 10 years and has also had record waiting lists, which I would suggest is nothing to be proud of.

Ms BEATTIE (Yuroke) — The overall objective of this bill is to complete the scheme for national regulation and accreditation of health professionals. I want to make a couple of comments on what the member for Rodney said, because in many ways I agree with the member for Rodney. The previous coalition governments did treat all people the same: it closed hospitals in country areas and it closed hospitals in city areas too. The member talked about issues of attracting health professionals to Rochester and Echuca. I can assure the member for Rodney that in the outer suburbs we sometimes have trouble getting health professionals too. To stand up and say that everything is hunky-dory everywhere except in the seat of Rodney is quite wrong.

The passage of the Statute Law Amendment (National Health Practitioner Regulation) Bill will complete the legislative framework to establish the national registration and accreditation scheme for health professionals. It makes the necessary transitional arrangements and the consequential amendments to Victorian legislation to enable the full operation of the 2009 Health Practitioner Regulation National Law (Victoria) Act, and enables the ongoing regulation of Chinese medicine and medical radiation practitioners under the Health Professions Registration Act 2005 until these professions are ready to join the national scheme on 1 July 2012.

There are three main steps in the bill: the preparation and passage of the Health Practitioner Regulation (Administrative Arrangements) National Law Act to establish the structural elements of the national scheme; the preparation and passage of the Health Practitioner Regulation National Law Act in Queensland, which contains the substantive provisions of the national scheme, and the preparation and passage of state and territory adoption bills.

Here in Victoria this adoption bill has been split into two stages. The first stage received royal assent on 8 December 2009. The second stage makes the necessary transitional and consequential amendments to Victorian legislation to allow for the effective operation of the Health Practitioner Regulation National Law (Victoria) Act and provides the ongoing regulation of Chinese medicine and medical radiation practitioners.

In so doing we have to abolish some boards. I will list them, and these all contain ‘of Victoria’ in their titles: the Chiropractors Registration Board, the Dental Practice Board, the Medical Practitioners Board, the Nurses Board, the Optometrists Registration Board, the Osteopaths Registration Board, the Physiotherapists Registration Board, the Podiatrists Registration Board and the Psychologists Registration Board. However, I am sure the abolition of those boards will not in essence make any difference at all. I am sure people will still say they are going to ‘see the osteo’ or ‘see the podiatrist’ — they will not be saying, ‘I am going to see a health professional’. I am sure the language around that area, even though those boards are being abolished, will stay the same.

There has been general support across the health profession boards. The majority of those professional associations and the health community agree with the national scheme and the Health Practitioner Regulation National Law (Victoria) Act, or national law Victoria act, as it is known. I understand that there was also a letter written by the AMA to support it — and members will know that the AMA is one of the strongest unions in the country in standing up for its members, although it does not like to be called a union.

The bill allows the 10 Victorian health profession registration boards transitioning to the national scheme to continue to operate beyond July 2010 in order to complete their financial reports for the year ended 30 June 2010.

The Bracks and Brumby governments have an outstanding record in health. The other states are quite envious of what we have achieved in health and look to Victoria as a leader, and I am sure Victoria will

continue to show the way. Again it is good legislation, and I commend the bill to the house.

Mrs VICTORIA (Bayswater) — I too rise to contribute to the debate on the Statute Law Amendment (National Health Practitioner) Regulation Bill. There are at least three main purposes to the bill, including to amend the Health Professions Registration Act and other acts due to the bill passed by the house last year which became the Health Practitioner Regulation National Law (Victoria) Act.

The bill also makes transitional provisions for the commencement of a new national health practitioner registration and accreditation scheme, and it ensures that the Public Record Act applies to all of the above.

Some of the main provisions within the bill — and we spoke about this at length last year when we were debating the other bill — ensure that the Chinese medicine and medical radiation practitioner boards can continue to operate until their new boards are formed. They are coming on line a little later than the other 10 areas of speciality, which come on line on 1 July; the changes to the Chinese medicine and medical radiation practitioner boards will come into effect in 2012.

Again I place on record how important it is that Chinese medicine is recognised for its thousands and thousands of years of proven outcomes. I have some wonderful practitioners servicing the people in my electorate, in Dr Ka-Sing Chua and also Professor Yoland Lim, who many people would remember from his days on television. Yoland Lim is still practising and still teaching.

The bill also allows for ongoing operation of the pharmacy board. The pharmacy board is about to become the Victorian Pharmacy Authority. That is due to take place in May but if that gets delayed, as these things so often do, this bill allows for the continuation of the existing board until the new authority comes into effect.

It amends definitions in other consequential acts to bring them into line with the Health Practitioner Regulation National Law (Victoria) Act that was passed last year. It ensures the Public Records Act applies to all the relevant documents, and it also makes sure that state health boards can exist past 1 July 2010, which is when the handover is, but only to facilitate the finalising of their legal requirements and doing their annual reports to 30 June.

A couple of areas need to be thought out a little better. Some of the issues that have been put before me and my colleagues have led to some interesting chats. The moving to national registration boards is very positive, but some practitioners are worried that this may lead to an increase in fees. Health practitioners have such high fees in so many other areas, especially in their insurance.

There are also issues about the assets and liabilities of the current boards nationally — not just the ones here in Victoria but all the ones that are coming on line — and how they will be transferred across to the new bodies. I would really like to know how these assets and liabilities will be treated. Perhaps the minister could address that matter in summing up the debate.

There are some issues with sovereignty of stakeholders. What used to happen was that practitioners from, for example, all around Victoria could have their say to their state body. Now, where you are talking about us plus the other states and territories, one practitioner's voice from Victoria is going to be very hard to hear among so many voices from the other states and territories. It is much easier to be heard in a small crowd. This is originally Queensland legislation, and there has been much talk about whether that legislation was suitable for us to follow, but we certainly had that discussion last year.

A couple of groups have been left out of the discussions on this new bill. Organisational psychologists have certainly said they are unhappy about being excluded from the new scheme, and also midwives have complained, en masse, that they have not been listened to and were excluded from this process.

The AMA is in favour of the bill, and the coalition has stated that we are not opposing it but that a couple of things need to be brought into line. The AMA is definitely in favour of it, and goodness knows Ben Harris, director of policy and public affairs at the Australian Medical Association, certainly knows what he is doing, so we are happy to listen when Ben sends us a sheet of paper. He stated:

> The only issue of substance in the bill is a welcome change that will allow nurses in country hospitals to supply medications in certain circumstances. This should reduce pressure on country doctors —

and we all know country doctors are stretched to the hilt —

> as experienced nurses will be able to supply limited medications in prescribed circumstances rather than calling in the doctor, often during unsociable hours.

Of course we know that doctors are stretched, that they work incredibly long hours, and if this helps them get a night in with the family or even a few hours sleep

between shifts, then it is certainly worth doing. This type of scheme is already in place in the Northern Territory, Queensland and a few other states.

The AMA director of policy and public affairs went on to say:

> Nurse supply in rural areas is an example of team-based care, where doctors, nurses and other health professionals work together in a collaborative environment. The doctor remains ultimately responsible for the patients' care, but the expertise of nurses is better utilised with appropriate protocols, accountability and insurance protection.

All of that will come into play once this bill goes through the house. The only thing that still worries me is the possibility of practitioners being undermined if they cannot get their voices heard at a national level and ensuring that the professional bodies now being formed are effective. That efficacy level will have to be measured over time, so the proof of the pudding will be in the eating.

It is nice to see that the government is finally getting something right, or almost right, in the health field. Perhaps it could try to fix the hospital system next.

Ms RICHARDSON (Northcote) — I am pleased to rise to speak in support of the Statute Law Amendment (National Health Practitioner Regulation) Bill. This bill makes important changes to the regulation of health practitioners by providing additional safeguards for the public, as well as improving workplace flexibility and mobility.

Specifically the bill will establish a national accreditation and registration scheme for health practitioners from 1 July this year. Occupational therapists, Chinese medicine practitioners, Aboriginal and Torres Strait Islander health practitioners and medical radiation practitioners will join the scheme from 1 July 2012. This scheme will create a modern national regulatory system for health practitioners, and I am pleased to note the Australian Medical Association has come out in support of the move that is being implemented by this bill.

The AMA has said:

> This bill represents the next stage in the medical profession's wish for a national registration of medical practitioners.
>
> Doctors who currently work in more than one state/territory need to register to practise in each jurisdiction. This hangover from 1901 should be removed with each state and territory passing legislation to move to a national scheme from 1 July 2010.

This is precisely what this bill endeavours to do.

Another welcome change that will result from the passing of this bill is that nurses in country hospitals will be given the capacity to supply medications in particular circumstances. This is a common-sense approach to a common problem in remote areas and is very welcome.

I take up the member for Rodney's comments and concerns about the quality of health care in rural and regional areas, and I applaud his concern, which he has highlighted today. Of course it is a concern that we on this side of the house all share. That is precisely why we have delivered record funding in health and have delivered the best health system in Australia, whether you live in metropolitan Melbourne or whether you live in rural and regional Victoria. However, I suggest to those opposite, and in particular to the member for Rodney, that his concern would be given more credence and we could respond to it in a more genuine way if he was honest about the assessment of precisely what was done to the health system under the previous Kennett government. We could then move forward on that basis.

I would also like to respond to the opposition's concerns surrounding organisational psychology. There is no reason to reconstitute the board, as both the national board and the state board will have representation from the organisational psychology professions.

In conclusion, I emphasise again that this bill has been welcomed by health practitioners, by the AMA and a range of other organisations, and it will no doubt further improve the delivery of health services in our state. I therefore wish the bill a speedy passage through the house.

Mr MORRIS (Mornington) — The Statute Law Amendment (National Health Practitioner Regulation) Bill is quite a mouthful, but it is simply about enabling the transition of Victorian health professionals to a national registration and accreditation scheme from 1 July this year. It is a matter we have addressed before, and this bill is mostly about dotting the i's and crossing the t's and sorting out the transitional provisions.

I should flag my intention to speak with unaccustomed brevity, but it seems to be a hallmark of the debate on this bill that members do so. As I said, it is basically a tidying up exercise. It is about transitional arrangements and getting the national scheme in place. One of the consequences is that Chinese medicine professionals and medical radiation practitioners will not make the transition to the national scheme until 2012, so in part

this bill is about ensuring that appropriate arrangements are in place to deal with that delay.

The time for serious discussion on this issue is well past. The debate we are having today is not about whether we should or should not be part of this scheme; we are well past that point. I do not intend to re-enter that territory except to say that I welcome the changes, which are basically sensible. Of course there are always ways that you can do things better, but this is basically a sensible change which has the potential to improve services to people who are in need of medical care by making the delivery of services more efficient.

It is also true that the underlying intent should be about improving medical services. That should be the yardstick by which we judge any changes, whether we are talking about changes of the professional structure, changes for the professions or changes for health institutions. It is about improving the standard of care; it is about improving patient outcomes. The member from Narracan identified some issues of concern to individuals and to groups, and I simply acknowledge those concerns. Other colleagues have also indicated some concerns, but on balance a single regulatory framework such as proposed by this bill and its predecessor legislation will improve outcomes.

I note there has been perhaps a change of heart or a reassessment of public record matters. I certainly welcome the continued involvement of the Public Record Office in that capacity. It is an organisation for which I have a high regard. I also welcome the change to ensure the continued involvement of the Victorian Civil and Administrative Tribunal, and the extension of its function to the new national boards.

All members would have received correspondence from the Australian Medical Association in support of the bill. I was pleased to see the association's support for the concept of allowing nurses in country hospitals to supply limited medication under certain circumstances. As others have remarked, it is something that has been done in Queensland for quite some time, and I understand also in the Northern Territory, so the practice is well established, but I was pleased to see the association supporting that initiative.

I am tempted to take the opportunity afforded by this debate to talk about the shortcomings of the health services available to Mornington Peninsula residents, the blow-out in ambulance waiting times, the challenges faced by the hardworking staff of Frankston Hospital's emergency department or the record numbers of people waiting for elective surgery in the Premier's Victoria, but I will not test your indulgence by doing that, Acting Speaker, and will simply commend the bill.

Mr LUPTON (Prahran) — I support the Statute Law Amendment (National Health Practitioner Regulation) Bill, and I am pleased to be able to make some comments in relation to it today.

Since federation this country has faced a range of issues about the regulation of professions and occupations that have caused significant difficulties for those conducting businesses, particularly those who operate in more than one state or who wish to move from one state to another. Among these difficulties — and I will name just a few — are the regulation of and qualification requirements for the legal profession, medical profession and other professions such as accountancy, which have been a significant burden on many people operating in those fields over a long period of time.

In recent years we have made significant progress, through both the Council of Australian Governments and the Council for the Australian Federation, in bringing together the different jurisdictions — the states, the territories and the commonwealth — and working to make progress in the national registration of professions that lend themselves to that process. In this case we are talking about the medical profession, but we have also seen some significant work done in relation to the legal profession and others.

The bill before us is essentially the culmination of a process that has involved the development of a significant amount of legislation over the last couple of years as a result of agreements between the different jurisdictions. The process we are involved with now saw its beginnings in legislation passed by the Queensland Parliament that established the structure and elements of the national scheme for the registration of the medical profession. The Queensland Parliament then passed subsequent legislation to bring about regulation of the medical profession. Following that, other states and territories have prepared and passed complementary adoption bills.

The Victorian adoption legislation has been split into two stages. The first stage, the Health Practitioner Regulation National Law (Victoria) Act, was passed by this Parliament last year. It applied the Queensland legislation as a law of Victoria. The second stage of that process is the statute law amendment bill we are dealing with now.

This bill makes the necessary transitional and consequential amendments to Victorian legislation to allow for the effective operation of the Health

Practitioner Regulation National Law (Victoria) Act that was passed last year. In so doing it brings about the creation and establishment of the national regulation of the medical profession from 1 July, save for the ongoing regulation of Chinese medicine and medical radiation practitioners under the Victorian Health Professions Registration Act up until 1 July 2012. Most parts of the medical profession will come under the national regulation scheme this year; Chinese medicine practitioners and medical radiation practitioners have a longer transition process and will come under the national regulation on 1 July 2012.

It is important that we get right the national regulation of the medical profession and that of other professions where significant numbers of people practice in more than one jurisdiction at a time or move from one jurisdiction to another in the course of time. It has been a lengthy process to ensure both that the national regulation is effective and that it has the capacity to take into account important local factors. Getting this balance right has been an important part of the dialogue and discussion that has gone on over a period of time. The bill we are debating and the bill that we debated immediately before this one both strike the right balance.

This is important for the practitioners who work in the area we are dealing with, as well as for the clients of those practitioners — in this case, the patients. Making it easier, simpler and more efficient for professionals to operate their businesses is an important consideration because that can affect the supply of services — in this instance, medical services. It can also affect the ability of practitioners to move to rural and regional areas where there is a high demand for their services. Where it is made simpler and more efficient to have one's qualifications recognised and to be registered in more than one jurisdiction, it may well, in this instance, have a beneficial effect on the number of medical practitioners who move to areas that are close to state borders. That would mean a greater supply of medical practitioners in rural and more remote areas of the country, which would be commendable. It is also important for patients, because the supply of medical practitioners, particularly outside the metropolitan areas, is an issue that affects quality of life. The ability for people to obtain good-quality health care in the area in which they live is important.

On the matters I am addressing at the moment it is also important to point out that one element of this legislation allows nurses in country hospitals to administer drugs of a certain type in prescribed circumstances rather than those drugs having to be prescribed by a doctor at all times. That has been broadly welcomed. It is a sensible reform that is properly balanced and will result in an improvement in the ability of people to get appropriate medical care in rural and regional Victoria and, as it is replicated in similar legislation, in other states all around Australia.

As a consequence the medical profession broadly and the Australian Medical Association in particular are supportive of this legislation. It is a good example of how national coordination can work with different jurisdictions operating together for the betterment of not only the particular profession involved but also of the people who rely on the important services that profession delivers. In this instance we are talking about the medical profession, an important area of community service. The people of Victoria and Australia rely very much on good-quality medical services provided by a well-trained and expert health profession. For that reason this sort of legislation is very positive, and I am delighted to support it in the house today.

Mr DELAHUNTY (Lowan) — I am pleased to rise on behalf of the Lowan electorate to speak on the Statute Law Amendment (National Health Practitioner Regulation) Bill 2010. I want to make a couple of quick comments about the member for Prahran's comments that this bill will improve cooperation between the states and improve the health outcomes for people in Australia. If that is true, why has the Prime Minister taken the stand he has to try to do something about health across Australia? We all know what it is really about: it is a diversionary tactic — —

The ACTING SPEAKER (**Mr Stensholt**) — Order! The member for Lowan needs to come back to the bill.

Mr DELAHUNTY — The member for Prahran said this will hopefully help practitioners, be they doctors, nurses or allied health staff, in moving around Australia. Here in Victoria we are concerned about this, but we have debated it over many years. If I remember rightly, it started back in 2005 when we debated the Health Professions Registration Bill.

The purpose of this bill is to amend the Health Professions Registration Act 2005 to reflect the enactment of the national law. This is common to all states and has been driven by the Council of Australian Governments (COAG). The Queensland government has had the lead role on much of the legislation.

In particular the bill amends references to definitions of various registered health practitioners and makes consequential amendments to other Victorian legislation, including provisions in the Drugs, Poisons

and Controlled Substances Act 1981, which authorises persons to have possession of poisons or controlled substances. I will come back to that when I talk about clause 40. The bill further provides for transitional arrangements to reflect the national law.

There are many parts to this bill. It is an omnibus bill covering a lot of things in relation to health. Amendments to clauses 3, 14, 16 and 17 will allow for the regulation of Chinese medicine and medical radiation practitioners to continue unchanged until they join the national scheme on 1 July 2012.

Amendments in clauses 18, 23 and 29 will allow for the continued operation of the Pharmacy Board of Victoria for the purpose of pharmacy premises regulation until the Victorian Pharmacy Authority is established. Clause 29 will allow for the current state health profession registration boards to continue in operation beyond 1 July 2010 for the purpose of finalising their financial reports for the year ending 30 June 2010. That is a broad outline of what the bill is about.

As I said earlier, this bill had its genesis back in 2005 when we debated the Health Professions Registration Bill. That was a fairly contentious bill. The AMA (Australian Medical Association) and the nurses union expressed concerns, but at the end of the day we all saw there were common benefits not only in Victoria but across Australia of having the legislation go through, because it would deliver a common registration scheme and importantly a common system for investigations in any of the services. Whether we were in Victoria, Tasmania or South Australia, we wanted to have a common scheme.

I can remember that years ago travelling across the Murray River was like going to the other side of the world. Today we move around very rapidly with modern transport, and our health professionals do the same. They are not locked into staying in one place. My colleague the member for Mildura, who is in the chamber, the members for Murray Valley and Swan Hill and all those with electorates along the border have great difficulties with border anomalies, where doctors cross borders. After all, the Murray River is only a line on the map. We deliver similar health services and are looking for good health outcomes for our constituents.

This legislation and legislation we have debated before will allow that to happen. In a previous role I was The Nationals spokesperson for health. I have been a strong believer that we are entitled to top-quality health care in our communities and that top-quality specialist services should be provided to all Victorians. This legislation helps allow that to happen.

In October 2008 we debated the Health Professions Registration Amendment Bill and in November 2009 the Health Practitioner Regulation National Law (Victoria) Bill, which both made minor amendments to the legislation that we debated back in 2005. Back then the purpose of the bill was to provide for registration of health practitioners and for similar investigation procedures.

In my presentation I want to cover a couple of things in the bill. As I said, clauses 18, 23 and 29 allow for the continued operation of the Pharmacy Board of Victoria. I want to give credit to the pharmacists who work in my electorate of Lowan. They do an enormous amount of work and are very community-minded people. They not only provide health care to people but are mindful of their health status. I pay particular attention to the work pharmacists do in mental health because they have to distribute medication to these people. They have good cooperation with doctors, but we know of problems where mental health clients have probably gone a bit too far and have learnt how to doctor shop and pharmacy shop, so I give credit to the pharmacists in the Lowan electorate particularly for the work they do in mental health.

Providing pharmacist services to certain places can be difficult. Pharmacies, or chemists shops as we often know them, cannot open their doors unless there is a pharmacist on the premises. I know of examples where that has caused major problems. I use the example of Edenhope in the western part of my electorate. On one Saturday morning people coming to the town to play football, netball and other sports had hoped to buy bandages and medication from the pharmacy, but because the pharmacist was ill or could not get there to open the doors, the shop could not open. Therefore customers missed out on getting the bandages and the other things they needed to take to their sporting groups.

I often wonder — and I spoke to the Pharmacy Guild of Australia about this — whether we could get a system where the backs of pharmacies were locked but the fronts, where they sell the Panadol, bandages and those types of things, could still operate. On this occasion there was a lady present who could have opened the door of the shop. She was not a pharmacist but knew all about selling bandages and that type of thing. I honestly believe we have to look at ways of opening pharmacies, not to distribute medication but to allow items such as Panadol and bandages to be sold. We should examine that. Pharmacies with their depots also do a great deal of work in my area in servicing country communities.

Clause 40(3) proposes to insert new section 14A(1) into the Drugs, Poisons and Controlled Substances Act to allow the minister to approve health services or a class of health services in which a poison or class of poison is to be used in certain circumstances. I have spoken with nurses across my electorate, and one particular nurse has given me some good information. She said to me that it is very important for the future of rural nursing that we allow appropriately trained nurses to get endorsement from the Nurses Board of Victoria to supply and administer a restricted range of medications.

The introduction of the older legislation will provide greater access for rural Victorians to health care, particularly at the primary care level. As we know, we want to see the utilisation of the skills of nurses who have to undertake education to support our overstretched GP workforce, particularly in the emergency services department. Nurses do not wish to replace GPs — no-one wants to do that — but I think it is important to allow this to happen as part of having multidisciplinary teams using evidence-based, clear protocols. There are 48 nurses doing the rural and remote advanced practitioner primary care certificate and another 19 nurses will finish this year. The nurse practitioner course is a very difficult course. This is not quite as difficult but will allow us to provide great services and appropriate medication to patients who come in the door. Like the rest of my colleagues, I am not opposing this legislation. We wish it a speedy passage through the house.

Ms THOMSON (Footscray) — I rise to support the Statute Law Amendment (National Health Practitioner Regulation) Bill 2010. I am pleased to be able to do so. This is the third and final stage in putting national uniform regulation in place. It is quite pleasing to me that today we have had two debates around uniformity in legislation. One was in the consumer credit area and the other is this one concerning health practitioners. This is a very important piece of legislation. We would all agree there is something really wrong when a surgeon in Queensland cannot practice here unless they are registered here, and a surgeon in Victoria — —

Dr Napthine interjected.

Ms THOMSON — Let us hope the national scheme fixes that.

There is something wrong when a Victorian surgeon cannot operate in Queensland. If we were to have some sort of major natural or other catastrophe, we would have stumbling blocks for bringing in those doctors and nurses from interstate to assist and help in that circumstance, because they would not be registered here to practice. It is an ever-shrinking world. We are now seeing doctors consulting with other doctors across the globe, yet here a doctor would not be able to come down from another state to the north, west or south of us and practise here without incurring some regulatory burden in doing so. To be quite honest I think a national scheme of registration is probably overdue. It is good to see that we are now at the point where we are going to see our health practitioners being able to register nationally and practise anywhere in Australia.

Everyone has greater mobility now. Whether you are a nurse or a Chinese medicine practitioner — they will come into the scheme from 1 July 2012 — or some other sort of practitioner, you will be able to be registered and you will be able to be tracked and followed nationally. I think it will help keep the standard of the profession high. There will be a better chance of monitoring the standards of our doctors, nurses and other health professionals if they are under national registration.

This proposal will see 10 of the health professions come into the scheme from 1 July 2010. Aboriginal and Torres Strait Islander health practitioners, Chinese medicine practitioners, medical radiation practitioners and occupational therapists will join the scheme from 1 July 2012. It is a significant reform for our health-care system. It will provide additional safeguards for public protection, as well as improve the workforce flexibility and, most importantly, mobility.

We have heard previous speakers talk about the issue around the borders. I think that is crucially important. Patients cross borders. I will use the example of Albury and Wodonga. You may live in Albury but you will be attended to in Wodonga hospital, yet the doctors cannot cross the border to practise unless they are registered in both states. It is anathema in this day and age that this is what has had to occur. Under this proposal we will see greater flexibility. We will see greater transparency and greater protection for those who receive the services of medical practitioners as a consequence. Amendments to the act will remove the Public Records Act 1973 from the list of excluded legislation so that state and territory legislation will continue to apply. A regulation-making power for minor transitional changes will be inserted, ensuring the necessary changes will be made to give effect to the national scheme.

Amendments to the Health Professions Registration Act represent the main amendments in this bill and will allow the regulation of Chinese medicine and medical radiation practitioners to continue to be operated by the states independently until they join the scheme on 1 July 2012.

The Pharmacy Board of Victoria will continue to operate for the purposes of pharmacy premises regulation until the new Victorian Pharmacy Authority is established, and the government intends to introduce the Victorian Pharmacy Authority Bill to establish the new authority. In addition, a transitional provision has been included in the bill to allow the current state health practitioner registration boards to finalise this year's financial reports.

There are some minor consequential legislative amendments to the Victorian Civil and Administrative Tribunal Act 1998 to allow it to continue to carry out its functions in relation to the Chinese medicine and medical radiation practitioner boards and to the Drugs Poisons and Controlled Substances Act 1981 to ensure that the current rights of health practitioners to possess, sell or supply poisons are maintained and to allow the Minister for Health to authorise, under certain conditions, registered nurses who are endorsed as being suitably qualified by the National Nursing and Midwifery Board to possess, sell or supply poisons.

This is the third and final stage of legislation to ensure we have a national system in place, but the states will still be responsible for a lot of the activities in this area. I want to say that it is heartening to see in this chamber a lot more legislation for national uniformity. This means that people who have to live under a regulatory regime can be assured that it is streamlined and easy for them to operate in. I have always believed that if we want people to comply with regulations we set to protect consumers in whatever field, whether they be patients in the medical area or consumers in other fields, we need to make the regulations as simple and easy to comply with as possible. The more complex we make regulations the harder it is for people to comply with them, the more likely it is that people will avoid compliance and the more difficulties there will be for the end users, whether of medical services or other consumer-type products or services.

One national registration scheme means that our doctors, our nurses, our health professionals, those who are providing vital support to our communities when they most need them, will be able to get on with the main game of providing those services wherever they are in Australia. They will also know that if they decide to pick up and come and work in Victoria they will not have to register twice and will not have to think about doing their paperwork and meeting qualification requirements all over again. There will be one scheme for them to comply with, and there will be greater protection for the users of those services.

I commend this bill to house. It brings great merit with it. Getting us to this point has been a long process, although not as long as for some other uniform legislation; it has come relatively quickly compared to other pieces of legislation. It is fantastic to see that as a result of the Victorian government cooperating with the Rudd federal government we are seeing the final stage of this legislation being implemented, and this can only be to the betterment of all Victorians, both practitioners and those who use their services. I commend the bill to the house.

Dr NAPTHINE (South-West Coast) — I rise to speak on the Statute Law Amendment (National Health Practitioner Regulation) Bill. The purpose of the bill is to make transitional and consequential amendments to Victorian legislation to facilitate the implementation of a national health practitioner registration accreditation scheme. We have previously seen legislation in this Parliament to create a regulatory framework for a single national registration and accreditation scheme for 10 health professions, which is to commence from 1 July 2010, and I point out to the member for Footscray that this process was initiated under the Howard federal government. We need to give credit to governments of both persuasions that have worked together in a cooperative way to deliver this outcome. From 1 July 2012 four other health professions — Chinese medicine practitioners, Aboriginal and Torres Strait Islander health practitioners, medical radiation practitioners and occupational therapists — will join this national scheme. It is hoped and expected that among the benefits provided under this national registration scheme, as outlined in the second-reading speech, will be a greater opportunity to attract and retain health professionals in rural and regional Victoria.

There is no doubt that the creation of the Deakin University medical school, which will service Geelong, Warrnambool and western Victoria — a decision of the Howard federal coalition government — will make a significant difference to the availability of medical practitioners across south-west Victoria and in regional and rural areas across Victoria and Australia. We now need to look at some of the other issues that are important in making sure we have a rural workforce that meets the needs of rural and regional Victoria.

I draw the attention of the house to the AMA's (Australian Medical Association) *Rural Workforce Rescue Package* document which was circulated to members recently. It says:

> AMA Victoria recommends $94.6 million over four years for a rural rescue package for country medical services.

When we are talking about national registration we need to back that up with the right sort of incentives and programs to make sure we can attract and retain medical practitioners and indeed a range of health practitioners in regional and rural Victoria. The AMA's document goes on to say:

> Rural public hospitals, and to a significant extent regional public hospitals, rely for their medical workforce on local doctors in private practice.

Under the heading 'The problem' the document continues:

> The shortage of doctors and other health professionals in rural and regional Victoria is an ongoing barrier to providing health services to all Victorians.

I say hear, hear to that.

Some of the solutions suggested by the AMA include, firstly, payment for after-hours telephone consultations and, secondly, hospital rural location allowances. Under that heading the AMA says:

> AMA … recommends a central pool for specialist rural location allowances would help country hospitals attract staff without compromising other services.
>
> Rural location allowances would be payable from $10 000 per annum in major centres like Ballarat and Bendigo, to $30 000 per annum in Mildura and East Gippsland. Payments would be made on a pro rata basis for part-time staff, including VMOs. The payment would be available to all doctors working in Victorian public hospitals.

The third solution is a procedural GP visiting medical officer allowance. The AMA says:

> AMA Victoria recommends that GP proceduralists receive an additional loading of $5000 per annum as recognition of their value to rural health care in Victoria.

The fourth is a sustainable on-call allowance, the fifth is a continuing medical education allowance, and the sixth is a retention allowance. They are some of the things that the AMA say should be in a state budget to back up the national registration scheme.

I understand the importance of a national registration scheme, speaking as a person who represents the electorate of South-West Coast, where we have a border with South Australia, and having worked previously in the veterinary profession. I was registered in Victoria with the former Veterinary Surgeons Board, but I often worked across the border in South Australia and that required a separate registration. On occasion I worked in the live sheep export trade, requiring me to work out of Western Australia, which required another registration.

A national registration system in a country as relatively small in population as Australia — even though it is large in geographic area — has significant merit. The people who are behind the development of the national registration system need to be commended as this legislation is a step in the right direction.

Another area that we should address in a national sense with regard to these health issues in regional and rural Victoria is the need for a Medicare claim number for videoconference-based medical consultations. I refer to comments made by David Ryan, the executive officer of the Grampians Rural Health Alliance, in an article which states:

> The continued lack of a Medicare claim number for videoconference-based medical consultations is holding back the deployment of technology that could help rural and regional health authorities tackle ballooning skills shortages.

The article reports Mr Ryan as saying:

> 'If you are a non-salaried doctor in the hospital', then there is no way to claim back from Medicare the costs associated with the time taken for the consultation. Ryan said despite this problem, medical practitioners in his region had given their time willingly.
>
> Nevertheless the lack of a Medicare number for video-consults was, 'Far and away the biggest impediment in moving the technology out of the hospital's four walls'.

Videoconferencing provides — —

The ACTING SPEAKER (**Mr Stensholt**) — Order! The member needs to get back to the bill.

Dr NAPTHINE — Acting Speaker, I respect your comments, but we are talking about a national registration system for health professionals. I refer to the second-reading speech which talks about having a system that can safeguard the community and practitioners and improve workforce flexibility and mobility. Part of that is to use IT and other technology so that we can use the expertise of specialists who are based kilometres away from a patient to assist that patient to improve their health and the health service provided and to assist locally based nurses, pharmacists and other practitioners so that they can improve their skills and have the backup support of specialists.

The biggest impediment to that is the lack of a Medicare claim number to use video consultation, which provides a real opportunity to increase the better delivery of health services in regional and rural areas by bringing the specialists into closer contact with practitioners and patients in regional and rural Victoria so that we get the benefit of their expertise at a lower cost and greater efficiency. That is exactly in line with

what was said in the second-reading speech, and it is exactly — —

The ACTING SPEAKER (**Mr Stensholt**) — Order! With due respect, I think we are dealing with registration rather than technology.

Dr NAPTHINE — Acting Speaker, it shows your lack of understanding of the integration of the two. Part of the registration system is to have a system to ensure that you have the expertise and skills and you use the technology to maximise the use of those skilled people across the population. The two are integrally linked in delivering improved health services. The basis of registration is to make sure that the patient gets the best quality care and the best possible outcome in terms of the standards that apply, and that the standards of safety and patient treatment are of the highest quality. That is what registration systems are about. If that can be improved and enhanced by using technology, then it should be, and that is why I would urge the federal government to introduce a Medicare claim number for videoconferencing techniques.

In conclusion, later this year 10 of our broad health professions will be coming on board with this national registration system, and another 4 professions will be coming on in a couple of years.

I want to place on record once again the appreciation of this Parliament and the appreciation of all Victorians for the work that has been done over many years and decades by the various health boards, including the Medical Practitioners Board of Victoria and the Nurses Board of Victoria, which have served our community and professions with distinction over the years. They need to be thanked and acknowledged as we move to a national registration system.

Mr CRISP (Mildura) — I rise to make a contribution to debate on the Statute Law Amendment (National Health Practitioner Regulation) Bill and indicate that The Nationals in coalition are not opposing this bill. The two main purposes of the bill are to amend the Health Professions Registration Act 2005 and other Victorian acts as a consequence of the enactment of the Health Practitioner Regulation National Law (Victoria) Act 2009 to make transitional provisions for the commencement of the new national health practitioner registration and accreditation scheme and to ensure that public records are kept.

This bill builds on previous bills before the house, which have addressed 10 professions; we are adding four more now. This is about having national recognition for health practitioners.

The provisions of the bill are mostly mechanical and deal with establishing a national scheme. However, there are a couple of areas that we wish to have some discussion about. The move to a national registration board could increase registration fees for some registered health professionals, and that has to be monitored as this process rolls out. There are issues about how the assets and liabilities of the current boards nationally will be transferred. No clear answers were provided on this, so hopefully during his summing up the minister can give us some details on the state of those boards and how their assets will be managed.

I will focus on nurses in country hospitals because some provisions allow nurses working in country hospitals to supply medication in certain circumstances. This is important because of the pressure in country hospitals on our health professionals. Many country and regional areas have only one doctor in the town, and they cannot work 24 hours, 7 days a week to support the local hospital or the local community.

Some of the smaller communities in my electorate include Hopetoun, Ouyen and Robinvale. Both Hopetoun and Ouyen have a single practitioner who works in association with the hospital. Robinvale has a number of practitioners. However, there are some difficulties there when an overseas doctor becomes a citizen of this country, because they are on a month's break while the medical registration board sorts out their change of visa. That is a commonwealth issue, but it is not without its difficulties in country areas because it adds to the pressure on hospitals. The lack of doctors in regional areas is a major problem.

This bill is meant to make the transition of health practitioners between states much easier. However, there are a couple of other things to consider as well. When you are trying to recruit and retain health professionals in country areas, you need to line up more than just their registration issues; it is bigger than that and we have some considerable issues.

One issue which I will raise was mentioned by the Victorian Healthcare Association in its budget submission, which states:

> Only 17 per cent of the capital investment from the past decade was directed to regional and rural Victoria, despite the fact that 27 per cent of the state's population resides there.

It means that when you are trying to attract a doctor, no matter from where, you have the additional burden that there has not been capital investment over time, which adds to recruitment and retention issues. After-hours services in regional and rural Victoria are stretched. As I said before, doctors are not there all the time.

Often there is no all-night pharmacy in regional and rural towns, so the supply of medication becomes an issue. Not only do nurses need to be able to prescribe the medication — something that might be as simple as antibiotics to treat a child's earache — but the medication has to be dispensed through the pharmacy or the dispensing process has to be on site. We have to be assured that nurses are allowed to prescribe or supply medication and that there are dispensing facilities. I am hopeful that that will be cleared up with this bill. It is interesting to note that in its briefing to opposition members the Australian Medical Association is supporting this legislation, including the supply of medications in certain circumstances. That is unique.

Although the bill is a machinery measure, there are a number of other provisions in it that we need to talk about. The bill ensures that the Chinese medicine and the medical radiation boards continue to operate until their new boards are formed in 2012. This is important in this transitional period. It allows the Pharmacy Board of Victoria to continue to operate until the Victorian Pharmacy Authority is formed in May, and makes arrangements for its continued operation if that is delayed. The opposition has been told that a further bill will be introduced relatively soon to establish the Victorian Pharmacy Authority.

The bill amends the Victorian Civil and Administrative Tribunal arrangements to ensure that it can continue to have jurisdiction as per the current arrangements. Clause 32 amends the act further to ensure that public records and all relevant documents are kept.The bill also substitutes definitions of other consequential acts in line with the health practitioner regulation act. Other state health boards will remain in operation until 1 July 2010 for the sole purpose of finalising their annual reports till 30 June 2010.

I would like to support what the member for South-West Coast said about medical technology and health practitioners, because the two are interrelated. There has been a trial in Mildura of Dr Robot, which enables health practitioners when they are short of doctors to take mobile videoconferencing to the patient and get responses. This is an extension of the use of remote X-ray readings and so on in this digital age. There is a complex mixture in trying to create the right environment to attract the medical professionals you need. It is more than getting rid of cross-border stuff, which has been a heck of a nuisance for a long time, and I think we would all agree on that.

To get the right workplace environment to recruit and retain medical professionals you have to give them a great deal of support, particularly if they are the sole doctor, and more particularly if they are an overseas doctor, as we have in our country areas. Having teleconferencing support so that you can contact a colleague gives professional people confidence to accept a position in a rural, remote, country or regional setting — pick the name you want! Technology and its rollout will be important. It is important also to note that country areas have had a capital deficiency in that area. That capital needs to be invested to give sole operating doctors the opportunity to feel confident in what they are doing, particularly as many of them are newcomers to our country and, although they are qualified, they are still going through the process.

The Nationals are not opposing this bill. We look forward to the registration issues being dealt with to help with rural and remote retention issues and also some of the other issues that have been mentioned in debate.

Debate adjourned on motion of Ms ALLAN (Minister for Regional and Rural Development).

Debate adjourned until later this day.

Sitting suspended 6.30 p.m. until 8.03 p.m.

HEALTH AND HUMAN SERVICES LEGISLATION AMENDMENT BILL

Statement of compatibility

Mr ANDREWS (Minister for Health) tabled following statement in accordance with Charter of Human Rights and Responsibilities Act:

In my opinion, the Health and Human Services Legislation Amendment Bill 2010, as introduced to the Legislative Assembly, is compatible with the human rights protected by the charter. I base my opinion on the reasons outlined in this statement.

Overview of bill

This bill makes various consequential amendments to Victorian legislation following the establishment of a new Department of Human Services and Department of Health.

The bill:

establishes a new body corporate known as the Secretary to the Department of Health (DoH) and abolishes the body corporate known as the Secretary to the Department of Human Services (DHS);

assigns new delegation powers, and powers in relation to intellectual property and land, to the new body corporate;

makes provision for property held by the former body corporate to be vested in the new body corporate

assigns new delegation powers, and powers in relation to contracting, intellectual property and land to the secretary to DHS; and

makes a number of minor amendments to legislation to appropriately differentiate between the secretary to DoH and the secretary to DHS.

Human rights issues

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

The bill does not engage any rights protected by the charter.

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

As the bill does not engage any rights protected by the charter, it is not necessary to consider reasonable limitations.

Conclusion

I consider that the bill is compatible with the charter as no provisions of this bill engage human rights.

Hon. Daniel Andrews, MP
Minister for Health

Second reading

Mr ANDREWS (Minister for Health) — I move:

That this bill be now read a second time.

On 12 August 2009 the Victorian Premier announced the creation of a new Department of Health (incorporating health, mental health and drugs, nurse policy and aged care) and a new Department of Human Services (which comprises disability, housing, children, youth and families). In essence, the health-related portfolios within the old Department of Human Services have been moved into a separate department.

As a result of the establishment of the new Department of Health it is necessary to amend section 16 of the Public Health and Wellbeing Act 2008 which creates a body corporate known as the Secretary to the Department of Human Services.

The body corporate was established in 1977 as the successor to the former Health Commission, and, in 1993, when the departments of health and community services were combined to form the Department of Health and Community Services, the role of the body corporate was extended to apply across the whole of the newly created department. This arrangement continued after the creation of the former Department of Human Services in 1996. The body corporate, operating as it did across the entire department, has contracted and holds land for all the portfolios supported by the former department. As a result, a large number of parcels of land are held by the body corporate for health, mental health, disability, child protection and youth justice purposes. The body corporate is also committee of management for a considerable volume of managed Crown land, again for health, disability and youth justice purposes.

With the creation of two separate departments it becomes necessary to separate out the contracting and land-holding powers formerly exercised by the body corporate, and the respective land ownership. Parts 3 and 4 of the bill make provision for the Secretary of the Department of Human Services to deal with property on behalf of the Crown for the purposes of the Disability Act 2006 and the Children, Youth and Families Act 2005 and transfers parcels of land owned or occupied by the existing body corporate for disability, child protection and youth justice purposes to the Secretary of the Department of Human Services.

The amendments to the Children, Youth and Families Act 2005 and to the Disability Act 2006 do not establish new bodies corporate, as the model adopted for the entity known as the director of public transport in amendments made to the Transport Act 1984 enables this to be done without the complexity of an incorporated body. However, in order to avoid unintended consequences in respect of the historical dealings of the body corporate in relation to health portfolio matters, the body corporate has been maintained in the Public Health and Wellbeing Act 2008.

The body corporate established under the Health Act 1958, and continued under the Public Health and Wellbeing Act 2008, has explicit power to acquire, hold and dispose of real and personal property. Consistent with the approach adopted for the director of public transport, explicit provision is now also made for dealing with intellectual property, a form of personal property. Both departments provide significant amounts of funding for the development of research and data where a primary purpose is to enable that research and data to be made available to others. The provisions of the bill have been included for the avoidance of doubt and will assist in clarifying and simplifying the administrative requirements necessary to achieve these goals.

The department's review of the impact of the machinery of government changes has identified a number of references to 'the Secretary to the Department of Human Services' in Victorian legislation administered by other portfolios that need to be amended to clarify whether they refer to functions

being performed by the secretary in relation to health or in relation to the human services portfolios. In some cases the references must now be to both the secretaries. These consequential amendments are contained in part 5 of the bill.

I commend the bill to the house.

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

Debate adjourned until Wednesday, 24 March.

TRANSPORT LEGISLATION AMENDMENT (COMPLIANCE, ENFORCEMENT AND REGULATION) BILL

Statement of compatibility

Mr PALLAS (Minister for Roads and Ports) tabled following statement in accordance with Charter of Human Rights and Responsibilities Act:

In accordance with section 28 of the Charter of Human Rights and Responsibilities, I make this statement of compatibility with respect to the Transport Legislation Amendment (Compliance, Enforcement and Regulation) Bill 2010.

In my opinion, the Transport Legislation Amendment (Compliance, Enforcement and Regulation) Bill 2010, as introduced to the Legislative Assembly, is compatible with human rights protected by the charter. I base my opinion on the reasons outlined in this statement.

Overview of the bill

The bill makes diverse amendments to the Transport Act 1983, the Bus Safety Act 2009, the Rail Safety Act 2006, the Marine Act 1988, the Rail Corporations Act 1996, the Road Safety Act 1986, the Working With Children Act 2005, the Public Transport Competition Act 1995, the Road Management Act 2004 and the Transport Legislation Amendment Act 2007.

Human rights issues

The bill raises a number of human rights issues.

Unlawfully operating a taxi — section 25(1) and the right to be presumed innocent

Clause 28 of the bill introduces three new offences into the Transport Act 1983, all relating to the operation of a taxi by a person who does not have the proper authorisation to do so. New section 158AA makes it an offence for a person (other than an accredited operator or his or her employee) to permit another person to operate a taxi. New section 158AB says that if a taxi is operated by a person who does not have proper permission to do so, the accredited 'operator' of the taxi (being the holder of the licence under which the taxi is operated or, if the licence-holder does not operate the taxi, the person to whom the right to operate the taxi has been assigned) commits an offence. New section 158AC says that if a taxi is permitted to be operated by a person who is not entitled to give that permission, the person operating the taxi commits an offence.

Both new section 158AB and new section 158AC create defences. New section 158AB makes it a defence if the operator satisfies the court that he or she took all reasonable steps to stop the taxi being operated by a person who did not have permission. New section 158AC makes it a defence if the person who unlawfully operated the taxi satisfies the court that he or she took all reasonable steps to determine whether the person who purported to give him or her permission to operate the taxi was entitled to give that permission.

Because these defences place a burden of proof on the defendant, they limit the right to be presumed innocent in section 25(1) of the charter. Section 25(1) requires that the prosecution must prove all aspects of a criminal charge.

I consider, however, that both reverse onuses limit the right in a manner that is reasonable and demonstrably justified in a free and democratic society having regard to the factors in section 7(2) of the charter for the reasons outlined below.

(a) The nature of the right being limited

The right to be presumed innocent is an important right that has long been recognised well before the enactment of the charter. However, the courts have held that it may be subject to limits particularly where, as here, the offences are of a regulatory nature.

(b) The importance of the purpose of the limitation

The purpose of imposing a burden of proof on accredited operators and unauthorised drivers of taxis is to ensure that these offences can be effectively prosecuted and that they operate as a deterrent to the unlawful operation of taxis by imposing a duty on operators and drivers to actively take responsibility for the manner in which taxis are operated. The taxi industry is considerably regulated for public purposes, which include community safety and service standards.

(c) The nature and extent of the limitation

When a taxi is operated without the requisite permission, a burden is placed on both the accredited operator and the driver to prove that they have taken reasonable steps to prevent the offence. By choosing to engage in a regulated activity, it is reasonable to expect operators and drivers to take steps to ensure that taxis are only operated by people lawfully authorised to do so. If reasonable steps have been taken, proof ought not to be difficult.

Whilst the prescribed penalty can involve fines of up to $5841 for operators, it does not involve imprisonment.

(d) The relationship between the limitation and its purpose

The imposition of a burden of proof on the accused is directly related to its purpose as described above.

(e) Less restrictive means reasonably available to achieve the purpose

An evidential onus would not be effective as it could be too easily discharged by the defendant. Having regard to the purpose of the offences, it would be unduly difficult and

onerous for the state to investigate and prove what steps the defendant took to discharge his or her responsibilities.

Accordingly, I consider these provisions to be compatible with the right to be presumed innocent in the charter.

Adverse publicity orders

Clause 13 inserts new section 230FA into the Transport Act 1983 which enables a court to make adverse publicity orders against persons found guilty of a breach of a relevant safety law or an offence under divisions 4 or 5 of part VI of the Transport Act 1983. Adverse publicity orders involve publication of the particulars of the offence, its consequences, the penalty imposed and any other related matter to a specified person or class of persons.

Clause 16 inserts a similar provision into the Marine Act 1988 by way of new section 85AX.

Section 13 — right to privacy and reputation

Section 13 of the charter provides that a person has the right not to have his or her privacy unlawfully or arbitrarily interfered with or to have his or her reputation unlawfully attacked. In my view, any interference with the right to privacy occasioned by an adverse publicity order is likely to be minimal. The fact of conviction and the penalty that has been imposed are already matters of public record; and the broader circumstances of the offending will have been aired in court during a public trial. An adverse publicity order, therefore, does not disclose information that is 'private' but rather communicates in different form information that is already in the public domain.

The offences targeted by these adverse publicity orders include transport safety offences and dishonesty or fraud offences relating to public transport regulation. Adverse publicity orders seek to achieve the deterrent and denunciatory aims of sentencing by 'shaming' offenders, as well as furthering the protection of users of public transport by publicly outing those who contravene safety regulations and strengthening the integrity of the regulatory system. In my view, any interference with the right to privacy is neither unlawful nor arbitrary.

Section 15 — freedom of expression

An adverse publicity order engages the right to freedom of expression as it compels a person to disclose or publish information. Section 15 provides that every person has the right to impart information and ideas of all kinds. It is well established that this includes the right to choose not to impart information. However, section 15(3) provides that the right to freedom of expression can be subject to lawful restrictions that are reasonably necessary to respect the rights of other persons and for the protection of, amongst other things, public order.

Public transport and marine regulation is clearly designed to protect the rights of others in the community. Further, as public transport is a vital and essential service, the proper and effective regulation of public transport safety can be considered a matter of public order. For the reasons given above in relation to section 13(a), I consider that any interference with the right to privacy furthers important public aims, and that any limit on the right not to impart information is proportionate to the interests served.

Reduced penalties for minors — section 8 and the right to equality

Clause 78 inserts new section 215(2)(ab) into the Transport Act 1983 to confirm the power of the Governor in Council, when making regulations governing transport or ticket infringements, to prescribe a lower penalty if the offender is under the age of 18. In accordance with the definition of discrimination in section 8 of the Equal Opportunity Act 1995, this clause may limit the right to be protected against discrimination contained in section 8(3) of the charter. That is because a person over the age of 18 will be treated less favourably than a person under the age of 18 when he or she commits the same infringement. In my view, however, any such limitation is clearly justified. It is a minimal infringement on the equality right that recognises the more limited financial means of children, as well as their reduced culpability. It is consistent with other provisions in the charter itself as well as elsewhere in the law that create obligations to accord children special protection (see especially section 17(2) of the charter but also sections 23 and 25(3)). It is consistent with the reforms made to the Children, Youth and Families Act 2005 and the administration of the Children's Court.

General inspections, inquiry and search powers

Section 228Z of the Transport Act 1983 gives transport safety officers the power to enter railway and residential premises for compliance and investigative purposes. Once proclaimed, the Bus Safety Act 2009 will extend this power of entry to 'public transport premises', which include bus premises. The then minister assessed section 228Z in the 2008 Statement of Compatibility for the Bus Safety Bill (now the Bus Safety Act 2009) and concluded that it was consistent with the right to privacy under section 13 of the charter.

Division 4B of part VII of the Transport Act 1983 sets out the inspection, inquiry, search and seizure powers that transport safety officers can exercise when entering a place under section 228Z. Many of those powers are currently limited to residential premises and railway premises. Clauses 69 and 70 of the bill amend various sections in division 4B (after the Transport Act 1983 is renamed the Transport (Compliance and Miscellaneous) Act 1983) so that various inspection, inquiry, search and seizure powers are not so limited but can be exercised by transport safety officers on all public transport premises.

The extension of these powers to public transport premises engages the right not to be compelled to incriminate oneself, the rights to privacy, freedom of movement and property, and the presumption of innocence.

Section 25(2)(k) and 24(1) of the charter — the right not to be compelled to incriminate oneself

Once amended, section 228ZB will confer on a transport safety officer who has entered public transport premises under section 228Z of the Transport Act 1983 a range of powers of inspection, inquiry and search, which are to be exercised 'for compliance and investigative purposes'. These include the power to require any person in or on the public transport premises to produce any relevant documents in that person's custody or control (section 228ZB(1)(h)). In addition, section 228ZL empowers a transport safety officer to direct relevant persons (as defined in section 228S) to provide assistance to him or her to enable him or her effectively to

exercise powers under division 4B, including the powers of search and inspection in section 228ZB.

Section 228ZZP of the Transport Act 1983 provides that a person is not excused from complying with a direction under division 4B on the ground that to do so would incriminate the person. For that reason, the amendment to section 228ZB (read with section 228ZL) engages the right not to have to incriminate oneself. That right is protected by both section 25(2)(k) of the charter (the right not to have to testify against oneself) and also section 24(1) (the right to a fair trial).

Section 228ZZP(2), however, goes on to provide an immunity to persons who have been compelled to provide incriminating information. As currently drafted, it protects against the direct use in criminal proceedings (other than in proceedings in respect of the provision of false information), or in any civil proceeding for a penalty, of any information obtained from a natural person under a direction given under division 4B. Clause 5 of the bill amends section 228ZZP(2) to extend the immunity to indirect use of the compelled information, i.e., to information obtained 'as a direct result or indirect consequence' of the information.

The immunity in subsection 228ZZP(2) is, however, subject to exceptions, as set out in subsections 228ZZP(3) and (4). They provide that the immunity does not apply in relation to the following two classes of compelled documents or real evidence:

> documents or items that were required to be kept under a relevant transport safety law (section 228ZZP(3) and (4)(a));
>
> things obtained under section 228ZK(1)(b). That section empowers a transport safety officer to direct a relevant person (as defined in section 228S) to provide any documents, devices or other things in his, her or its possession or control 'relating to rail operations'.

In short, then, a person who is required to provide incriminating information under division 4B is protected against the direct or indirect use of that information against them in court proceedings, except in the two situations set out above.

These provisions limit the right not to have to incriminate oneself, as protected by sections 25(2)(k) and 24(1) of the charter. However, I am of the view that the limitation is reasonable under section 7(2) of the charter for the following reasons.

(a) The nature of the rights being limited

In *Re Application under the Major Crime (Investigative Powers) Act 2004* [2009] VSC 381 (*Major Crime*), Chief Justice Warren said that the right not to be compelled to incriminate oneself as protected by sections 25(2)(k) and 24(1) of the charter is at least as broad as the common law privilege against self-incrimination. It protects against the use of material that was obtained from a person either prior to or after the charge was laid.

The right in section 25(2)(k) of the charter is a right not to 'testify against oneself', the core idea being that a person should not be conscripted into incriminating themselves. For that reason, a search of and seizure of a person's records is not generally considered to breach the privilege against self-incrimination as the person has not been conscripted into articulating or producing what is expressed in the records. I accept that the right does nevertheless protect against the compelled production of documents as well as to enforced oral testimony.

However, in my view, the protection accorded to the compelled production of pre-existing documents is considerably weaker than the protection accorded to oral testimony or to documents that are brought into existence to comply with a request for information. That is consistent with the decision of the High Court of Australia in *Environment Protection Authority v. Caltex Refining Co Pty Ltd* (1993) 178 CLR 477:

> It is one thing to protect a person from testifying to guilt; it is quite another thing to protect a person from the production of documents already in existence which constitute evidence of guilt, especially documents which are in the nature of real evidence … Plainly enough the case for protecting a person from compulsion to make an admission of guilt is much stronger than the case for protecting a person from compulsion to produce books or documents which are in the nature of real evidence of guilt and are not testimonial in character: per Mason CJ and Toohey J at p. 502. See also per Deane, Dawson and Gaudron JJ at p. 527 and per McHugh J at p. 555.

A number of the purposes that underlie the privilege against self-incrimination are not implicated or are less implicated by the compelled production of documents that already exist or of real evidence, in particular, the concern about oppressive conduct or psychological pressure being brought to bear in the creation of the evidence, and the related concern about the reliability of the evidence.

(b) The importance of the purpose of the limitation

The primary purpose of the abrogation of the privilege against self-incrimination in section 228ZZP(1) is to ensure that transport safety officers have adequate powers to inquire into and monitor compliance with the statutory obligations imposed on those who exercise public transport functions and duties.

The primary purpose of the exceptions to immunity in section 228ZZP(3) and (4) is to facilitate the prosecution of those who commit offences under the Transport Act in circumstances where the information would be required to be provided in any event.

Both of these are important purposes that advance the underlying objective of community safety as well as promoting the maintenance of and continuous improvement in the risk management of safety.

(c) The nature and extent of the limitation

Except in the two circumstances set out above, the abrogation of the privilege against self-incrimination is replaced by a full immunity against direct and indirect use. This is consistent with the decision of the Chief Justice in Major Crime. Assuming that the abrogation of the privilege and its replacement with a full immunity limits sections 25(1)(k) and 24(1) of the charter at all, the limit is therefore a minor one.

The two situations in which the immunity does not apply relate to pre-existing documents and real evidence. As already explained, the protection accorded to such documents is

considerably weaker than the protection accorded to oral testimony or to documents that are brought into existence to comply with a request for information.

Considering further each of the two exceptions, the first relates only to documents that a person is required to keep under relevant transport safety laws. The second is limited by the concept of 'relevant person' as defined in section 228S, by the fact that the transport safety officer must be acting 'for compliance and investigative purposes', and by the fact that the document or thing must relate to 'rail operations'. The result is that only people participating in the regulated public transport industry can be compelled to produce items either that they are obliged to create and maintain, or that are related to and arise from their involvement in that activity.

(d) The relationship between the limitation and its purpose

The limit on the right against self-incrimination is directly related to its purpose as described above.

(e) Less restrictive means reasonably available to achieve the purpose

There are no less restrictive means reasonably available to achieve the purpose of the limitation. The ability to enforce the Transport Act 1983 would be curtailed if evidence from documents that people participating in public transport are legally required to keep, or which relate directly to rail operations, could not be used in criminal proceedings relating to breaches of their statutory obligations.

Accordingly, I consider that the amendments to division 4B are compatible with the right not to incriminate oneself in the charter.

Section 13(a) — the right to privacy

Under division 4B of part VII of the Transport Act 1983 a transport safety officer who enters premises for compliance and investigative purposes may inspect infrastructure, make relevant inquiries, take measurements, make tests, take samples, take photographs and videotape, inspect and copy documents, search for anything that may be evidence of the commission of an offence under the act, seize and remove certain things, and use equipment to examine or process things in order to determine whether they are things that may be seized.

These powers may in certain circumstances create an interference with a person's privacy but in my view, division 4B does not authorise interferences with privacy that are 'unlawful' or 'arbitrary' and accordingly, is compatible with section 13(a) of the charter. The powers serve the important public purposes of enabling transport safety officers to inquire into and monitor compliance with the statutory obligations imposed on those who exercise public transport functions and duties, thus advancing community safety and promoting service standards. The powers can only be exercised in the controlled and prescribed circumstances set out in division 4B.

In accordance with section 228Z, public transport premises can be accessed for the purposes of such activities at any time during which public transport operations or activities are being carried out or are ordinarily carried out. Outside of such times, premises can only be searched with the consent of the occupier or with a warrant. Searches of private residences are likewise only permitted with the consent of the occupier or under the authority of a search warrant. The process for obtaining consent is strictly regulated (see section 228ZA). Search warrants can only be obtained if a transport safety officer believes on reasonable grounds that there is, or may be within the next 72 hours, evidence of the commission of an offence against a relevant transport safety law in or on the premises (section 228ZG).

A number of provisions further seek to ensure the accountability and transparency of the process, such as the requirement that officers executing a search warrant announce themselves before entry and provide a copy of the warrant to the occupier (sections 228ZI and 228ZJ). Officers may not use more force than is reasonably necessary to exercise these powers (section 228ZZ). The legislation provides detailed guidance as to the use, retention, access and return of seized items.

For all these reasons I have concluded that there is no limit on section 13(a) of the Charter.

Section 20 — the right to property

Section 20 of the charter provides that a person must not be deprived of his or her property other than in accordance with law. The seizure powers just discussed may in certain circumstances amount to a deprivation of property but in my view, the powers are compatible with section 20 of the charter. Any seizure of property under the legislation must be in accordance with law because the circumstances in which seizure can occur are clearly specified and safeguards against arbitrary deprivation of property are provided.

These safeguards include judicial controls on retention of things seized for longer than 90 days (section 228ZW read with section 228S), the giving of receipts (section 228ZT), the provision of copies of documents as soon as practicable after seizure (section 228ZU) and the provision of compensation for damage caused to property during the exercise of these powers.

Section 25(1) — the presumption of innocence

The extension of division 4B powers to 'public transport premises' has the effect of extending the reach of a number of existing offence provisions in division 4B. Several of these contain a defence of having a 'reasonable excuse' for non-compliance with the statutory requirement: sections 228ZD, 228ZL(3), 228ZR(3), and 228ZS(2). Section 228ZO(3) takes a different approach and lists four specific circumstances in which non-compliance is justified.

In all these cases, the relevant defence provisions have the effect of imposing an evidential onus on a defendant. This means that the defendant must present or point to evidence that suggests a reasonable possibility of the existence of facts that, if they existed, would establish the defence. The prosecution must then rebut the defence beyond reasonable doubt.

It is unnecessary to decide whether an evidential onus limits the charter right in section 25(1) because, in my opinion, any limitation on the right is reasonable and demonstrably justified under section 7(2) of the charter. It is well established that the right to be presumed innocent is not absolute and can be limited, provided that limitations are kept within reasonable limits and are not arbitrary or disproportionate. In this case the limitation serves the important purpose of rendering prosecution an effective

mechanism for ensuring cooperation with the activities of transport safety officers. A defendant's reason for non-compliance will be best known to him or herself. The imposition of an evidential onus ensures that the defendant must put any such reason at issue but still protects the presumption of innocence by requiring the prosecution to prove the absence of any such reason to the ordinary criminal standard.

The only offence provision in division 4B that contains a complete reverse onus provision is section 228ZL(5). Section 228ZL(3) makes it an offence for a 'relevant person' to refuse or fail to comply with a direction under section 228ZL(1) unless the person has 'a reasonable excuse'. Section 228ZL(1) empowers transport safety officers to direct a relevant person to provide assistance to the transport safety officer to enable him or her effectively to exercise a power under division 4B. In addition to the defence of 'reasonable excuse' in subsection (3), section 228ZL(5) provides that it is also a defence if the person charged 'proves on the balance of probabilities that the direction or its subject matter was outside the scope of the business or other activities of the person.'

This provision was amended by the Statute Law Amendment (Charter of Human Rights and Responsibilities) Bill 2009. It was the subject of correspondence between the Attorney-General and the Scrutiny of Acts and Regulations Committee (Alert Digests 4 and 9 of 2009). In that correspondence the Attorney-General advised that in his view the limitation that section 228ZL(5) imposed on the presumption of innocence in section 25(1) of the charter was justified. I agree with this view for the following reasons.

(a) The nature of the right being limited

As discussed above, the right is not absolute.

(b) The importance of the purpose of the limitation

The limitation serves the important purpose of rendering prosecution an effective mechanism for ensuring cooperation with the compliance and investigative activities of transport safety officers. This, in turn, protects community safety, as well as service standards in the industry.

(c) The nature and extent of the limitation

The limit only applies to 'relevant persons' as defined in section 228S. Defendants have an additional defence of 'reasonable excuse', which is only subject to an evidential onus. The reverse onus does not apply to an essential ingredient of the offence but solely to the peripheral question whether the direction was within the scope of the person's activities. Conviction cannot result in imprisonment.

(d) The relationship between the limitation and its purpose

The limitation imposed is directly and rationally connected to its purpose.

(e) Any less restrictive means available

There are no less restrictive means available. The scope of a defendant's business or other activities is best known to them and ought not to be difficult for them to prove. Conversely, it would be extremely difficult for the prosecution to prove. Accordingly, an evidential onus would not be sufficient.

I conclude, therefore, that the limit on the section 25(1) of the charter is justified.

Section 12 — freedom of movement

Clause 70 amends section 228ZC of the Transport (Compliance and Miscellaneous) Act 1983 to extend the scope of that section to public transport premises, so that a transport safety officer may take all reasonable steps to secure the perimeter of a site at public transport premises entered into under the entry and search powers in division 4B if he or she believes on reasonable grounds that it is necessary to do so to determine whether an offence has been committed or to preserve evidence.

Section 12 of the Charter provides that every person lawfully within Victoria has the right to move freely within Victoria. Assuming that this provision limits the right in section 12, in my view, any such limit is demonstrably justified under section 7(2) of the charter for the following reasons.

(a) The nature of the right being limited

The right to freedom of movement is not regarded as an absolute right in international law and can be subject to reasonable limitations.

(b) The importance of the purpose of the limitation

The purpose of the power is to enable transport safety officers to investigate whether offences have been committed and to preserve evidence relating to the commission of the offence. These are important purposes.

(c) The nature and extent of the limitation

The power can only be exercised in relation to sites at public transport premises and cannot be exercised in relation to residential premises. Any limit on a person's general freedom of movement is minor. As mentioned above, the power can only be exercised for the purposes of determining whether an offence has been committed or to preserve evidence.

Section 228ZC(2) stipulates that the site can be secured for the period the officer considers appropriate or that the safety director specifies. Implicitly, however, this must be for no longer than is required to undertake the necessary search or to preserve evidence.

(d) The relationship between the limitation and its purpose

The limitation imposed is directly and rationally connected to its purpose.

(e) Any less restrictive means available

There are no less restrictive means available to achieve this purpose. The power of exclusion from a site is essential to transport safety officers' functions of investigation and preservation of evidence.

Section 24 and the right to a fair hearing

There are a range of new decision-making procedures being inserted into the Transport Act 1983 and the Rail Safety Act 2006 by the bill which may engage the right to a fair hearing in section 24 of the charter. Section 24 provides that a party to a civil proceeding has the right to have the proceeding decided by a competent, independent and impartial court or

tribunal after a fair and public hearing. The new procedures that may engage section 24 of the charter include the procedure for applying to vary or withdraw an undertaking given to the safety director (clause 7) and the various decision-making procedures being inserted by part 3 of the bill relating to the accreditation schemes relating to the provision of services in the taxicab industry and to drivers of commercial passenger vehicles.

In deciding whether there is a breach of the right to a fair hearing, the process must be considered in its entirety, including any available rights of appeal or review. Considering these various procedures in this manner, I have concluded that they accord individuals their right to a fair hearing. In reaching this conclusion, I have placed particular weight on the fact that there is an opportunity for individuals adversely affected by a decision to seek a review by VCAT.

Conclusion

I consider that the bill is compatible with the charter because, to the extent that some provisions may limit human rights, those limitations are reasonable and demonstrably justified in a free and democratic society.

Tim Pallas, MP
Minister for Roads and Ports

Second reading

Mr PALLAS (Minister for Roads and Ports) — I move:

That this bill be now read a second time.

The paramount aim of this bill is to improve compliance and enforcement settings across Victorian transport regulation with particular emphasis on enhancing safety. In line with announcements made in the 2010 statement of government intentions, reforms to compliance and enforcement settings to improve transport safety and standards and continuing the process of strengthening the national rail safety regulation system are key aspects of the bill. The bill will continue Victoria's leadership in modernising and improving national harmonisation of rail safety policy and regulation.

In addition, the bill makes a range of minor, miscellaneous and machinery adjustments to current transport legislation.

Policy context

The bill falls within the broader policy and legislation envelope set out in the Transport Integration Act 2010. Members will recall that the Transport Integration Act 2010 establishes new overarching policy and legislative settings for transport in Victoria, focusing particularly on the overall integration and sustainability of our transport system.

Best practice compliance and enforcement settings are a critical area of support for an integrated and sustainable transport system. There is little point in providing a modern policy and legislative framework if people do not comply with it and agencies cannot enforce it.

One of the transport system objectives in the Transport Integration Act requires transport agencies to aspire to establishing and maintaining a transport system that is safe and supports community health and wellbeing. Having regard to this objective involves seeking to continuously improve the safety performance of the transport system.

With these considerations in mind, the government has worked hard in recent years to drive a series of major transport safety reforms to create both best practice safety schemes for the state and best practice regulators to administer the schemes. The overall aim, of course, is to maintain and enhance the high levels of safety already built into our transport settings.

Reforms endorsed by Parliament in recent years include:

a rail safety regulation scheme and revised public transport safety regulator arrangements (the Rail Safety Act 2006);

a transport safety investigations scheme and revised organisational arrangements (Transport Legislation (Safety Investigations) Act 2006);

a bus safety scheme (the Bus Safety Act 2009); and

a range of initiatives pursued in various omnibus bills (including, for example, the safety interface agreements scheme for level crossing safety improvements provided in the Transport Legislation Miscellaneous Amendments Act 2007).

Our safety reform work continues across the transport system with major reviews under way in the water and roads areas. The current policy-driven review of the Marine Act 1988 and its impact on the safety of commercial shipping and recreational boating will conclude later this year with the presentation to Parliament of a new Marine Safety Bill. The government's review of the Road Safety Act 1986 will build on current settings to establish a new road safety statute to help further reduce road trauma.

Compliance and enforcement reforms

In parallel with the major reviews, the government is continuing to undertake policy and operational scans of each individual transport safety scheme. This work has

presented opportunities to adjust current schemes ahead of the major reviews, and to bring about immediate improvements.

Good safety regulation requires good regulators as well as good safety rules. Victoria's transport sector contains a number of excellent regulators such as the director, public transport safety (known as Public Transport Safety Victoria or PTSV), the director of marine safety (Marine Safety Victoria or MSV), the Roads Corporation (or VicRoads), and the director of public transport incorporating the Victorian Taxi Directorate (the VTD).

Best practice compliance and enforcement schemes give these regulators the powers and sanctions they need to enforce compliance with safety standards as well as probity, service and other regulatory standards.

As a result, a major emphasis of transport policy and legislation reform in recent years has been to provide adequate powers and sanctions so regulators can take proportionate responses to anticipated or actual breaches of the law that affect safety or other standards.

A variety of powers and sanctions are now standard across the portfolios. Compliance and enforcement tools such as infringement notices, improvement notices, prohibition notices, commercial benefits penalties and exclusion orders are in place across key parts of the transport portfolios including roads, rail, bus and marine. They are mostly clustered in the Transport Act 1983 to avoid repetition across the statute book.

This bill extends the existing arrangements to other areas of the transport portfolios.

Transport safety law infringements are introduced for the rail and bus industries, providing the safety director with additional powers to deal with minor offences and enforce regulatory standards.

Remedies for breaches of safety duties and other requirements are also extended by providing the courts with sentencing powers across the public transport portfolio.

A range of sanctions are extended to the taxi and hire car industry. These include:

exclusion orders (which enable the court to prohibit persistent offenders from being involved in the industry in question);

supervisory intervention orders (which enable the court to order a person to improve his or her compliance with relevant safety laws); and

commercial benefits orders (which enable the court to require a person to pay a fine based on unlawful profit obtained from committing an offence).

The orders will be available to courts dealing with persistent and systematic offenders.

The bill introduces a new sanction — adverse publicity orders — into transport regulation in Victoria. These orders are well known in other regulatory schemes and allow courts to 'name and shame' offenders, in addition to imposing other penalties.

The bill also introduces voluntary enforceable undertakings for the rail and bus sectors, further improving the quality, efficiency and outcomes of rail and bus safety regulation. Enforceable undertakings have proved extremely successful in other regulatory models including ACIS and ACCC. These provisions are modelled on the national model rail safety bill, with adjustments to provide greater flexibility and efficiency.

These measures, taken together, ensure that transport regulation in Victoria remains modern, flexible and responsive to changing circumstances.

Technical and other changes to regulatory schemes

The bill makes a number of miscellaneous, minor and machinery changes to improve existing transport regulation.

Rail safety is recognised as part of a national scheme. This was not possible before other states followed Victoria's lead in 2006 by implementing the national model rail safety bill.

The purpose of taxi industry accreditation is to facilitate the provision of safe, reliable and efficient taxicab services that meet reasonable community expectations. The suitability requirements for persons involved in the taxi industry remain a threshold issue in the accreditation process.

The bill makes it clear that a person's driving record and compliance with the taxi and driver accreditation regimes can be taken into account when making decisions about their accreditation. Provisions are introduced to ensure that a person cannot carry out the functions of an accredited taxi operator if not accredited.

Other technical, but important, changes are made to the taxi industry accreditation scheme.

The bill clarifies the Victorian Civil and Administrative Tribunal's powers when reviewing accreditation and disqualification decisions. It also clarifies when a person who is exempt from a working-with-children check by reason of their completely clear record ceases to benefit from the exemption.

Statutory recognition is given to the holiday surcharge that may be charged by taxidrivers and retained by them on certain public holidays.

Each of these measures is consistent with, and supports, the objective of ensuring the provision of safe, reliable taxi services throughout the state while minimising the regulatory burden on industry.

The bill further aligns the Bus Safety Act 2009 with the Rail Safety Act 2006 along with changes made by the Transport Legislation (Driver and Industry Standards) Act 2008.

The bill clarifies responsibilities for managing and enforcing fatigue management provisions associated with bus drivers. Fatigue management accreditation will be dealt with by Public Transport Safety Victoria, facilitating a one-stop shop for bus accreditation, while Victoria Police and VicRoads will continue to deal with on-road enforcement of fatigue management requirements.

Provision is made in the bill for warning notices to be left on vehicles in designated park-and-ride facilities, giving early notice of breaches of parking restrictions to station car park users.

The bill makes it clear that public transport conduct offences can be enforced in the precinct of Southern Cross station.

The bill also confirms that infringement penalties can differ on the basis of the age of the offender consistent with Victorian justice policies.

Finally, the bill makes a number of minor miscellaneous and machinery amendments.

These include:

clarifying fees for accredited rail operators; and

confirming the contents of an allocation statement not previously gazetted.

I commend the bill to the house.

Debate adjourned on motion of Mr MULDER (Polwarth).

Debate adjourned until Wednesday, 24 March.

CHILD EMPLOYMENT AMENDMENT BILL

Statement of compatibility

Mr HULLS (Attorney-General) tabled following statement in accordance with Charter of Human Rights and Responsibilities Act:

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

In my opinion, the Child Employment Amendment Bill 2010, as introduced to the Legislative Assembly, is compatible with the human rights protected by the Charter. I base my opinion on the reasons outlined in this statement.

Overview of bill

The bill makes targeted amendments to the Child Employment Act 2003 (the act) to improve the operation of child employment regulation by strengthening protections for children in employment and reducing the administrative burden on business.

The main purpose of the bill is to amend the act to —

(a) amend the definition of employment to ensure the focus of the act is to protect children under the age of 15 years in employment and employment-like activities;

(b) improve the process of applying for and issuing permits;

(c) apply provisions of the Working with Children Act 2005 to the supervision of children in employment; and

(d) make other changes to improve the operation of the act.

Human rights issues

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

Protection of families and children

The bill engages section 17 of the charter which provides that:

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

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

The purpose of the act is to regulate the employment of children under the age of 15 years, to protect such children from harm in employment.

The bill supports and furthers this objective by inserting a specific purpose into the act, of protecting children under the

age of 15 years from performing work that could be harmful to their health or safety or their moral or material welfare or development, or their attendance at school or capacity to benefit from instruction. It promotes rights guaranteed by section 17 of the charter.

The bill will make some changes to the operation of the act relevant to the protection of families and children, including the streamlining of permit application processes and adoption of the working-with-children check for supervisors of children.

Key protections provided by the current act will remain in place, including the permit system, restrictions on types and hours of work and ages regulated by the scheme.

The bill is compatible with section 17 of the charter as it provides strong protections for children in employment. The amendments proposed by the bill do not substantively change existing protections in the act, and adoption of the working-with-children check will enhance current protections by improving the systems for ensuring that a person who supervises a child in employment is fit to do so.

The charter defines 'child' as a person under 18 years of age.

The protections afforded by the act, including the amendments contained in this bill apply only to children under the age of 15 years. This is because historically Australian children have commenced workforce participation, either on a full-time or part-time basis, from this age. There are large numbers of 15, 16 and 17-year old children in the workforce.

It is recognised that children face greater risks to their health, safety and moral welfare at work, due to their physical, mental and emotional immaturity. The act seeks to provide appropriate protections for children in employment, by placing restrictions around the age at which children can work, when they can work and the types of work that can be undertaken, in recognition of children's special vulnerability.

The enhanced regulatory protections applying to the employment of under-15-year-olds, and consequent administrative and compliance burden on business, is not warranted in respect of young workers aged 15 to 17 years.

With their increased physical and mental maturity and experience, persons aged 15 and above are less in need of special protections than younger children. Strong protections are afforded by other workplace relations laws, including the Fair Work Act 2009 (cth) (and instruments made under that act), Occupational Health and Safety Act 2004 (Vic) (the OHS act) and federal and state equal opportunity laws.

Under the OHS act and regulations, employers must provide a safe and healthy workplace for all employees, including young workers, so far as is reasonably practicable. Employers must consider a worker's age as a specific risk factor when identifying hazards and controlling risks in the workplace.

Regulating the 15 to 17-year-old cohort under the permit system would drastically increase costs for business, through the imposition of a new regulatory burden additional to the statutory protections discussed above. This may then impact upon levels of engagement of such workers and consequently, the personal and developmental benefits that can be derived from working at those ages. For these reasons, it is not considered necessary nor in their best interests to extend the act's coverage to young persons aged 15 to 17 years.

Therefore, although the bill engages section 17 of the charter, it does not limit that right.

The right to property

Section 20 of the charter provides that a person must not be deprived of his or her property other than in accordance with law. There is no definition of property in the charter but it may include statutory rights such as permits. New sections 18 and 18A of the act provide circumstances in which the Secretary of the Department of Innovation, Industry and Regional Development (the secretary) may vary or must cancel a permit.

The variation of conditions or cancellation of a permit will engage but not limit the right to property. Any deprivation resulting from a variation or cancellation will be neither unlawful nor arbitrary because the act creates a transparent permit system which sets out a clear legislative basis for the determination of permit applications and the imposition of conditions. Permit-holders know that they participate voluntarily in a scheme in which their permits can be subject to variation of conditions or cancellation. Further, a permit holder affected by a decision of the secretary can seek judicial review of the decision.

Accordingly, I consider that the bill engages but does not limit the right to property.

The right to a fair hearing

The bill raises the issue of the right to a fair hearing provided for in section 24 of the charter. New sections 18 and 18A of the act provide circumstances in which the secretary may vary or must cancel a permit, consistent with the current exercise of an existing power. The amendments are directed to making any exercise of the power more transparent. They do not confer new or stronger powers on the secretary; rather, the bill clarifies when such powers may be exercised.

Section 24(1) of the charter provides that a person charged with a criminal offence or a party to a civil proceeding has the right to have the charge or proceeding decided by a competent, independent and impartial court or tribunal after a fair and public hearing.

The decision of *Kracke v. Mental Health Board* [2009] VCAT 646 (Kracke) clarified the meaning of 'civil proceedings' in section 24. Justice Bell held that the expression should be construed broadly and that it covers administrative proceedings that are determinative of private rights and interests. However, his Honour noted that the entire decision-making process in question, including the right to judicial review, must be considered to determine whether the right to a fair hearing in section 24(1) has been limited.

The bill clarifies circumstances in which the secretary will have an obligation to cancel, or the power to vary, a permit. The cancellation or variation of an employment permit is 'determinative of an individual's private rights'. However, as Justice Bell explained in Kracke the context in which a decision is made is important. Some decisions may affect fundamental rights; others, such as planning decisions or decisions about a permit made pursuant to this act, are executive, policy decisions, which may not be subject to the same rigorous review.

The act is based on a child employment permit system, whereby a permit must be obtained for a particular employment of a particular child, prior to the employment commencing. In my view, section 24 is not limited because employers who obtain permits engage voluntarily in a strictly regulated sphere of activity. New sections 18 and 18A amend the act to make the exercise of existing powers to vary or cancel a permit more transparent. Under new section 18, the secretary may vary or cancel a permit, and in certain clearly specified circumstances the secretary must cancel an employment permit. Under new section 18A the secretary may only vary a permit if satisfied that the health, safety, education and moral and material welfare of the child will not suffer from the variation. Importantly, a decision to cancel or vary a permit will continue to be subject to judicial review. The process set out in the act, together with the right of judicial review, when considered in its entirety satisfies the requirements of the charter and does not limit the right to a fair hearing.

Right to privacy

Section 13 of the charter provides that a person has the right not to have his or her privacy unlawfully or arbitrarily interfered with. The right to privacy in section 13(a) is only limited if an interference with privacy, family, home or correspondence is 'unlawful' or 'arbitrary'.

'Unlawful' means that no interference with privacy can take place except if the law permits it. The United Nations Human Rights Committee has said that a law which authorises any interference with privacy must be precise and circumscribed. In order to avoid being characterised as 'arbitrary' any interference must be in accordance with the provisions, aims and objectives of the charter and should be reasonable and justifiable in the particular circumstances. Protecting the community from harm is a key principle underpinning the charter.

The bill engages the right to privacy of several classes of persons. For example:

clause 9 (new section 8) will require an employer to obtain the consent of a child's parent or guardian to a proposed employment;

clause 19 (new section 19) will require persons who will supervise a child under the age of 15 in employment to disclose personal information to the Department of Justice, their employers, and potentially to parents of employed children and to child employment officers, through the requirement to obtain a working-with-children check assessment notice and to disclose the number of that assessment notice to such persons in certain limited circumstances;

clause 11 (new section 13) will require persons who employ a child who require a permit for that employment, and any representatives of those persons, to disclose their names and contact details on the permit application form;

clause 11 will also require persons who are parents or guardians of children who work to provide their name and contact details to a potential employer of their child and/or the Department of Innovation, Industry and Regional Development.

The transitional provision contained in new section 55 also engages the right to privacy of persons who will supervise a child under the age of 15 in employment and who rely on a police check obtained under the old system, in order to ensure that these people have a legitimate right to rely on this transitional measure.

Requirements akin to those which engage the right to privacy in the bill already exist in the act. These requirements are essential to the proper functioning of a parental consent-based permit system of child employment.

It is considered that given the important protections these safeguards provide to working children, privacy is not arbitrarily or unlawfully interfered with by these requirements of the bill. The bill does not limit the right to privacy because the requirements are limited to the specific circumstances where this information is necessary to ensure that children are only employed in appropriate employment, with parental consent and supervised by an appropriate person. The objective of protecting vulnerable child workers in employment is consistent with the charter.

The right to privacy is engaged but not limited by the bill because privacy is not unlawfully or arbitrarily interfered with.

Recognition and equality before the law

Section 8(3) of the charter provides that every person is equal before the law and is entitled to equal protection of the law without discrimination. Discrimination, in relation to a person, means discrimination within the meaning of the Equal Opportunity Act 1995 on the basis of an attribute set out in section 6 of that act.

The bill engages the right to recognition and equality before the law because it provides for different treatment of persons in the same or similar circumstances based on their age. The bill, in concert with the act, provides that children under the age of 15 years can only engage in work in limited circumstances where that employment is authorised by a permit. The act also prohibits some types of employment and regulates the circumstances in which children under the age of 15 years may be employed. This is necessary to ensure that children are prevented from undertaking work that is or is likely to be harmful to their health, safety, moral or material welfare or development, or prejudicial to their attendance at school or their capacity to benefit from instruction. Accordingly, while these provisions limit the right to recognition and equality before the law as protected by section 8 of the charter, the limitation is reasonable and justifiable, as discussed in section 2 of this Statement.

Furthermore, insofar as the bill seeks to protect vulnerable child workers from exploitation, it promotes the human rights concern of recognition and equality before the law as it takes steps to promote the safety of children in employment. As noted above, it also promotes rights guaranteed by section 17 of the charter, through its strong protections for children under 15 years of age.

Self-incrimination

Proposed new subsection 43(1)(c) will authorise child employment officers to interview a broader range of people than currently authorised under the act. The current power hampers the effective conduct of investigations as it is restricted to "employees" and does not allow the questioning

of others who may possess relevant information. This new power is necessary for the effective conduct of investigations.

Proposed new section 44 will also be broadened to provide that child employment officers can by written notice request employers to provide any information that a child employment officer requires, or any document in an employer's custody or control.

While amended section 47 of the act will make it an offence to fail to comply with a notice under section 43 or section 44 of the act in respect of providing information, an accused person will be able to invoke a reasonable excuse defence, and the right against self-incrimination contained in section 48 will constitute a reasonable excuse.

Accordingly, the powers in sections 43 and 44 are subject to the right against self-incrimination contained in section 48 of the act. Subsection 48(1) protects the right against self-incrimination but it is subject to the exception in subsection 48(2). This subsection provides protection against self-incrimination except in respect of a record or other document that the person is required to keep by the act or the regulations, if the production of the record or other document would tend to incriminate the person. This provision would apply where someone is being checked for compliance with the regulatory regime. Subsection 48(2) captures documents required to be produced pursuant to subsections 43(1)(d) and 44(1)(b). Subsection 48(2) only applies in relation to pre-existing documents and it does not abrogate the privilege against self-incrimination in relation to the giving of oral testimony pursuant to subsection 43(1)(c). The bill does not change existing subsections 48(1) or 48(2) of the act.

Proposed new subsections 48(3) and 48(4) will require that a child employment officer must inform a person of his or her right against self-incrimination, before directing a person to produce a document or answer questions under amended section 43, and on any notice issued under section 44. This enhances the right protected by section 24 of the charter.

Sections 43 and 44 together with subsection 48(2) limit the right not to have to incriminate oneself, as protected by sections 25(2)(k) and 24(1) of the charter. Proposed new subsections 48(3) and 48(4) will ensure that people are aware of the rights under subsections 48(1) and 48(2). I am of the view that the limitation imposed by section 48 of the act is reasonable under section 7(2) of the charter for the reasons discussed in section 2 of this statement.

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

To the extent that the right to recognition and equality before the law and the right not to incriminate oneself are limited, I consider that the limitations are reasonable, in accordance with section 7(2) of the charter. I provide the following reasons for this view.

Recognition and equality before the law

(a) the nature of the right being limited

The prohibition of discrimination is one of the cornerstones of human rights instruments and this is reflected in the preamble to the charter. However, the right is not absolute and can be subject to reasonable limitations as set out in section 7 of the charter.

(b) the importance of the purpose of the limitation

The limitation on the right to equal treatment before the law serves a significant public interest purpose; namely, protecting children in the workplace. This is achieved by regulating the employment of children under the age of 15 years.

Child labour and work is the subject of international law and it is recognised that children are particularly vulnerable to exploitation and harm in the workplace. The regulation of child work imposed by the act and the bill confers protections on child workers in order to prevent such exploitation and harm.

(c) the nature and extent of the limitation

Consistent with the act, the bill proposes to limit the right by placing restrictions on the employment activities of under-15-year-old children.

As described above, there are historical and policy reasons for regulating children under the age of 15 years, including that historically Australian children have commenced workforce participation, either on a full-time or part-time basis, from this age; and that regulating the 15 to 17-year-old cohort under the act's permit system is not warranted given the comparative physical and mental maturity and experience of such workers, the existence of other legislative protections to mitigate risks to such workers in the workplace and potential negative impacts on business of extending the scheme's coverage.

(d) the relationship between the limitation and its purpose

There is a direct relationship between the limitation and the objective of protecting child workers from harm.

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

There are no less restrictive means available to achieve the purpose of protecting child workers.

The purpose of the act is to regulate the employment of children under the age of 15 years, to protect those children from performing work that could be harmful to their health or safety or their moral or material welfare or development or the attendance at school of those children or their capacity to benefit from instruction.

The act does this through the establishment of a child employment permit system, and the imposition of legislative safeguards.

For the reasons outlined in the "Protection of families and children" section, a higher level of regulation is warranted in respect of children aged under 15 years when compared to older children, in order to protect them from harm in employment.

Accordingly, I consider that the bill is compatible with the right to recognition and equality before the law in the charter.

Self-incrimination

New sections 43 and 44 of the act together with subsection 48(2) limit the right not to have to incriminate oneself, as protected by sections 25(2)(k) and 24(1) of the charter. The right against self-incrimination was discussed at length in the

statement of compatibility made in relation to the Accident Compensation Amendment Bill 2009. Based on similar considerations, I am of the view that the limitation imposed by section 48 of the act is reasonable under section 7(2) of the charter for the following reasons.

(a) The nature of the rights being limited

In *Re Application under the Major Crime (Investigative Powers) Act 2004* [2009] VSC 381 (Major Crime), Chief Justice Warren said that the right not to be compelled to incriminate oneself as protected by sections 25(2)(k) and 24(1) of the charter is at least as broad as the common law privilege against self-incrimination. It protects against the use of material that was obtained from a person either prior to or after the charge was laid.

The right in section 25(2)(k) of the charter is a right not to 'testify against oneself', the core idea being that a person should not be forced to incriminate him or herself. For that reason, a search of and seizure of a person's records is not generally considered to breach the privilege against self-incrimination as the person is not being compelled into articulating or producing what is expressed in the records.

The right protects against the compelled production of documents. However, in my view, the protection accorded to the compelled production of pre-existing documents is considerably weaker than the protection accorded to oral testimony or to documents that are brought into existence to comply with a request for information. That view is consistent with the decision of the High Court of Australia in *Environment Protection Authority v. Caltex Refining Co Pty Ltd* (1993) 178 CLR 477:

> It is one thing to protect a person from testifying to guilt; it is quite another thing to protect a person from the production of documents already in existence which constitute evidence of guilt, especially documents which are in the nature of real evidence … Plainly enough the case for protecting a person from compulsion to make an admission of guilt is much stronger than the case for protecting a person from compulsion to produce books or documents which are in the nature of real evidence of guilt and are not testimonial in character: per Mason CJ and Toohey J at page 502. See also per Deane, Dawson and Gaudron JJ at page 527 and per McHugh J at page 555.

A number of the purposes that underlie the privilege against self-incrimination are not implicated or are less implicated by the compelled production of documents that already exist or of real evidence, in particular, the concern about oppressive conduct or psychological pressure being brought to bear in the creation of the evidence, and the related concern about the reliability of the evidence.

(b) The importance of the purpose of the limitation

The primary purpose of the abrogation of the privilege against self-incrimination in subsection 48(2) is to ensure that Child Employment Officers have adequate powers to inquire into and monitor compliance with the statutory obligations imposed on those who employ children.

The primary purpose of the exception to immunity in subsection 48(2) is to facilitate the prosecution of those who commit offences under the act in circumstances where the information would be required to be provided in any event.

Both of these are important purposes that advance the underlying objective of children's safety in employment.

(c) The nature and extent of the limitation

The situation in which immunity does not apply relates to pre-existing documents and real evidence. As already explained, the protection accorded to such documents is considerably weaker than the protection accorded to oral testimony or to documents that are brought into existence to comply with a request for information.

Furthermore, the exception relates only to documents that a person is specifically required to keep under the act or its regulations. The result is that only people participating in the employment of children under the age of 15 years can be compelled to produce items either that they are obliged to create and maintain, or that are related to and arise from their involvement in that activity.

(d) The relationship between the limitation and its purpose

The limit on the right against self-incrimination is directly related to its purpose as described above.

(e) Less restrictive means reasonably available to achieve the purpose

There are no less restrictive means reasonably available to achieve the purpose of the limitation. The ability to enforce the act would be curtailed if evidence from documents that people participating in the employment of children are legally required to keep, or which relate directly to child employment, could not be used in criminal proceedings relating to breaches of statutory requirements.

Accordingly, I consider that the bill is compatible with the right not to incriminate oneself in the charter.

Conclusion

I consider that the bill is compatible with the Charter of Human Rights and Responsibilities because although the bill engages the right to protection of families, to a fair hearing and to privacy, it does not limit these rights, and insofar as the bill limits the right to recognition and equality before the law and the right not to testify against oneself, these limitations are reasonable, justifiable and in the public interest.

Rob Hulls, MP
Attorney-General

Second reading

Mr HULLS (Attorney-General) — I move:

That this bill be now read a second time.

It has been a long-term priority of the Victorian government to protect children from exploitation in the workforce, whilst supporting opportunities for children to benefit from employment.

The Child Employment Act 2003 (the act) came into operation in June 2004. The act modernised and enhanced existing legislative protections for Victorian children under 15 years of age in employment. It has now been in operation for over six years and has played a vital role in protecting Victoria's children from harm in the workplace.

Many children under the age of 15 work. Statistics indicate that approximately 6 per cent of Victorian children between 5 and 14 years of age participate in work in any year, and this work is not limited to babysitting and paper rounds. The growth in part-time and casual work in the retail and service sectors has meant that children are being employed in a wider range of jobs than ever before.

Employment presents specific risks to children. Over the past six years, the act has provided a sound framework to support positive and safe working experiences of children in Victoria, together with occupational health and safety laws.

Since the act became law, we have gained valuable experience about how the system works in practice and how it can be improved. There have also been a number of changes to child-related regulation, both within Victoria and interstate.

Against this background, the Victorian government commissioned a departmental review of the effectiveness of Victoria's child employment laws.

A range of stakeholders were consulted as part of this review on ways the current scheme could be improved. The review found that there were opportunities to increase protections for children, while reducing red tape for business, by retaining the permit system established by the act and making some changes to its operation.

Significant developments are also occurring at the federal level with respect to the regulation of child employment in Australia. The goal of national consistency was raised by a number of stakeholders throughout the review, and I have listened to these concerns. In 2009 I placed the issue of child employment regulation on the Workplace Relations Ministers Council agenda, and discussions on this matter are continuing with Victoria's active participation.

Given these developments, making wholesale changes to the Victorian child employment scheme at this time could potentially expose stakeholders to a succession of significant reforms, bringing disorder and increasing costs for all users of the system. Accordingly, significant reforms are not proposed.

The bill does not alter the fundamentals of the current system, including the permit system, ages regulated by the scheme and restrictions on types and hours of work.

Against this framework, the Child Employment Amendment Bill proposes targeted amendments to the scheme to improve its operation without causing disruption or unnecessary costs to stakeholders.

Purpose of the bill

The purpose of the Child Employment Amendment Bill is to improve the current permit system, by both strengthening protections for children in employment and at the same time reducing red tape for business and simplifying the current administration of the scheme. This will be achieved by:

improving the existing child employment permit processes and introducing additional flexibilities for permit processes for the entertainment industry;

refining key definitions in the act to better target children in employment and employment-like situations and remove anomalies in the act's application;

replacing current police check requirements for employers and supervisors with a working-with-children check for supervisors only; and

strengthening compliance powers of child employment officers.

The permit system

The permit system is the basis of regulation of child employment in Victoria. The bill will improve the current permit system and will create special permit application arrangements for entertainment industry employers (such as for TV productions and advertising catalogues), who are high-volume users of the scheme.

As currently applies, permits are free of charge. Employers will now be responsible for applying for a permit, as it has become apparent that employers generally do the work of collecting the relevant information and are best placed to do so.

Employers will benefit from a number of changes to the permit system, including:

improved sign-off processes, including schools only being required to sign off on employments that will occur during school hours;

employers in entertainment will be able to secure parental and school permission for the employment of the child independently from the permit process;

employers will no longer need to nominate supervisors on the permit application, but will instead be required to ensure any supervisor holds a working-with-children check assessment notice;

permits for employment occurring outside of school hours will now run for up to 24 months;

multiple children employed by the same employer at the same time will be able to be covered by one permit in the entertainment industry; and

child employment officers will be able to vary employment particulars on permits where this is deemed appropriate, which will increase flexibility for all parties.

These improvements will not compromise protections for children and will be of significant benefit to Victorian employers.

Definition of employment

The bill amends the definition of employment. This is intended to focus coverage of the act on employment and employment-like activities. The current definition has created some concern and confusion among stakeholders in certain circumstances. Accordingly it is proposed to focus the definition by clarifying that the act applies to all engagements of children as common-law employees or independent contractors, whether by for-profit or not-for-profit entities.

The act will continue to cover a child who is engaged under any other arrangement to work for a business carried on for profit, whether or not the child is paid. This is considered necessary in view of the risk of harm to children in such situations; for example, working long or late hours on school nights.

Circumstances where a child might work without pay arise frequently in the entertainment industry. Given the highly competitive nature of that industry, children are more likely to work without pay for the experience and/or public exposure or with the hope of securing future paid employment.

Relevant considerations will be inserted into the act to assist in the understanding and application of this aspect of the definition of 'employment', such as the intention of the parties. This will ensure the administration of the act is focused on true employment-like situations — for example:

the act may not apply when a child is merely singing in a public end-of-year concert with a for-profit choir;

the act may apply when a child is singing with a for-profit choir for the filming of a television commercial.

The proposed changes will mean that the act will generally no longer apply to situations such as where a child is singing with a non-profit community choir, and a for-profit entity only indirectly benefits from the child's services in singing with the community choir.

The proposed bill will specify clear exclusions from the definition of 'employment', to reflect and build upon longstanding arrangements. For example, the act will not capture participating in a religious program where the proceeds are directed back to the church.

Working-with-children checks

Working-with-children checks will replace police checks under the bill. Employers will have to ensure that anyone supervising a child holds a current assessment notice under the Working with Children Act 2005, unless they are exempt.

Working-with-children check assessment notices have the following advantages over child employment police checks:

they are automatically updated on a weekly basis and do not require manual updating by statutory declaration, as police checks currently do;

they last for five years and can be obtained well in advance of when they are required;

they are wider in scope, as they include prescribed professional disciplinary body findings;

The working-with-children unit in the Department of Justice has state-of-the-art software and systems in place designed to deal exclusively with the system and their staff are fully dedicated to administering the working-with-children checks;

approximately 17 per cent of Victoria's labour force already has one.

Some defences and exemptions in the Working with Children Act will be modified for the child employment context, to maintain current probity checking standards and to recognise the different situations that commonly arise in the child employment context, compared to other child-related work.

Protections for children will be significantly improved by the efficiencies of the working-with-children check system, while businesses will benefit from administrative efficiencies.

Offences and penalties

The act currently provides a range of offences with appropriate penalties. The maximum penalties for offences under the act range from $1168.20 for more minor offences to $11 682 for serious offences committed by a body corporate.

The bill proposes to increase the penalty for an employer who employs a child without a permit. This is currently set at $1168.20 for non-bodies corporate and $5841 for bodies corporate, which is lower than other substantive offences in the act.

The requirement to obtain a permit has proved to be critical to the protection of our children, as if no permit is obtained for a child's employment, there is no scrutiny of that employment by parents, schools and the government. In order to provide an appropriate deterrent for failing to secure a permit, the bill increases the penalty for an employer who employs a child without a permit to the standard penalties for bodies corporate ($11 682) and others ($7009.20).

The bill also proposes the introduction of some body corporate-level penalties for existing offences, to reflect the fact that bodies corporate may also commit offences under the act; and also introduces some new offences to support the powers and functions of child employment officers.

Information and compliance

Community consultation revealed some lack of community awareness of the nature of child employment laws in Victoria, and concerns about the perceived lack of strength of compliance powers.

Child employment officers are responsible for educating the community about the laws, and are also responsible for ensuring compliance with the legislation. To this end, the bill improves the capacity of the government to administer the scheme by simplifying, clarifying and strengthening existing compliance powers. This will include a new 'last resort' directions power for child employment officers, to respond to an immediate and serious threat to a child's health, safety, moral or material welfare in employment.

Summary

The Child Employment Amendment Bill is an important step in ensuring our child employment regulation remains current and keeps abreast of developments in this area. These changes will ensure the continuing protection of children from exploitation in the workforce, whilst supporting opportunities for children to benefit from employment. At the same time, it will reduce red tape for business and facilitate greater compliance with the scheme.

I commend the bill to the house.

Debate adjourned on motion of Mr R. SMITH (Warrandyte).

Debate adjourned until Wednesday, 24 March.

EQUAL OPPORTUNITY BILL

Statement of compatibility

Mr HULLS (Attorney-General) tabled following statement in accordance with Charter of Human Rights and Responsibilities Act:

In accordance with section 28 of the Charter of Human Rights and Responsibilities, I make this statement of compatibility with respect to the Equal Opportunity Bill 2010.

In my opinion, Equal Opportunity Bill 2010 (the bill), as introduced to the Legislative Assembly, is compatible with the human rights protected by the charter. I base my opinion on the reasons outlined in this statement.

Overview of bill

The bill will replace the Equal Opportunity Act 1995, the current law that protects Victorians from discrimination based on certain characteristics such as race, sex, age and impairment. The bill improves the effectiveness of equal opportunity law in Victoria.

The bill seeks to eliminate discrimination, sexual harassment and victimisation to the greatest extent possible. The bill also aims to promote and facilitate the progressive realisation of substantive equality, as far as reasonably practicable. It does this not only by prohibiting discrimination based on particular attributes but also by recognising that in certain circumstances, special measures may be required to redress the impact of past or continuing disadvantage.

A key purpose of the reforms in the bill is to provide a framework for dealing more effectively with systemic discrimination. In order to encourage proactive compliance and alleviate the burden on individuals to address discrimination through making complaints, the bill reframes existing implied obligations to eliminate discrimination and to make reasonable adjustments for people with impairments, as positive obligations. Other reforms include giving the Victorian Equal Opportunity and Human Rights Commission (the commission) more effective options to respond to systemic discrimination such as:

a clear role in conducting research and education;

the ability to investigate serious systemic discrimination in the absence of a complaint and to conduct a public inquiry with the consent of the Attorney-General;

engaging directly with duty holders to reach enforceable undertakings and issuing compliance notices where systemic discrimination is found to have occurred.

In line with equal opportunity law in other Australian jurisdictions, the reforms extend protection from discrimination to people who work on a voluntary or unpaid basis.

The bill also introduces a new system for dealing with disputes about discrimination, sexual harassment and victimisation. The changes will make dispute resolution quicker, more flexible and more responsive to individual disputes. In addition, it will eliminate the current duplication in the complaints process by allowing people with a dispute to go directly to the Victorian Civil and Administrative Tribunal (VCAT), rather than requiring them to lodge a complaint with the commission first, as is currently the case.

Finally, the bill updates and modernises the exceptions to unlawful discrimination.

Human rights issues

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

The bill will be part of a framework of laws in Victoria, along with the charter and the *Racial and Religious Tolerance Act 2001*, that promote respect for human rights. The human right that is most relevant to the bill is the right to equality (section 8 of the charter). Indeed, one of the objectives of the bill is to promote the right to equality under the charter.

However, as well as promoting the right to equality, the bill, through the exceptions, limits the right to equality in certain circumstances. The bill also limits other charter rights. The right to freedom of association (section 16 of the charter) is limited through the prohibition against discrimination in relation to membership of clubs. The right to a fair hearing (section 24) may be limited by the provisions allowing the commission to order non-disclosure of information in certain circumstances. The right to freedom of expression (section 15) is limited by the secrecy requirements that bind the commission's staff and board members. Finally, the right to be presumed innocent (section 25(1)) is limited by the formulation of the defence to the offence of discriminatory advertising.

This statement of compatibility first discusses the exceptions and then considers the other provisions in the bill that engage charter rights, and finally the other provisions in the bill that limit charter rights.

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

THE EXCEPTIONS

The purpose of exceptions in equal opportunity law

Exceptions are an integral part of equal opportunity law. Equal opportunity law creates prohibitions in relation to conduct that falls within the definition of discrimination, and creates the right to seek relief from discrimination in specific circumstances. Exceptions, in certain circumstances, prevent relief from being sought in relation to conduct that would otherwise fall within the definition of discrimination.

The review of the exceptions

The exceptions in the Equal Opportunity Act were the subject of extensive review, first by the Department of Justice and then by Parliament's Scrutiny of Acts and Regulations Committee (SARC). The review processes attracted over a thousand submissions from a diverse range of stakeholder groups and individuals. In addition, evidence was received through public hearings on particular issues from key stakeholder groups. Many of the submissions contributed ideas about how the exceptions could be improved. In conducting its review and making its final recommendations, SARC considered whether each exception was a reasonable limitation on the right to equality under the charter. SARC's review has made a valuable contribution to the development of the government's position on the exceptions as reflected in the bill. I note that the government supports either fully, in part or in principle, 56 of SARC's 59 recommendations. The government's response to each of SARC's recommendations is detailed in the response to the SARC report, which is being tabled today along with the bill.

The fact that the exceptions have been subjected to detailed analysis by SARC for their compatibility with the charter strengthens the conclusions I have reached on those exceptions that align with SARC's recommendations.

The nature of the right to equality

Section 8 of the charter is a collection of rights relating to recognition and equality before the law. Justice Bell, in *Lifestyle Communities Ltd (No 3) (Anti-Discrimination)* [2009] VCAT 1869, stated that the human rights of equality and non-discrimination are of fundamental importance to individuals, society and democracy (at [107]). His Honour noted that the equality rights in section 8 are 'the keystone in the protective arch of the charter' (at [277]). Furthermore, the concept of equality enshrined in the charter is one of substantive equality, not just formal equality (at [107] and [118]), and that the fundamental value underlying the equality right in section 8 is the 'equal dignity of every person' (paragraph 277).

Section 8(3) is particularly relevant to equal opportunity law. It provides that 'every person is equal before the law … and has the right to equal and effective protection against discrimination'. Discrimination is currently defined in section 3 of the charter as 'discrimination (within the meaning of the Equal Opportunity Act) on the basis of an attribute in section 6 of that act'.

The value underpinning section 8(3) is personal dignity. To treat somebody differently because of an attribute rather than on the basis of individual worth and merit can undermine personal autonomy and self-realisation. Therefore, it is important that the exceptions, which limit the right to equality, are justified as reasonable limitations. In my view, the exceptions in this bill are reasonable and justifiable limitations on the right to equality, in accordance with section 7(2) of the charter.

The categories of exceptions

For the purposes of this analysis, the exceptions have been grouped according to the rationales that underpin them. The rationales fall into the following categories:

A. Targeted measures. These exceptions allow targeted measures to meet the special needs of groups with particular attributes.

B. Conduct that falls within the private realm. These exceptions are designed to ensure people's personal and private choices are infringed as little as possible.

C. Competing rights. Exceptions that limit the right to equality to balance other important rights.

D. Other justifications. Exceptions that are justified for another important reason, such as health and safety.

These four categories are used to structure the discussion on the exceptions in this Statement of Compatibility. Each exception is analysed below according to the test set out in section 7(2) of the charter.

A. Targeted measures

Many of the exceptions in the bill are measures targeted towards groups with special needs. The aim of these exceptions is to allow differential treatment between people with particular attributes and those without the attribute. The purpose of targeted measures is to provide a benefit or facilitate appropriate services for the target group for the welfare of members of the group. The principle behind targeted measures is that one size doesn't necessarily fit all — groups with certain attributes have particular needs that require or would benefit from targeted services, benefits or facilities.

While targeted measures may limit the right to equality in that they provide services, benefits or facilities to particular groups only, these limitations are reasonable. The exceptions that are targeted measures in the bill do not limit the access of people other than the target group to generalist or other specialist services, benefits or facilities.

A.1. Clause 28 allows an employer to limit the offering of employment to people with a particular attribute where the employment is to provide services that are special measures to promote or realise substantive equality or services that meet the special needs of a group with particular attributes if those services can be provided most effectively by people with that attribute. The exception applies to all attributes. The exception limits the right to equality (section 8(3)) by preventing certain persons who do not possess the relevant attribute from gaining employment in certain circumstances.

The importance of the purpose of the limitation

The purpose of this exception is to facilitate services to disadvantaged groups or groups with a special need that are for the welfare and advancement of those groups. The exception recognises that, in certain circumstances, such services can best be provided by people who share the same attribute as the group. This may be because having the attribute provides the service provider with a particular insight into the needs of the group. For example, support services for people with a mental illness may most effectively be provided by a person who has previously been a user of mental health services, as that person will have an insight into the issues facing people with a mental illness. Appropriate service provision to disadvantaged groups and groups with special needs is an important purpose.

The nature and extent of the limitation

The exception will only apply where the services to be provided are special measures or welfare measures or services for special needs as prescribed by the bill and where those services can be most effectively provided by people with the same attribute.

The relationship between the limitation and its purpose

The relationship between the limitation and its purpose is rational.

Any less restrictive means reasonably available to achieve its purpose

As the circumstances in which the exception will apply are narrowly restricted by the thresholds for special measures and welfare measures or services for special needs, there are no less restrictive means reasonably available to achieve the purpose.

A.2. Clause 39 allows educational institutions that operate wholly or mainly for students of a particular sex, race, religious belief, age or age group or students with a general or particular impairment to exclude students without the particular attribute from the school or an educational program. This exception limits the right to equality (section 8(3)) for students who do not have the particular attribute for whom the school or program was designed. However, in relation to many of the groups, the exception may also promote freedom of thought, conscience religion and belief (section 14), facilitate the protection of families and children, where limiting the provision of educational services to persons of particular attributes is in the best interests of children (section 17) and facilitates the protection and promotion of cultural rights (section 19).

The importance of the purpose of the limitation

The purpose of this limitation is to allow schools to provide educational settings that are targeted towards the needs of particular groups. Excluding students who are not of that group allows resources to be concentrated on the needs of the target group.

The nature and extent of the limitation

As the exception applies to five grounds only — sex, race, religious belief, age and impairment — the right to equality is only limited in restricted circumstances. In the great majority of instances, alternate schools or programs that cater for the students who are excluded from a particular school or program exist (for example schools for boys and schools for girls). In these circumstances, the extent of the limitation will be minimal as those students who are excluded from one particular school or program will be able to access similar educational facilities and programs elsewhere.

Further, the extent of the limitation is balanced by the other rights promoted by the exception.

The relationship between the limitation and its purpose

Due to limited resources, all schools must have the ability to restrict eligibility to enrol in the school or to access particular programs within the school. Usually eligibility criteria for enrolment relate to geographical distance from the school, or priority being given to siblings of existing students. Eligibility

for particular programs is often restricted to those with particular needs. This exception allows schools to take sex, race, religious belief, age and impairment into account when setting eligibility criteria for access to enrolment or particular programs. As its purpose is to provide educational settings targeted towards the needs of particular groups, and the limitation is restricted as other options will be available in the great majority of cases, the limitation is reasonable and rational.

Any less restrictive means reasonably available to achieve its purpose

If schools do not have the ability to exclude students from enrolment or programs targeted towards the needs of students with particular attributes, students with those attributes may miss out on receiving targeted educational opportunities.

A.3. Clause 43 allows educational authorities to select students for a program on the basis of an admission scheme that has a minimum qualifying age or that imposes quotas in relation to students of different age groups. This limits the right to equality (section 8(3)), as students of particular ages may not gain admission to a program or a scheme and thus may be denied an opportunity because of their age.

The importance of the purpose of the limitation

The purpose of this exception is to enable educational authorities to ensure the different developmental and learning needs of students of different ages can be catered for by schools. This is an important purpose as it advances the welfare of students.

The nature and extent of the limitation

While the exception may limit students of a certain age accessing particular programs, other age-appropriate programs will be available to those students. Further, subject to particular age-specific programs continuing, students who are not yet eligible to access a particular program because of their age will be able to do so in the future. Therefore, the limitation is not extensive.

The relationship between the limitation and its purpose

The limitation is connected to its purpose, as there is no other way of ensuring children receive age-appropriate educational programs.

Any less restrictive means reasonably available to achieve its purpose

There are no less restrictive means reasonably available to achieve the purpose of the exception.

A.4. Clause 60 allows hostels and similar institutions which are run wholly or mainly for the welfare of persons of a particular sex, age, race or religious belief to refuse accommodation to people who do not have the particular attribute. This exception limits the right to equality (section 8(3)), as persons who do not possess a relevant attribute may be refused accommodation.

The importance of the purpose of the limitation

The purpose of this limitation is to allow hostels and similar institutions providing accommodation for groups with particular needs to restrict accommodation to those people with the same attribute. Targeted accommodation can facilitate the right to privacy (section 13), the right to freedom of thought, conscience, religion and belief (section 14) and protection and promotion of cultural rights (section 19) where a hostel or similar institution facilitates an environment which respects the observance of a particular religion or cultural belief. Accommodation for women and children experiencing family violence promotes the protection of families and children (section 17).

The nature and extent of the limitation

The limitation applies only to those accommodation providers who can show that they are run wholly or mainly for the welfare of persons with a particular attribute. Therefore, the limitation will only apply in restricted circumstances.

The relationship between the limitation and its purpose

The limitation is rationally connected to its purpose in that excluding people without the attribute that the accommodation is targeting will allow such accommodation providers to reserve their limited facilities for members of the target group.

Any less restrictive means reasonably available to achieve its purpose

While narrowing the exception so it only applies to the provision of accommodation established wholly for the welfare of people of a particular sex, age, race or religious belief is less restrictive, it potentially denies a provider of welfare-related accommodation the ability to rely on the exception if the provider accepts a person not in the target group for any reason. For example, the manager of a hostel for women with children under the age of 18 may be denied the ability to rely on the exception in the future if she accepts a woman with a 19-year-old child where no other accommodation is available for that family. Given this, the more restrictive limitation is reasonable.

A.5. Clause 61 allows educational authorities that operate schools wholly or mainly for students of a particular sex, race, religious belief, age or impairment to provide accommodation wholly or mainly for students with the particular attribute. This exception operates in conjunction with clause 39, allowing for such educational authorities to exclude students without the targeted attribute. As for clause 39, clause 61 limits the right to equality (section 8(3)) for students who do not have the particular attribute for whom the school or program was designed.

The importance of the purpose of the limitation

This limitation is aimed at allowing schools targeted towards particular groups that provide accommodation to reserve the accommodation for the target groups.

The nature and extent of the limitation

As the exception applies to five grounds only — sex, race, religious belief, age and impairment — the right to equality is only limited in restricted circumstances. Further, the limitation only applies to those schools that target particular groups and provide accommodation. Therefore, the limitation is not extensive.

The relationship between the limitation and its purpose

The limitation is rational and proportionate to its purpose.

Any less restrictive means reasonably available to achieve its purpose

SARC recommended that this exception be amended to clarify that if an educational institution that provides accommodation does accept students outside the target group, it may not discriminate in the allocation of that accommodation. However, it is not considered that the exception allows discrimination in allocating accommodation to existing students, but only in deciding who to provide accommodation to. On this basis, SARC's recommendation is not considered a more restrictive option.

Given this, there are no less restrictive means reasonably available to achieve the purpose of the exception.

A.6. Clause 66 allows for clubs that operate principally to preserve a minority culture to exclude from membership people who are not members of the minority culture. This exception limits the right to equality (section 8(3)).

The importance of the purpose of the limitation

This limitation recognises that the preservation of minority cultures may be enhanced by allowing clubs for those groups only. This exception facilitates the sharing of culture (section 19) and also freedom of association (section 16).

The nature and extent of the limitation

This exception is limited to those clubs that operate principally to preserve a minority culture. It is also limited in that the exception only applies to membership of such clubs and not to service provision or employment.

The relationship between the limitation and its purpose

The limitation is rational and proportionate to its purpose.

Any less restrictive means reasonably available to achieve its purpose

There are no less restrictive means reasonably available to achieve the purpose of this limitation.

A.7. Clause 67 allows clubs established for people of a particular age group to exclude from membership people who are outside that age group. It also allows clubs to provide different benefits to different members on the basis of their age where it is reasonable to do so. This exception limits the right to equality (section 8(3)).

The importance of the purpose of the limitation

This exception recognises that different age groups will have different needs and interests and allows clubs to cater for this by allowing clubs and membership benefits for different age groups. In so doing, it promotes freedom of association (section 16) and facilitates appropriate service provision to groups of different ages.

The nature and extent of the limitation

This exception only differentiates on the ground of age in the area of clubs. Therefore, it is not extensive. Although the application of this exception may mean that certain age groups are excluded from certain clubs or certain benefits of membership, other clubs may cater for that group or provide those benefits.

The relationship between the limitation and its purpose

The limitation is rationally connected to its purpose, which is to facilitate the exclusive association of people of particular age groups.

Any less restrictive means reasonably available to achieve its purpose

There are no less restrictive means reasonably available to achieve the purpose of this limitation.

A.8. Clause 87 allows benefits, including concessions to be provided to people based on age. This exception limits the right to equality (section 8(3)), by preventing certain people from obtaining the benefit of concessions based on their age.

The importance of the purpose of the limitation

This exception recognises that different age groups may have particular needs or may have limited capacity to pay and allows these needs or limited capacity to be met through the provision of benefits including concessions. An example of this is the provision of travel concessions to senior citizens or discounted museum entry to children.

The nature and extent of the limitation

The exception is limited to age and only extends to eligibility for benefits or concessions. Therefore, it is not extensive. Further, as a person's age changes, their eligibility for age-based benefits changes, so that such discrimination is likely to impact in both a negative and positive way over a person's lifetime.

The relationship between the limitation and its purpose

The limitation is directly related to its purpose.

Any less restrictive means reasonably available to achieve its purpose

It may be argued that not all people in a particular age group have a particular need that should be met through a benefit or concession. It may be argued that other means of assessing eligibility for such benefits or concessions, such as a person's actual ability to pay, should be used. However, the difficulty and intrusiveness of obtaining such information is not proportionate to the benefit or concession conferred and therefore is not reasonable.

A.9. Clause 88(1) provides an exception for the establishment of services, benefits or facilities that meet the special needs of people with a particular attribute and allows eligibility for those services, benefits or facilities to be limited to people with the target attribute. **Clause 88(3)(a) and (b)** are specific examples of circumstances in which special needs may be met by targeted services. Clause 88(3)(a) allows rights, privileges and benefits to be offered in relation to pregnancy or childbirth. Clause 88(3)(b) allows holiday tours to be restricted to people of a particular age or age group. These exceptions limit the right to equality in that people who are not in the target group will not be able to access the services, benefits or facilities allowed by the exceptions.

The importance of the purpose of the limitation

This limitation recognises that targeted services may be required to meet the needs of particular groups. This may be because only people in the target group have the need (for example, only pregnant women or women in childbirth require services targeted to this group), or because general services may not meet or may not best meet the particular needs of people in the target group (for example, a general mental health service may not adequately meet the mental health needs of young men). This is an important purpose and may assist in promoting other rights, depending on the nature of the service, benefit or facility to be provided.

The nature and extent of the limitation

The exception is restricted in that it only allows for the establishment of services, benefits or facilities to meet the special needs of groups with an attribute and for the eligibility for those services, benefits or facilities to be limited to people within the target group. It does not allow for discrimination in the administration of those services, benefits or facilities to eligible people. Further, it does not prevent generalist services from existing. Where a special service, facility or benefit is provided because generalist services do not adequately meet the needs of the target group, the limitation is not extensive because people outside the target group will still be able to access generalist services, benefits and facilities. Where people outside the target group do not have the need for the service, benefit or facility, then there is no limitation on the right to equality.

In relation to the specific examples in subclauses 88(3)(a) and (b), the extent of the limitation is further mitigated by the fact that being pregnant and being a particular age are not immutable attributes. Consequently, individuals may have the benefit of the services allowed by the exception at a particular point in their life.

The relationship between the limitation and its purpose

The limitations in this exception are rationally connected to their purpose, which is to meet the special needs of people with a particular attribute.

Any less restrictive means reasonably available to achieve its purpose

There are no less restrictive means reasonably available to achieve the purpose of these limitations.

B. Conduct that falls within the private realm

The exceptions, which fall within this category, are designed to protect personal autonomy in the private sphere. Equal opportunity law focuses on activities that are in the public sphere and interferes as little as possible in conduct that occurs in the private sphere. These exceptions reflect that divide.

B.1. Clause 24 allows people to discriminate in relation to employment to provide domestic and personal services, including child-care services, in their own home. The exception covers employers, such as agencies who provide staff to provide home-based domestic or personal care services where the person receiving the services requests this. This limits the right to equality (section 8(3)) by excluding people with particular attributes from employment in another person's home in certain circumstances.

The importance of the purpose of the limitation

The purpose of this limitation is to protect the privacy of the family and the home. It is important to preserve the distinction between the private sphere, which is not regulated by equal opportunity law, and the public sphere that is.

The nature and extent of the limitation

The limitation is restricted in nature and extent. It applies only in relation to certain types of employment, in limited circumstances. It does not apply to other types of employment, such as business-related employment conducted in a person's home.

The relationship between the limitation and its purpose

The limitation is rational and, as it is not extensive, is proportionate to the purpose of protecting people from arbitrary interference with their privacy.

Any less restrictive means reasonably available to achieve its purpose

Accepting that the protection of privacy is an important purpose, there are no less restrictive means available to achieve the purpose of the exception.

B.2. Clause 51 allows a person to discriminate against any person on the basis of any attribute in the disposal of land by will or gift. This limits the right to equality (section 8(3)), by excluding persons with particular attributes from receiving benefits in certain circumstances.

The importance of the purpose of the limitation

The purpose of this limitation is to allow individuals the freedom to choose to whom they will or give their property. This limitation consequently protects the right to privacy (section 13), and also potentially the right to protection of families and children (section 17), the right to freedom of thought, conscience, religion and belief (section 14) and the right to freedom of expression (section 15).

The nature and extent of the limitation

While the limitation is broad in that it allows discrimination on all attributes, it is limited to the specific circumstances of disposal of land by gift or will.

The relationship between the limitation and its purpose

The limitation is rationally connected to its purpose given the importance of the competing rights it promotes.

Any less restrictive means reasonably available to achieve its purpose

There are no less restrictive means available to achieve the purpose of the limitation.

B.3. Clause 59 allows a person to discriminate on the basis of any attribute in determining who is to occupy residential accommodation in which the person or their near relatives lives and intends to continue to live and that is to accommodate no more than three people in addition to the person or their near relatives. This exception limits the right to equality (section 8(3)), by preventing persons with particular attributes from occupying residential accommodation in certain circumstances.

The importance of the purpose of the limitation

This exception allows a person freedom of choice in relation to who should live in their home when it is occupied by them or their near relative. This exception facilitates the protection of families and children (section 17) and the right to privacy (section 13).

The nature and extent of the limitation

This limitation applies only in restricted and defined circumstances. The restriction of this exception to accommodation for the person or their near relatives and for no more than three additional people reflects the principle that the bill does not seek to regulate conduct in the private sphere.

The relationship between the limitation and its purpose

The limitation is a rational and proportionate means of achieving its purpose.

Any less restrictive means reasonably available to achieve its purpose

There are no less restrictive means reasonably available to achieve the purpose of the limitation.

B.4. Clause 62 provides that an accommodation provider may refuse to provide accommodation for or in connection with lawful sexual activity.

The importance of the purpose of the limitation

This exception complements other laws that control the regulation of commercial sexual services and laws that allow landlords to decide the type of businesses that are conducted from their premises. Tenants may not conduct businesses from home as of right. For example, under the Residential Tenancies Act 1997, tenants may conduct business from home with the consent of the landlord.

The nature and extent of the limitation

The limitation applies only to the conduct of commercial sexual services. It does not allow landlords, in determining a person's rental application, to discriminate on the basis of lawful sexual activity.

The relationship between the limitation and its purpose

The limitation is rationally connected to its purpose.

Any less restrictive means reasonably available to achieve its purpose

There are no less restrictive means of achieving the purpose of this limitation.

B.5. Clause 80 provides that the bill does not affect deeds, wills or other instruments that confer charitable benefits. This limits the right to equality (section 8(3)).

The importance of the purpose of the limitation

The purpose of this limitation is to allow donors the freedom to choose whom to confer charitable benefits on. Such choices promote the right to privacy (section 13), freedom of thought, conscience, religion and belief (section 14) and freedom of expression (section 15).

The nature and extent of the limitation

The exception applies only where charitable benefits are being or are to be conferred. Therefore, the limitation is not extensive. Further, depending on the recipient, the exception may provide benefits to disadvantaged groups.

The relationship between the limitation and its purpose

The limitation is rationally connected to its purpose.

Any less restrictive means reasonably available to achieve its purpose

There are no less restrictive means of achieving the purpose of this limitation.

C. Competing rights

In certain circumstances, a person's right to equality in section 8 of the charter may be at odds with another person's rights under the charter, such as the right to privacy or the right to freedom of association. In such circumstances, it is necessary to engage in a balancing exercise to determine how best to resolve the tension between competing rights. In my view, the exceptions in this category achieve the appropriate balance between competing charter rights.

C.1. Clause 26(1) allows employers to discriminate on the basis of sex where it is a genuine occupational requirement that employees be of that sex. Subclause 26(2) non-exhaustively lists situations that fall within this exception. The situations include where the employment can only be performed by a person having particular physical characteristics (other than strength or stamina) and where the employment needs to be performed by a person of a particular sex to preserve decency or privacy. Further subsections provide examples of types of jobs that fall into that category such as where the job involves fitting clothes or conducting body searches.

The importance of the purpose of the limitation

The purpose of the limitation is to preserve the privacy and dignity of the people receiving the service provided by the person employed under the exception. This is an important purpose.

The nature and extent of the limitation

The exception is confined to recruitment where it is a genuine occupational requirement. This means that the discrimination must be necessary to do the job, not just desirable. Further, the exception applies equally for jobs requiring men and jobs requiring women.

The relationship between the limitation and its purpose

The limitation is a rational way of achieving its purpose, which is the preservation of privacy and dignity.

Any less restrictive means reasonably available to achieve its purpose

The exception will only apply where an employer can show that the requirement that a person be of a particular sex is a genuine occupational requirement. Where the requirement that a person be of a particular sex is not genuine, the exception will not apply. Accordingly, the exception is

limited in nature and there are no less restrictive means reasonably available.

C.2. Clause 26(3) allows employers to discriminate on the basis of sex, age or race, or in favour of people with or without a particular impairment in relation to a dramatic or artistic performance, entertainment, photographic or modelling work or any other employment if it is required for authenticity or credibility. **Clause 26(4)** allows employers to discriminate on the basis of physical features in relation to dramatic or artistic performance or similar employment.

The importance of the purpose of the limitation

The underlying purpose of the limitations in clause 26(3) and (4) is to allow freedom of expression where this is required for authenticity or credibility in the limited context of artistic and related employment. This is based on the acceptance that in artistic endeavours, a particular aesthetic may be required to give full expression to the work of the artist. The limitation facilitates the contribution of artistic endeavours to the cultural life of Victoria.

The purpose of allowing the limitation in clause 26(3) to extend to other employment for reasons of authenticity or credibility is to allow targeted recruitment in cases where the person's attribute is central to authenticity or credibility. An example of the type of other employment this exception will cover is the employment of an Aboriginal person to provide information and education on Aboriginal heritage in an Aboriginal cultural centre.

The nature and extent of the limitation

The limitation in clause 26(3) only applies to certain attributes — sex, race, age and impairment. It is restricted by the type of employment it relates to, namely, artistic and related employment, a limited field of employment. While the limitation also extends to other employment, it will only apply where it is necessary to do so for reasons of authenticity or credibility.

The limitation in clause 26(4) only applies to the attribute of physical features and is restricted to artistic and related employment. It does not extend more generally to other types of employment, as is the case with the limitation in clause 26(3).

The relationship between the limitation and its purpose

The limitation is rationally related to its purpose.

Any less restrictive means reasonably available to achieve its purpose

There are no less restrictive means available to achieve the purpose of these limitations.

C.3. Clauses 30(2) and 31(3) and (4) provide that a person who intends to establish a firm of less than five partners and an existing firm of less than five partners can discriminate on any ground where this is reasonable. This exception limits the right to equality (section 8(3)). However, because the nature of financial and fiduciary relationships between partners in a firm is more personal than those between employers and employees, this exception also promotes the right to privacy (section 13) and freedom of association (section 16).

The importance of the purpose of the limitation

The purpose of this limitation is to protect privacy and freedom of association by allowing partners in small firms some choice in who they choose to enter into particular types of financial and fiduciary relationships with.

The nature and extent of the limitation

The extent of the limitation is inherently restricted by the requirement that any discrimination be reasonable.

The relationship between the limitation and its purpose

The limitation is a rational means of achieving the aim of allowing partners in small firms freedom of privacy and association.

Any less restrictive means reasonably available to achieve its purpose

The requirement that any discrimination be reasonable inherently incorporates consideration of whether there are any less restrictive means reasonably available to achieve the purpose of the exceptions.

C.4. Clause 82(1) allows discrimination in relation to the training and appointment of priests, ministers of religion or members of a religious order. This limits the right to equality (section 8(3)). However, it promotes the right to freedom of religion (section 14).

The right in section 14 of the charter establishes a right to freedom of thought, conscience, religion and belief and a right to demonstrate one's religion or belief. Under the equivalent right in the International Covenant on Civil and Political Rights, the first aspect of the right is considered to be absolute. However, the second aspect may be limited, because the way in which religion or belief is practised or observed can impact on others. For the purpose of analysing the religious exceptions in the bill against the charter, there is clearly a need to balance the right to equality with the right to freedom of religion.

In *Christian Education South Africa v Minister of Education* (2000) 9 BHRC 53, Sachs J stated (at [35]) there is a question in any open and democratic society based on human dignity, equality and freedom in which conscience and religious freedom have to be regarded with appropriate seriousness, as to how far such democracy can and must go in allowing members of religious communities to define for themselves which laws they will obey and which not. While there is no automatic right to be exempted by religious beliefs from the laws of the land, the state should, wherever reasonably possible, 'seek to avoid putting believers to extremely painful and intensely burdensome choices of either being true to their faith or else respectful of the law'.

Additionally, courts tend to defer to Parliament in relation to how best to achieve a balance between these two rights. In *The Christian Institute & Ors, An Application for Judicial Review* [2007] NIQB 66, the High Court of Justice in Northern Ireland was asked by various religious groups to assess the compatibility of regulations made under the *Equality Act 2006* relating to discrimination and harassment on the grounds of sexual orientation. The religious groups contended that the exemptions in the regulations were insufficient to protect their freedom to manifest religious belief. On the balance to be accorded the competing rights,

Weatherup J said at paragraph 92: '[t]here are inevitably different views about the proper balance between the respective interests and about the balance achieved by the regulations. This balance is essentially a matter for the legislative decision-makers …'.

The importance of the purpose of the limitation

The purpose of this limitation is to allow religious bodies the freedom to decide the manner in which the training and appointment of priests and the selection of others to perform functions related to religious observance and practice should be conducted. This is important as it protects freedom of thought, conscience, religion and belief (section 14).

The nature and extent of the limitation

While this exception covers all attributes, the exception only applies in the context of the teaching, practice, worship and observance of religion.

The relationship between the limitation and its purpose

The limited nature of the exception is appropriate to achieving its purpose.

Any less restrictive means reasonably available to achieve its purpose

There are no less restrictive means reasonably available to achieve the purpose of the limitation.

C.5. Clauses 82(2) and 83(2) allow religious bodies and religious schools to discriminate on the grounds of religious belief or activity, sex, sexual orientation, lawful sexual activity, marital status, parental status or gender identity in certain circumstances. This limits the right to equality (section 8(3)). However, it protects the right to freedom of thought, conscience, religion and belief (section 14).

The importance of the purpose of the limitation

The purpose of these exceptions is to allow religious bodies and schools to discriminate in certain circumstances where this is required to avoid conflict with their religious doctrines or where it is reasonably necessary to avoid injury to the religious sensitivities of adherents of the religion. This is important in a pluralistic society that values freedom of religion. The freedom to manifest religion or belief in worship, observance, practice and teaching covers a broad range of acts. For example, the right encompasses freedom to establish religious schools and the liberty of parents and guardians to provide religious and moral education to children. The right also protects acts that are intimately linked to religious beliefs.

The nature and extent of the limitation

The limitation in clauses 82(2) and 83(2) does not apply in relation to employment, but rather will apply in relation to other activities conducted by religious bodies, such as providing services, and by religious schools, such as providing education. The limitation is restricted to certain attributes. These attributes were identified as relevant attributes through consultation with faith groups, as such attributes may conflict with core beliefs and values held by religious organisations.

The exceptions are limited by the threshold requirement that the discrimination either must conform with the religion's doctrine or must be reasonably necessary to avoid injury to the religious sensitivities of adherents of the religion. The addition of the word 'reasonably' in clauses 82(2)(b) and 83(2)(b) incorporates an objective element in the provision so that action must not only be necessary to avoid injury to the religious sensitivities of adherents of the religion, but also must be reasonable.

In addition, in order to be covered by the exception, the religious body or school must meet the threshold of being either an entity established for a religious purpose or an entity that is intended to be, and is, conducted in accordance with religious doctrines, beliefs or principles.

The relationship between the limitation and its purpose

The threshold test requiring connection to religious doctrine or religious sensitivities ensures that the limitation is directly related to its purpose, which is to allow freedom of religion in these circumstances.

Any less restrictive means reasonably available to achieve its purpose

There are inevitably different views about the proper balance between respective interests in relation to these exceptions, and about the best way to deal with the tension between sections 14 and 8 of the charter. In my view, these provisions represent an appropriate balance between the right to freedom of religion and the right to equality.

C.6. Clause 82(3) and 83(3) provide that nothing in part 4, which prohibits discrimination in certain circumstances, applies to anything done in relation to the employment of a person by a religious body or religious school where conformity with the doctrines of the religion is an inherent requirement of a position and the person's religious belief or activity, sex, sexual orientation, lawful sexual activity, marital status, parental status or gender identity means that they do not meet that inherent requirement.

The importance of the purpose of the limitation

The purpose of this exception is to allow religious bodies to discriminate in employment where conformity with the doctrines, beliefs or principles of the religion is an inherent requirement of the relevant position. Again, this limitation is important in a pluralistic society that values freedom of religion.

The nature and extent of the limitation

This clause will only apply in the context of employment where conformity with the doctrines, beliefs or principles of the religion is an inherent requirement of the particular position. As with clauses 82(2) and 83(2), the limitation is restricted to certain attributes which are most likely to impact upon core religious beliefs.

The relationship between the limitation and its purpose

The threshold test requiring connection between the doctrines, beliefs or principles of the religion and the inherent requirements of the particular position ensures that the limitation is directly related to its purpose, which is to allow freedom of religion in these circumstances.

Any less restrictive means reasonably available to achieve its purpose

As is the case with clauses 82(2) and 83(2), there are inevitably different views about the proper balance between sections 14 and 8 of the charter, but, in my view, clause 82(3) and clause 83(3) represent an appropriate balance between the right to freedom of religion and the right to equality.

C.7. Clause 84 provides that nothing in part 4 (that is, none of the prohibitions against discrimination) applies to discrimination by a person against another person on the grounds of religious belief or activity, sex, sexual orientation, lawful sexual activity, marital status, parental status or gender identity where this is reasonably necessary for the individual to comply with the doctrines, beliefs or principles of their religion. This limits the right to equality (section 8(3)).

The importance of the purpose of the limitation

The purpose of this limitation is to allow individuals the freedom to express and demonstrate their religious beliefs, even if such beliefs are discriminatory, where this is reasonably necessary for the person to conform with religious doctrine, practice or belief.

The nature and extent of the limitation

This exception will only apply in relation to certain attributes (those which are most likely to impact on core religious beliefs), and thus is limited in scope. Further, it will only apply in circumstances where the conduct is reasonably necessary for compliance with the doctrines, beliefs or principles of the religion. The addition of the word 'reasonably' incorporates an objective element in the provision so that action must not only be necessary to comply with the doctrines, beliefs or principles of the religion, but also must be reasonable. Consequently, the limitation is relatively narrow in nature.

The relationship between the limitation and its purpose

The limitation is rationally connected to its purpose.

Any less restrictive means reasonably available to achieve its purpose

In a society that values freedom of religion, there are no less restrictive means reasonably available to achieve the purpose of this limitation. In my view, this clause strikes the appropriate balance between the right to freedom of religion and the right to equality.

D. Other justifications

The exceptions that are in this category rely on a range of justifications including health and safety and allowing statistic-based services, such as credit provision and insurance.

D.1. Clauses 23, 34, 41 and 46 allow discrimination where reasonable adjustments for people with impairments cannot be provided or where the person could not do the job or participate in the educational program or service even if reasonable adjustments were provided. Clause 58 allows discrimination where a person who provides public premises could not reasonably be expected to avoid discrimination. These exceptions limit the right to equality (section 8(3)) by allowing discrimination against people with impairments in certain circumstances.

The importance of the purpose of the limitation

These exceptions allow employers, firms, educational authorities and service providers to discriminate where reasonable adjustments are not possible, or would not achieve the purpose of allowing the person with an impairment to work or participate in education or receive a service or, in the case of clause 58, where it is not reasonable to avoid discrimination. These exceptions recognise that it is not always reasonable or possible to make adjustments or alterations to allow a person with an impairment to participate.

The nature and extent of the limitation

The exceptions will only apply after consideration of whether the duty holder can make reasonable adjustments or whether any reasonable adjustments would allow the person to do the job or participate in the educational program or service. In this way, discrimination is the last resort.

The relationship between the limitation and its purpose

The limitation is rationally connected to its purpose.

Any less restrictive means reasonably available to achieve its purpose

There are no less restrictive means reasonably available to achieve the purpose of these exceptions.

D.2. Clause 25 allows discrimination on the basis of any attribute by an employer against an employee or prospective employee if the employment involves the care, instruction or supervision of children and the discrimination is reasonably necessary to protect the physical, psychological or emotional wellbeing of the children. This exception limits the right to equality (section 8(3)).

The importance of the purpose of the limitation

The purpose of the limitation is to protect children. This is an important purpose.

The nature and extent of the limitation

The exception is limited by the requirement that the discrimination be reasonably necessary. This requirement means that the exception will only apply when the need for the discrimination can be objectively justified. The exception is further limited as it does not apply to employment by a post-secondary education provider, where the employment is only likely to involve the care, instruction or supervision of older children.

The relationship between the limitation and its purpose

The limitation is rationally connected to its purpose.

Any less restrictive means reasonably available to achieve its purpose.

As the exception includes an inherent limitation that the need for the discrimination be reasonable, there are no less restrictive means reasonably available to achieve the purpose.

D.3. Clause 27 allows discrimination on the grounds of political belief or activity in the offering of employment to a person as a ministerial adviser, member of staff of a political party, member of the electorate staff of any person or any similar employment. This exception may limit the right to equality (section 8) and the right to privacy (section 13) to the extent that some of the information that job applicants will be asked to disclose will relate to political memberships, associations and activities that may be personal and are closely connected to individual identity and autonomy. It may also engage freedom of expression (section 15), to the extent that this right also protects the right not to impart information and because an employer may be able to consider a job applicant's previous activities in publishing political opinions when it determines offers of employment, freedom of association (section 16) and participation in public life (section 18).

The importance of the purpose of the limitation

The underlying purpose of this limitation is to promote the efficiency of Parliament and to facilitate the proper working of democracy. The exception does this by facilitating the trust and confidence of political employers in their employees to conduct their work in the best interests of the employer they are serving.

The nature and extent of the limitation

While the exception limits a number of rights, it does so to a small extent. The exception applies to a restricted type of employment and applies only to the offering of that employment.

The relationship between the limitation and its purpose

Ministers and political parties must have confidence that the staff they employ will serve the interests of the party, including by maintaining confidentiality. Allowing discrimination on the grounds of political belief in such employment is a rational way of achieving this purpose.

Any less restrictive means reasonably available to achieve its purpose

There are no less restrictive means available to achieve the purpose of this limitation.

D.4. Clause 29 allows employers to take the age of an employee and their eligibility to receive a retirement benefit from a superannuation fund into account in deciding the terms on which to offer employees incentive to resign or retire through early retirement schemes. This exception limits the right to equality (section 8(3)), as it allows the offering of different incentives to resign or retire based on a person's age. It also allows employers to only offer early retirement schemes to employees over a certain age.

The importance of the purpose of the limitation

The purpose of the exception is to provide employers who are restructuring or reducing their workforce a way of providing meaningful incentives for employees to retire or resign early.

As all employers have finite funds, where an employer cannot differentiate between employees, the amount offered as an incentive will be smaller than if they can differentiate between employees. This will limit the attractiveness of the incentive and may not achieve the desired purpose of the scheme.

The ability to provide incentives to retire or resign assists employers to restructure their businesses to meet changing needs and circumstances and, in this way, promotes a healthy economy. This is an important purpose as it assists all Victorians.

The nature and extent of the limitation

The limitation only applies to the offering of incentives to retire or resign. This gives the employees the option to retire or resign, but does not force them to do so.

The relationship between the limitation and its purpose

Differentiating on the basis of age and eligibility for superannuation benefits provides a rational way of differentiating between employees, by ensuring that all employees in the business will have income security following a restructure. I note that the commonwealth *Income Tax Assessment Act 1997* (section 83.180) provides for tax exemptions for payments pursuant to approved early retirement schemes. The existence of this tax benefit underscores the rationality of age-based early retirement schemes.

Any less restrictive means reasonably available to achieve its purpose

There are other ways of differentiating among employees when creating incentives to resign or retire. For example, differentiation could be on the grounds of performance or workplace location. While these options do not limit the right to equality, they may not always be available. Further, the Supreme Court held in *Sabet v Medical Practitioners Board of Victoria* [2008] VSC 248 (at [188]), that in considering whether there are less restrictive means available, it was sufficient to consider whether the chosen measures fall within a range of reasonable alternatives. Given this, allowing differentiation on the grounds of age is a reasonable option.

D.5. Clause 37 allows qualifying bodies to set reasonable terms or make variations to reasonable terms where a person cannot meet the terms of a qualification to allow the person to practise their occupation. The reasonable terms may be a restriction on full practice of the profession or trade.

The importance of the purpose of the limitation

The purpose of this limitation is to ensure that a person with an impairment that limits their ability can gain entry to a profession or trade or continue to work in a profession or trade to the fullest extent possible.

The nature and extent of the limitation

The limitation aims to facilitate the participation in the workforce of people with impairments. While it may mean that there is a restriction on full practice of the profession or trade, this is justified by the need to ensure public health and safety.

The relationship between the limitation and its purpose

The limitation is rationally connected to its purpose.

Any less restrictive means reasonably available to achieve its purpose

There are no less restrictive means to achieve such a purpose.

D.6. Clause 42 allows educational authorities to set and enforce reasonable standards of dress, appearance and behaviour for students. Subclause 42(2) clarifies the views of the school community are a relevant factor in assessing the reasonableness of the standard. This exception limits the right to enjoy human rights without discrimination (section 8(2)) and the right to equality (section 8(3)). In its application, it may also engage the right to bodily privacy (section 13) in that the provision may control physical appearance, the right to freedom of thought, conscience, religion and belief (section 14) in that a person may be prohibited from demonstrating their religious beliefs through limitations on dress or conduct, the right to freedom of expression (section 15) in that a person may be denied the right to freely express themselves through dress or conduct and cultural rights (section 19) in that a person may be prohibited from enjoying their culture or practising their culture.

The importance of the purpose of the limitation

The purpose of allowing a school to set reasonable standards of dress, appearance and behaviour is to promote appropriate standards of behaviour and decency and ensure the health and safety of students. In some respects, the purpose may also be to promote equality between students by setting a standard school uniform.

The nature and extent of the limitation

The exception is inherently limited by the requirement that any standard set by the school be reasonable. For public schools, which are public authorities and therefore bound by the charter in their decision making, any standard set must be a reasonable limitation on any right that the standard engages.

The provision in clause 42(2), which clarifies that consultation with the school community is a relevant factor in determining reasonableness, recognises that there may be different standards and expectations between schools. That the school community is an important stakeholder in the setting of appropriate standards of dress for each school is confirmed by the recommendation of the Education and Training Committee of Parliament's Inquiry into Dress Codes and School Uniforms in Victorian Schools that 'decisions regarding dress codes and school uniform policies remain the responsibility of school councils, in consultation with their communities'.[1]

The relationship between the limitation and its purpose

The limitation is rationally connected to its purpose. There is no other way for schools to regulate standards of dress, behaviour and appearance aside from providing an exception to allow them to do so.

Any less restrictive means reasonably available to achieve its purpose

As noted above, there is no other way for schools to achieve the purpose of the limitation.

D.7. Clause 47 allows insurance providers to discriminate on any attribute by refusing to provide an insurance policy to the other person, or on the terms on which an insurance policy is provided where it is allowed by a commonwealth act or where it is justified by actuarial or statistical data or where it is otherwise reasonable, if no such data exists and it is not reasonable to attain it. This exception limits the right to equality (section 8(3)).

The importance of the purpose of the limitation

The purpose of this exception is to enable insurers to provide affordable insurance to customers, by allowing different premiums to be offered to those groups with different levels of risk.

The nature and extent of the limitation

While the exception covers all attributes, the extent of the limitation is inherently restricted by the requirement that it be reasonable or allowed under a commonwealth act.

The relationship between the limitation and its purpose

As the insurance premiums are calculated on the generalised behaviour of different groups, justifiable discrimination is required to enable insurance to be offered. As such, the limitation is rationally limited to its purpose.

Any less restrictive means reasonably available to achieve its purpose

While it could be argued that the exception could be limited by restricting it to the attributes of age, sex and impairment, the in-built requirement that any differentiation based on an attribute must be reasonable and justifiable safeguards the exception against an unjustified broad application of the exception.

D.8. Clause 48 allows credit providers to discriminate on the grounds of age by refusing to provide credit, or on the terms in which credit is provided, if the refusal is based on actuarial or statistical data on which it is reasonable for the credit provider to rely and is reasonable having regard to that data, or where no data is available, if the refusal or terms on which credit is provided are reasonable having regard to any other relevant factors. This limits the right to equality (section 8(3)) by preventing people from accessing credit, or affecting the terms under which a person can access credit, on the basis of their age.

The importance of the purpose of the limitation

The purpose of this limitation is to allow credit providers to use age as a basis for assessing the risk associated with extending credit. This may be beneficial to young people who are unaware of such risks and may otherwise unwittingly take on excessive debt. It may also be beneficial to older people who, by reason of reduced income after retirement, may not be able to pay back a loan.

[1] Education and Training Committee of Parliament, *Inquiry into Dress Codes and School Uniforms in Victorian Schools — Final Report*, December 2008, recommendation 2.1.

The nature and extent of the limitation

The exception only restricts the right to equal treatment on the grounds of age. The exception is inherently limited by the requirement that it be reasonable and justifiable.

The relationship between the limitation and its purpose

As terms and conditions of the provision of credit are calculated on the generalised behaviour of different age groups according to data on the ability of such groups to pay back the credit, justifiable discrimination is required to enable credit to be offered. As such, the limitation is rationally limited to its purpose.

Any less restrictive means reasonably available to achieve its purpose

A less restrictive means of assessing risk in relation to credit would be by reference to the person's credit history once they have one. However, as information about a person's history may not be readily available to credit providers, allowing credit providers to use age is a rational and proportionate means of allowing them to assess risk.

D.9. Clause 49 allows a person providing goods and services to a child to require the child be accompanied or supervised by an adult if there is a reasonable risk that the child may cause a disruption or endanger himself or herself or another person. This limits the right to equality (section 8(3)), as it may prevent parents (or others caring for children) and children themselves from accessing certain places or participating in certain activities. In its application, it may also engage the right to freedom of thought, conscience, religion and belief as it may be used to deny a person access to religious institutions. Similarly, it may engage cultural rights (section 19) as it may restrict the capacity to access particular venues for the purpose of taking part in cultural practices. However, it may also facilitate the protection of families and children (section 17) and other individuals' privacy (section 13) where this is at risk of disruption by a child.

The importance of the purpose of the limitation

This limitation is aimed at ensuring children do not unreasonably cause disruption or danger to themselves or other people.

The nature and extent of the limitation

The limitation is not extensive. It only allows a provider of goods and services to require that a supervising adult be present and by default would allow the provider to refuse the goods and services where this condition was not met. Further, it is restricted by the requirement that the risk of disruption or risk to safety be reasonable.

The relationship between the limitation and its purpose

Requiring an adult to supervise a child where a reasonable risk of disruption or danger presents is a rational and proportionate way of achieving the aim of the limitation.

Any less restrictive means reasonably available to achieve its purpose

There are no less restrictive means reasonably available to achieve the purpose of the limitation.

D.10. Clause 68 allows clubs established for one sex only to exclude from membership people of the opposite sex. This exception limits the right to equality (section 8(3)).

The importance of the purpose of the limitation

The main purpose of this limitation is to avoid inconsistency with the commonwealth *Sex Discrimination Act* 1984, which defines clubs in the same way as the bill and contains an exception allowing single-sex clubs to discriminate in relation to membership. If Victorian law is inconsistent with commonwealth law, the Victorian law will be invalid to the extent of the inconsistency. However, there are other purposes of single-sex clubs, namely, to promote freedom of association between members of the same sex. This may be particularly important for women, where associating with other women members promotes equality. This is likely to be the justification for the exception for single-sex clubs in the Sex Discrimination Act, as one of the objectives of that act is to give effect to the Convention on the Elimination of All Forms of Discrimination Against Women.

The nature and extent of the limitation

The limitation arising from allowing single-sex clubs is restricted by the definition of 'club' in the bill. Only clubs with more than 30 members and that have a liquor licence (other than a temporary licence or a major event licence) will be regulated by the bill.

The relationship between the limitation and its purpose

The limitation is directly connected to its primary purpose, which is to avoid inconsistency with the commonwealth Sex Discrimination Act.

Any less restrictive means reasonably available to achieve its purpose

Given the definition of 'club' in the bill is the same as that in the commonwealth Sex Discrimination Act, there are no less restrictive means available to avoid inconsistency.

D.11. Clause 69 allows clubs to provide equivalent but separate benefits to male and female members where it is not practicable for men and women to enjoy the same benefit together. This exception may limit the right to equality (section 8(3)) in its application, by preventing either male or female club members from enjoying a benefit.

The importance of the purpose of the limitation

The purpose of this exception is to ensure men and women have reasonably equivalent access to member benefits of a club, if it is not practicable for men and women to enjoy those benefits at the same time. For example, where there is only one change room available at a sporting club, it may be reasonable to provide separate access to men and women. In such cases, the exception will operate to protect the right to bodily privacy (section 13).

The nature and extent of the limitation

This exception applies only to sex discrimination in the area of clubs. Further, it will only apply where it is not practicable for the benefits to be enjoyed by men and women at the same time. The nature of the limitation is inherently restricted by the requirement that it not be practicable to provide the benefit to men and women at the same time. The extent of the

limitation is minimised by the requirement that separate benefits be the same or reasonably equivalent.

The relationship between the limitation and its purpose

The restricted nature of the limitation means that it is rational and proportionate to its purpose.

Any less restrictive means reasonably available to achieve its purpose

The assumption underlying the limitation is that the club's resources are limited and that therefore providing the benefit simultaneously to men and women is not practicable. While it may be appropriate for clubs to move towards the position where they are able, through redesign of premises or other means, to provide the benefit simultaneously, there are no less restrictive means reasonably available to achieve the purpose of the limitation where clubs are hampered by limited resources.

D.12. Clause 72(1) combined with **clause 72(3)** allows for single-sex sporting competitions for people over the age of 12, where the strength, stamina or physique of the competitors is relevant. It also allows for the exclusion of people on the basis of gender identity from such competitions in those circumstances. **Clause 72(2)** allows competitive sporting activities to be restricted to people who can effectively compete, people of a specified age or age group or people with a general or particular impairment. This clause limits the right to equality (section 8(3)). In allowing discrimination on the basis of gender identity, it may also limit their right to privacy (section 13).

The importance of the purpose of the limitation

The purpose of this limitation is to allow fair competition in competitive sporting activities by differentiating between people based on attributes which may mean they cannot compete at the same level as people without those attributes. This is an important purpose in a society that values competitive sport.

Doing this may increase participation in some sports, and thereby facilitate freedom of association between members of these groups (section 16).

The nature and extent of the limitation

The extent of the limitation is restricted in that it only applies to competitive sporting activities and (in relation to sex and gender identity) those in which strength, stamina or physique are relevant. The effect of this limitation may be far reaching in circumstances where no equivalent sporting competitions are provided to people in the groups excluded by the exception. However, such circumstances depend on the availability of resources, and in some instances, the history and culture of the sport, which are issues that equal opportunity law cannot adequately address.

The relationship between the limitation and its purpose

By restricting the application of the limitation to competitive sporting activities and (in relation to sex and gender identity) those in which strength, stamina or physique are relevant, the limitation is rationally connected to its purpose.

Any less restrictive means reasonably available to achieve its purpose

The exception allowing discrimination on the grounds of gender identity assumes that a transgender person may have a competitive advantage associated with their birth gender. This may not necessarily be the case. For example, female to male transgender people competing in male competitive sporting activities are unlikely to have a competitive advantage. Given this, limiting the exception to instances where people have a competitive advantage because of their gender identity may be a less restrictive means of achieving the purpose of the exception. However, framing the exception in this way may be difficult to apply, as it would involve assessing the effects of the person's gender identity on their sporting ability, an assessment that would be beyond the capability of most sporting organisations and may involve intrusive questioning and testing. For example, the International Olympic Committee's rules on participation by transgender athletes in competitions for the sex with which they identify require athletes to have had surgery at least two years prior to the competition, to be taking hormone replacement therapy for an appropriate period of time and to be legally recognised as a member of the gender with which they identify.

In light of this, and in light of the fact that the exception is limited to competitive sporting activities, the exclusion of people on the basis of gender identity is a reasonable means of achieving the purpose of the limitation.

D.13. Clause 74 allows a councillor of a municipal council to discriminate against another councillor or member of a council committee in the performance of their public functions on the grounds of their political belief or activity. This exception limits the right to equality (section 8(3)).

The importance of the purpose of the limitation

The purpose of this exception is to facilitate the efficacy of local government through democratic political affiliations, and thereby enabling councillors to interact with other councillors on the basis of their political affiliations. This is a legitimate and important purpose in a free and democratic society.

The nature and extent of the limitation

This limitation is restricted to very narrow circumstances and therefore is not extensive.

The relationship between the limitation and its purpose

The limitation is rationally connected to its purpose.

Any less restrictive means reasonably available to achieve its purpose

There are no less restrictive means available to achieve the purpose of the limitation.

D.14. Clause 75 allows a person to discriminate on any grounds where it is necessary to comply with or is authorised by an act or enactment. While this exception is not discriminatory itself, it may facilitate the limitation of a number of charter rights, including the right to equality (section 8(2) and 8(3)), depending on the provision in the act or enactment.

The importance of the purpose of the limitation

This exception recognises that, in limited circumstances, it will be intended that an act or enactment allows discrimination, and while the discrimination does not fall within an exception, it is considered to be a reasonable limitation on the right to equality.

The nature and extent of the limitation

Prior to the commencement of the charter, the exception in section 69 of the Equal Opportunity Act was very far reaching. However, since the commencement of the charter, there are a number of processes for ensuring human rights are taken into consideration in the development of new policy and legislation. These processes are designed to ensure new acts or enactments are charter-compatible, or that the decision to enact legislation that is not compatible is intended and explained.

In addition:

all government departments undertook an audit of the existing legislation they administer in 2007 and 2008 to identify incompatible provisions;

since 1 January 2008, section 32 of the charter requires courts and tribunals to interpret laws in a way that is human rights compatible as far as possible;

section 38 of the charter requires public authorities to act in a manner that is compatible with human rights. This applies to all decisions made by public authorities, including where a public authority has decision-making discretion;

clause 156(2) of the bill provides the commission with a monitoring role and requires the commission to report to the relevant minister and the Attorney-General on any legislation that discriminates or has the effect of discriminating against any person.

The relationship between the limitation and its purpose

The limitation is rationally connected to its purpose.

Any less restrictive means reasonably available to achieve its purpose

It may be argued that listing any provisions that are intended to discriminate in a schedule to the act is a less restrictive means of achieving the purpose of the limitation, as such a schedule would be definitive. However, given the checks and balances already available to ensure legislation is charter-compatible, such a time and resource-intensive process may not be a reasonable alternative. Further, such a scheme may have unintended consequences for any discriminatory acts or enactments that have been overlooked and are not included in the schedule.

D.15. Clause 76 allows discrimination where this is necessary to comply with an order of VCAT or any other court or tribunal. This exception may facilitate the limitation of a number of charter rights, including the right to equality (section 8(2) and 8(3)) depending on the order.

The importance of the purpose of the limitation

This limitation is to ensure orders of courts and tribunals are complied with. This is important in a democratic society committed to the rule of law.

The nature and extent of the limitation

As courts and tribunals are required by the charter to interpret all legislative provisions consistently with the charter, it is likely that the restriction will not be broad.

The relationship between the limitation and its purpose

The limitation is rational and proportionate to its purpose.

Any less restrictive means reasonably available to achieve its purpose

There are no less restrictive means reasonably available to achieve the purpose of the limitation.

D.16. Clause 77 allows discriminatory provisions relating to pensions. This limits the right to equality in section 8(3).

The importance of the purpose of the limitation

The purpose of this exception is to allow provisions relating to pensions to discriminate. This recognises that entitlements to benefits are linked to the way in which certain attributes, such as marital status, sex and impairment are defined by particular laws. Most of these laws are commonwealth laws, not Victorian laws. In these cases, Victoria cannot control discriminatory provisions in pensions.

Further, anomalies between the way in which particular attributes are defined for the purposes of the Equal Opportunity Act and other Victorian laws may result in terms in pensions being discriminatory. For example, while the Equal Opportunity Act has a broad definition of gender identity for the purpose of protecting people from discrimination, the *Births, Deaths and Marriages Registration Act* 1996 has a much narrower definition for the purpose of legal recognition of sex. Similarly, while the Equal Opportunity Act has a broad definition of impairment for the purpose of protection from discrimination, other laws have narrower definitions. Where pension entitlements are based on the narrower definition of the attribute, the term may be discriminatory.

The nature and extent of the limitation

While the commonwealth has recently amended some laws that allowed discrimination in pension entitlements on the grounds of sexual orientation, other laws that allow discriminatory pensions still exist. This is recognised by the exemption of certain pensions that contain discriminatory terms from commonwealth antidiscrimination laws.

The relationship between the limitation and its purpose

The limitation is rationally limited to its purpose.

Any less restrictive means reasonably available to achieve its purpose

There are no less restrictive means reasonably available to achieve this purpose.

D.17. Clause 78 allows discrimination on any ground in relation to superannuation fund conditions existing prior to 1 January 1996.

The importance of the purpose of the limitation

This exception recognises the point of time in which superannuation funds became subject to the Equal Opportunity Act 1995 and allows discrimination existing at the time to apply to people who were members at the time or became members within 12 months of the act commencing. This is important to ensure that agreements made during that time remain valid and binding.

The nature and extent of the limitation

This exception is limited in that it only applies to discriminatory terms existing as at 1 January 1996 and to people who were already members of the fund or became members of the fund within 12 months from that date.

The relationship between the limitation and its purpose

The limitation is rationally limited to its purpose.

Any less restrictive means reasonably available to achieve its purpose

There are no less restrictive means reasonably available to achieve this purpose.

D.18 Clause 79 allows discrimination in superannuation fund conditions after 1 January 1996 on the grounds of age, sex, marital status or impairment where this is allowed under commonwealth acts and in relation to age if it is based upon actuarial or statistical data on which it is reasonable for the person to rely and is reasonable having regard to that data and any other relevant factors; or in a case where no actuarial or statistical data is available and can not reasonably be obtained, the discrimination is reasonable having regard to any other relevant factors. This exception limits the right to equality (section 8(3)) and may also limit other rights, depending on the nature of the discriminatory provision.

The importance of the purpose of the limitation

The purpose of this exception is to ensure compatibility with commonwealth laws relating to superannuation.

The nature and extent of the limitation

This exception is restricted to discrimination in superannuation allowed under commonwealth laws, and, in relation to age, where the discrimination is reasonable.

The relationship between the limitation and its purpose

The limitation is rationally connected to its purpose.

Any less restrictive means reasonably available to achieve its purpose

The exception refers to the exceptions under commonwealth laws and in relation to age, mirrors the exception. This ensures the exception only allows discrimination on the same terms as that is allowed under the commonwealth laws.

D.19. Clause 85 allows discrimination against a person who is subject to a legal incapacity that is relevant to the transaction or activity in which they are involved.

The importance of the purpose of the limitation

The purpose of this exception is to prevent people with a legal incapacity entering into transactions or engaging in certain activities for which it is considered they are insufficiently mature, or have other legal incapacity.

The nature and extent of the limitation

The nature and extent of the limitation is confined in that it extends only to those transactions in which the person's legal capacity is at issue. Therefore, it is not extensive.

The relationship between the limitation and its purpose

As the exception only applies where the person's incapacity is relevant to the transaction, it is directly related to its purpose.

Any less restrictive means reasonably available to achieve its purpose

There are no less restrictive means reasonably available to achieve the purpose of the limitation.

D.20. Clause 86(1) permits discrimination on the grounds of impairment or physical features where this is reasonably required to protect the health, safety or property of any person. **Clause 86(2)** permits discrimination on the grounds of pregnancy where this is reasonably required to protect the health or safety of any person. This clause limits the right to equality (section 8(3)). However, it promotes the protection of life (section 9) and the right to security of person (section 21).

The importance of the purpose of the limitation

This limitation has an important public purpose of allowing discrimination where this furthers the right to safety and security of people, or where it is necessary to protect public property.

The nature and extent of the limitation

The limitation is confined to discrimination on the grounds of impairment, physical features and pregnancy. The requirement that the discrimination be reasonably necessary to protect health and safety or property inherently requires consideration of whether the discrimination is reasonable, rational and proportionate.

The relationship between the limitation and its purpose

The limitation is rationally connected to its purpose.

Any less restrictive means reasonably available to achieve its purpose

There are no less restrictive means to achieve such a purpose.

OTHER CLAUSES THAT ENGAGE CHARTER RIGHTS

Right to equality

The provision clarifying that taking special measures to promote or realise substantive equality is not discrimination (**clause 12**) and the provisions that create a duty for certain duty holders to make reasonable adjustments for people with impairments (**clauses 20, 33, 40 and 45**) engage but do not limit the right to equality in section 8(3).

As I noted in the introduction to this statement of compatibility, section 8(4) of the charter specifically

recognises that taking special measures to achieve substantive equality for disadvantaged groups is not discrimination. **Clause 12** reflects this model. Clause 12 contains a number of safeguards to ensure that special measures may only be used for the purpose of promoting or realising substantive equality of the target group. In addition to providing that the person taking the measure bears the onus of proving that the measure is a special measure, the clause provides that once the measure meets its purpose, it is no longer a special measure. Therefore, continuing special measures beyond the achievement of substantive equality may be discrimination.

The reasonable adjustments provisions in **clauses 20, 33, 40 and 45** also engage but do not limit the right to equality. The purpose of the duty to make reasonable adjustments is to enable people with impairments to participate in areas they would not be able to participate in unless the adjustments were made. Making reasonable adjustments for people with impairments requires taking measures that would not be taken for people without an impairment. However, as people without impairments would not need the adjustments, the right to equality is not limited.

Clause 89 allows for the granting, revocation or renewal of applications to the tribunal for a temporary exemption from the act. An exemption makes conduct that would otherwise be unlawful, lawful for the duration of the exemption. While the process prescribing the exemption process does not itself limit the right to equality, an exemption will limit the right to equality and may impact on other rights depending on the nature of the exemption.

Clause 90 provides that the tribunal must consider certain factors when making decisions to grant, renew or revoke an exemption. One of these is whether the proposed exemptions is a reasonable limitation on the right to equality in the charter. In this way, the exemption process ensures that all exemption applications will be assessed according to the reasonable limitations test in section 7(2) of the charter and that all exemptions that are granted or renewed will be compatible with the charter.

Freedom of expression

Clauses 132 and 133 enable the commission to compel the production of information or documents as part of an investigation or public inquiry into a serious systemic matter, and to compel attendance. **Clause 134** provides a penalty for failure to comply with the request for information, to produce documents or to attend without reasonable excuse.

Clauses 132 and 133 may engage the right to freedom of expression in section 15 of the charter, which includes the freedom to impart information and ideas of all kinds, as well as the right not to impart information. However, to the extent that the right is engaged, these clauses would fall within the exceptions to the right in section 15(3), as reasonably necessary to respect the rights of other persons, or for the protection of public order.

The powers to compel information and attendance apply only in the context of an investigation or public inquiry; they are not powers used by the commission in relation to individual disputes. The powers enable the commission to properly carry out its investigatory functions and are appropriately circumscribed, ensuring that they are only used when the information is necessary for the investigation or public inquiry, and that the person required to provide the information or to attend is given a reasonable time in which to comply. The powers are further limited by the protection against self-incrimination in clause 135 and the bill does not override any other relevant privileges that would apply at common law. On a more general level, the commission is bound by the principles of natural justice in conducting an investigation or public inquiry.

Accordingly, I consider that clauses 132 and 133 do not limit the right to freedom of expression in the charter.

The right to privacy

Clause 140 allows the commission to publish a report on a public inquiry. It also allows the commission to provide a report on a public inquiry to the Attorney-General who may then table the report in Parliament. This may engage the right to privacy (section 13). However, the bill includes a number of provisions that ensure that the right to privacy is not unlawfully or arbitrarily interfered with.

Clauses 136 and 137 of the bill act to protect individuals who give information or documents to the commission as part of a public inquiry. Under clause 136, the commission can order non-disclosure of a person's identity where this is necessary to protect the person's security of employment, privacy or other charter right, or to protect the person from victimisation. Under clause 137, the commission may give directions prohibiting or limiting publication of evidence of information having regard to well-established public interest criteria. These criteria include the unreasonable disclosure of the personal affairs of any person. Under clause 141(2), the commission may exclude from the report of a public inquiry, any matter it considers desirable to do so, having regard to the factors in clauses 136 and 137.

The bill also includes protection for people who may be the subject of an adverse finding in a report on a public inquiry. Pursuant to clause 141, where the commission believes there are grounds for making adverse findings, it must give the person who is the subject of the adverse findings the opportunity to comment on the subject matter of the public inquiry and respond to the grounds for making the adverse findings, before the report is given to the Attorney-General or published by the commission.

On a more general level, the commission is bound by the principles of natural justice in conducting the public inquiry and is also bound by the *Information Privacy Act* 2000, which regulates the circumstances in which personal information may be made public.

Consequently, clause 140 does not limit the right to privacy.

OTHER CLAUSES THAT LIMIT RIGHTS

Freedom of association

Clause 64 prohibits discrimination against applicants for membership of clubs. Clause 4 defines a 'club' as an association of more than 30 persons associated together for social, literary, cultural, political, sporting, athletic or other lawful purpose that has a liquor licence (other than a temporary limited licence or a major event licence) and runs its facilities wholly or partly from its own funds. With some exceptions, associations that meet the definition of 'club' will not be able to discriminate in relation to membership. Regulating the membership of a club limits the right to freedom of association (section 16).

The importance of the purpose of the limitation

The purpose of regulating clubs over a certain size and that have a liquor licence in the bill is to ensure that people are not prevented from becoming members of such clubs on the grounds of a protected attribute. This purpose promotes the right to equality. This is important given that membership of clubs can be a gateway to other opportunities, such as employment or sporting benefits.

The nature and extent of the limitation

As noted in this statement of compatibility, there are a number of exceptions that allow discrimination on the basis of certain attributes, namely, clubs for minority cultures, clubs for particular age groups and single-sex clubs. In addition, a club that is established to promote or realise substantive equality for people with a particular attribute will be a special measure and therefore not discriminatory under the bill or charter. Further, the bill enables clubs, who are not covered by an exemption or undertaking a special measure, who wish to discriminate in relation to membership for reasons such as freedom of movement, to apply for an exemption from VCAT. This would then be a matter for VCAT to consider based on the relevant circumstances of the case, and whether the proposed exemption is a reasonable limitation on the equality right in the charter. Consequently, the limitation is circumscribed by the exceptions, special measures and exemption process in the bill.

The relationship between the limitation and its purpose

Defining clubs to be regulated by reference to size and whether they hold a liquor licence is a rational way of achieving the purpose of balancing the right to freedom of association with the right to equality. Smaller associations are more akin to a private gathering, whereas larger associations are more likely to be considered as operating in the public sphere. Having a liquor licence subjects the association to licensing regulation. This is an indication that the association is operating in the public sphere and should be subject to equal opportunity regulation. The rationale of adopting this definition of 'clubs' is supported by the fact that most other states in Australia and the commonwealth Sex Discrimination Act use the same definition.

Any less restrictive means reasonably available to achieve its purpose

There are a number of ways in which the line could be drawn between the public and private spheres in relation to clubs. For example, the Equal Opportunity Act draws the distinction based on whether or not the association is on public land or receives public funding. Private clubs are currently exempt from the act. This scheme could be seen as intruding less on the right to freedom of association of private clubs. However, the current definition of 'clubs' captures a greater number of associations. Not regulating any associations in relation to membership is another option that promotes freedom of association. However, this is done at the expense of the right to equality.

On balance, defining 'clubs' in this way, together with the exceptions for clubs included in the bill, is a justifiable way of balancing the right to freedom of association with the right to equality.

The right to a fair hearing

As discussed above, clause 136 empowers the commission to give directions prohibiting the disclosure of the identity of a person who provides information as part of an investigation or public inquiry, as well as the disclosure of information that would be reasonably likely to identify the person, where the commission considers that the preservation of the person's anonymity is necessary to either protect the person's security of employment, privacy or any right protected by the charter, or to protect the person from victimisation. Clause 137 allows the commission to prohibit or limit the disclosure of other information on public interest grounds. These clauses may engage the right to a fair hearing under section 24(1) of the charter.

The right to a fair hearing applies to proceedings that are determinative of private rights and interests in a broad sense. It is arguable that an investigation of a serious systemic matter by the commission could constitute a 'civil proceeding' given the ability for the commission to issue a compliance notice as an end result of an investigation (but not a public inquiry), and that an individual (as opposed to an organisation or corporation) who is the subject of the investigation could be regarded as a 'party'. If an investigation does constitute a civil proceeding, then it must be 'fair' within the meaning of section 24(1) of the charter. While the commission may order that certain information not be disclosed, in my view, investigations carried out under part 9 will be fair, particularly given that the commission must afford natural justice throughout the investigative process, and that an affected person can apply to VCAT to seek review of a compliance notice issued by the commission.

The commission would be unable to issue a compliance notice without first complying with the rules of natural justice in conducting its investigation. This would include giving the person the chance to challenge any adverse conclusions that might be the basis for a compliance notice. However, if the provision amounts to a limitation of section 24(1) of the charter, I consider that the limitation would be reasonable and justified for the following reasons.

The importance of the purpose of the limitation

In considering the possible limitation on the right to a fair hearing, it is important to look at the context for an investigation by the commission. Clause 127 allows the commission to conduct an investigation into any matter that raises an issue that meets the criteria for an investigation and which would advance the objectives of the act. The objectives include encouraging the identification and elimination of systemic causes of discrimination, sexual harassment and victimisation. The outcomes of an investigation, such as a compliance notice, are aimed at encouraging compliance and changing the culture of organisations, as opposed to providing redress to an individual who has been discriminated against.

In order to ensure that investigations are effective, it is also important that the commission is able to protect the identity of people providing information or evidence as part of the investigation, and to limit disclosure on other public interest grounds. Without these protections, people may be reluctant to provide relevant information.

The nature and extent of the limitation

The assessment of whether or not a proceeding is 'fair' so as to satisfy section 24(1) of the charter is to be undertaken 'globally', taking account of available safeguards before the relevant body and the availability of review before a court or tribunal.

Taking this global approach, the first point to note is that the commission is bound by the principles of natural justice in conducting an investigation that could lead to the issuing of a compliance notice. This means that a person or organisation that will potentially be issued with a compliance notice will know about the investigation, and any allegations of breaches of the legislation, and have had an opportunity to respond to these matters.

A direction prohibiting disclosure of the identity of a person or other information will only be given if this is necessary for the above purposes.

The commission must also set out in a compliance notice issued under clause 146, the basis for its belief that an unlawful act has occurred and that the person may apply to VCAT for a review of the notice. This ensures that the person understands what they are being asked to remedy and why, and what legal options they have to challenge this.

The bill provides that a person issued with a compliance notice has 28 days to apply to VCAT for a review of the issuing of the notice or of any term of the notice.

The relationship between the limitation and its purpose

The possible limitation is directly connected to its purpose, which is to enable the commission to properly carry out its investigative functions.

Any less restrictive means reasonably available to achieve its purpose

As the circumstances in which the possible limitation will apply are restricted to where the commission considers that non-disclosure is necessary to protect a person's anonymity or is otherwise in the public interest, the extent of the limitation is such that there are no less restrictive means reasonably available to achieve the purpose of the clauses.

If the right to fair hearing is limited by the bill, then any limitation is reasonable within the meaning of section 7(2) of the charter.

Freedom of expression

Clause 176 prevents the recording, disclosure or communication of personal information by the commissioner, board members and staff of the commission (and other specified people) unless it is necessary to do so for the purpose of, or in connection with, the performance of a function or duty or the exercise of a power under the bill. It does not prevent the parties themselves from disclosing information. This limits the right to freedom of expression including the freedom to seek, receive and impart information and ideas of all kinds (section 15(2)) by making it an offence for specified people to make a record of, disclose or communicate certain information.

The importance of the purpose of the limitation

The purpose of this limitation is to ensure that confidential information provided or obtained in the course of working for the commission is protected. This is important to protect the right to privacy of individuals or organisations to whom such information relates and to protect the integrity of the work of the commission.

The nature and extent of the limitation

Commission staff are already covered by the Information Privacy Act and are required to act compatibly with the charter. These acts require commission staff and board members to protect the privacy of certain information. The limitation in clause 176 does not extend beyond the obligations under these acts.

The relationship between the limitation and its purpose

The limitation is rationally connected to its purpose.

Any less restrictive means reasonably available to achieve its purpose

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

The right to the presumption of innocence

Clause 183 of the bill provides that it is a defence to the offence of discriminatory advertising if the defendant proves they took reasonable precautions and exercised due diligence to prevent the publication or display of the discriminatory advertisement. This limits the right to the presumption of innocence in section 25(1) of the charter, as it places a legal onus on a defendant by providing that the defendant must prove certain factors in order to avail himself or herself of the defence.

The importance of the purpose of the limitation

The purpose of imposing a burden of proof on persons regarding the offence of discriminatory advertising is to ensure that these offences can be effectively prosecuted and that they operate as a deterrent to discriminatory advertising by imposing a duty on persons to take responsibility for the manner in which they advertise. The limitation will importantly protect the right to equality in section 8 of the charter by ensuring that persons of a particular attribute are not discriminated against in advertising.

The nature and extent of the limitation

When an individual has engaged in discriminatory advertising, a burden is placed on that individual to prove that they have taken reasonable precautions and exercised due diligence to prevent the offence. By choosing to engage in a public activity, it is reasonable to expect individuals who are publishing advertisements to take steps to ensure that the advertisements are not discriminatory. If reasonable steps have been taken, proof ought not to be difficult. Whilst the prescribed penalty can involve low-level fines, it does not involve imprisonment.

The relationship between the limitation and its purpose

The imposition of a burden of proof on the defendant is directly related to its purpose as described above.

Less restrictive means reasonably available to achieve the purpose

An evidential onus would not be effective as it could be too easily discharged by the defendant. Having regard to the purpose of the offence, it would be unduly difficult and onerous for the state to investigate and prove what steps the defendant took to discharge his or her responsibilities. Accordingly, I consider these provisions to be compatible with the right to be presumed innocent in the charter.

Conclusion

The bill is an important vehicle for promoting the right to equality. However, in some instances, that right and other rights must be limited to properly balance competing rights or for other important reasons, such as public health and safety. As discussed in this statement of compatibility, all of the limitations in the bill are reasonable and justifiable.

Rob Hulls, MP
Attorney-General

Second reading

Mr HULLS (Attorney-General) — I move:

That this bill now be read a second time.

Introduction and background — A fair go for all Victorians

It would be difficult, Speaker, to find a Victorian who did not support the idea of the fair go.

After all, everyone wants to be happy and healthy, to have a good education and secure employment. Everyone wants to be included in the economic prosperity we have worked hard together to achieve, as well as in the community we have built together — one that values diversity, that values opportunity, that values the contribution that every member of our rich and varied society can make, if given the chance to make it.

That is why, over three decades ago, Victoria adopted equal opportunity legislation — legislation that attracted bipartisan support, that signalled our aspirations for fairness with new strength and clarity. That legislation has been a bulwark of Victorian civic life ever since, providing a foundation for our society as it has developed and matured.

It could not have done this properly, however, unless it had progressed with the community it was designed to protect. Speaker, whether in demographics or in population, Victorians are not the same as they were in 1977. Nor is our understanding of their varied experiences and the barriers that some still face to participating and contributing in full.

We can see that, though progressive in its day, the legislation of a generation ago contained no provision for the diversity that we now assume. That is why, in 1995, it was amended to prohibit discrimination on the basis of, amongst other things, lawful sexual activity, age and pregnancy. In 2000, breastfeeding, sexual orientation and gender identity discrimination were included. In 2008 it was amended to protect employees who requested flexible working arrangements to accommodate their family responsibilities.

Gradually, its scope has changed to reflect the scope of the wider community. What the legislation has not done until today, however, is change to reflect and address the varied forms of discrimination that Victorians continue to experience — yes, as individuals, but also as members of whole groups in the community.

What this means is that, while the right to participate fully is available to all Victorians — the right, if you like, to congregate at the starting line — for many the track ahead remains full of hurdles.

Pay inequity between men and women; persistent indigenous disadvantage; facilities that are physically accessible to some but not to others — these inequalities endure because they are systemic, rather than isolated; because they cannot be redressed by an individual complaint. As a result, discrimination can disadvantage entire groups in a variety of ways.

Recent ANU research cites employment as one such area. According to the research, 21st century employers are still more likely to grant interviews to candidates with Anglo-Celtic names, on otherwise identical job applications in a supposedly open field. Further, a 2004 report of the Productivity Commission found that only 53.2 per cent of people with disabilities were in work compared to 80.6 per cent of those without a disability.

If such basic forms of discrimination are still entrenched, then we need to acknowledge that some opportunities remain more equal than others — that Victorians are competing on uneven ground and that we need to level the playing field. We need a legal framework and commission that is properly equipped to tackle all forms of discrimination — individual or systemic — to dismantle it where it does exist, and nurture and encourage a future in which it does not.

That is why the government commissioned the former public advocate, Mr Julian Gardner, to conduct a review of the Equal Opportunity Act 1995.
Mr Gardner's report, *An Equality Act for a Fairer Victoria* (Gardner report), was released in June 2008 and made 93 recommendations for reform.

The government has responded to the Gardner report in two stages. The first stage saw the passage of the Equal Opportunity Amendment (Governance) Act 2009, which implemented recommendations relating to the governance structure of the Victorian Equal Opportunity and Human Rights Commission (the commission). This act commenced operation on 1 October 2009. The commission is now stronger, more accountable and better prepared to adapt to the changes that this second stage of reform represents.

This bill introduces key reforms to respond to the limitations of the current act. In particular the bill:

changes the commission from a complaints-handling body to one that educates and facilitates dispute resolution, best practice and compliance;

gives the commission more effective options to respond to systemic discrimination;

encourages best practice and proactive compliance by duty-holders without reliance on individual complaints;

provides a more effective and efficient complaints resolution system by placing the focus on early and flexible dispute resolution at the commission but allowing complainants to also go directly to VCAT to have their matter determined; and

removes legal and technical barriers to the elimination of discrimination.

The bill also clarifies, updates and amends exceptions to unlawful discrimination in response to a separate review by the Scrutiny of Acts and Regulations Committee (SARC). The government is tabling its response to SARC's report tomorrow.

Overall, these reforms equip Victoria to prevent discrimination, rather than just react to it; to resolve it in an early and more enduring way where it does occur; to build relationships and collaboration with business and support best practice; to encourage productivity and innovation; to remove the obligation from individual shoulders and assume it together.

Before I go into further detail, Speaker, I want to emphasise that we take these steps not as an optional extra, nor for the warm inner glow they may excite in even the stoniest of hearts.

We must do this because, while individuals and particular groups within the community suffer when they experience discrimination, we also know that society as a whole cannot be strong and prosperous without also being fair. In fact, we know that society flourishes, both socially and economically, when all members are able to contribute productively to its social and economic life; when businesses are more innovative and diverse; when workforces and communities are more healthy, cohesive, stable and secure.

In turn, we are all harmed when discrimination occurs. We are all diminished when Victorians with disabilities cannot find employment; when pay inequity persists; when violence or hate-motivated crime is perpetrated against our Indian community.

We are diminished not just by the breakdown of trust and respectful relationships; but also by the very tangible effects that unfavourable treatment, violence or harassment can have on a person's mental and physical health; on their economic or educational security; on their basic capacity to participate. In fact, research reveals that experiencing race-based discrimination, for example, is associated with an increased risk of anxiety and depression, and possibly associated with diabetes, obesity and cardiovascular disease, as well as with a lack of productivity.

Ill health comes at a cost to the public, as well as the individual, purse. This means, then, that in a variety of ways, discrimination has an economic cost, as well as a social one — vindicating the Brumby government's view that social and economic progress are inextricably linked: that a strong economy is needed to develop a healthy and strong community, and that a healthy and strong community is vital for continued economic growth. Just like the health arena, then, we owe it to ourselves to opt for prevention, rather than just cure.

Key reforms

I would now like to touch on some of the key reforms in the bill in more detail.

Changing the role of the commission

The bill gives the commission a new focus. Rather than concentrating its resources solely on processes for handling complaints, the commission will now focus on flexible and responsive dispute resolution that will help parties resolve a dispute as quickly as possible. The commission will have an increased role in working with and encouraging duty-holders to comply with the legislation through education, the development of industry-specific guidelines and organisational engagement.

The bill also clearly recognises the commission as a body with specialist expertise, allowing the commission

to intervene in legal proceedings involving issues of equal opportunity or discrimination if permitted to do so by the court or tribunal.

Giving the commission more effective tools to respond to systemic discrimination

The commission has a limited range of options to enable it to investigate circumstances in which discrimination may be occurring.

This bill provides for a graduated and effective range of options aimed at addressing systemic discrimination. However, I should emphasise, this does not involve allowing the commission to enter premises, conduct searches or to seize property.

What it does involve is enabling the commission, following a decision of the board of the commission, to conduct an investigation into a serious matter that affects a class or group of people and that indicates a possible contravention of the act, if the investigation would advance the objectives of the act.

For example, a company may have a policy that appears to indirectly discriminate against people with a disability. While the company settles several individual complaints about the policy, the policy has not been changed and continues to disadvantage people with a disability. This is the point at which the commission may step in and gather information about the extent of the problem, and decide whether further action is warranted.

Where the commission's investigation reveals a problem, the commission will be able to engage with the individuals and organisations concerned to collaborate on a solution. This may simply involve an agreement to change a particular practice; or a series of practical and measurable steps to address the issue. The commission may also accept a more formal undertaking in which the person or organisation agrees to take action or refrain from taking action, and such an undertaking will be enforceable at VCAT if breached.

Where an outcome cannot be reached by agreement, the commission will be able to issue a compliance notice for a person or organisation to remedy a breach of the act. If that notice is not complied with, the commission can apply to VCAT to enforce it. The notice, or any part of it, can also be appealed to VCAT.

Where it is in the public interest, the commission will be able to recommend to the Attorney-General that a broader public inquiry be conducted into a serious systemic matter. In order to ensure that an inquiry is in the public interest, the commission will only be able to conduct a public inquiry with the Attorney-General's consent. At the conclusion of a public inquiry, the commission will provide a report to the Attorney-General, which may be tabled in Parliament.

The commission already has the option of compelling the production of documents and attendance. The bill also sets out, then, that the commission can exercise the powers to compel only after issuing a written notice setting out what it is seeking and why; as well as providing that the commission is generally bound by the principles of natural justice. In this way, the bill provides a number of checks and balances to safeguard the rights of individuals and organisations. The commission is, of course, also required to act compatibly with the Charter of Human Rights and Responsibilities.

Encouraging best practice and proactive compliance

These tools are about supporting business and encouraging the best practice that already exists in the vast majority of Victorian organisations. While the current act contains implied duties to not discriminate, sexually harass or victimise, stating these duties in a positive way — a way that does not rely on a complaint being lodged — promotes proactive compliance and allows the commission to engage more easily with organisations about their practices where there is evidence of systemic discrimination.

Duty-holders are, of course, only required to take measures that are reasonable and proportionate. Including the words 'as far as possible' ensures practicability and that any costs of meeting their obligations are proportionate to the size and operations of the organisation. By providing a list of factors relevant to consideration of when a measure is reasonable and proportionate, the bill recognises that different duty-holders have different capacities to eliminate discrimination; and that what may be possible for one organisation will not be possible for another.

In practice, the duty will mean that organisations will need to think proactively about their compliance obligations, rather than wait for a complaint to trigger a response. In other words, prevention is better than cure and many organisations already recognise this as a matter of best practice. It may involve organisations identifying potential areas of non-compliance, developing a strategy for meeting and maintaining compliance, for example through training, or clear policies, and having a process for reviewing and improving compliance where appropriate.

This duty will not be enforceable through individual complaints. However, the duty may form the basis upon which the commission takes action to investigate allegations of systemic discrimination and, if appropriate, take action to enforce compliance. In this way, the baseline obligations for duty-holders will not change. Rather, the change will be that compliance will be systemic and proactive, rather than being activated by individual complaint after the event.

Creating a more effective and efficient dispute resolution system

The individual complaints process, too, will be significantly reformed under this bill. The changes will make dispute resolution faster, more flexible and more appropriate to individual disputes. In addition, it will eliminate the current duplication in the complaints process by allowing people with a dispute to go directly to VCAT, rather than requiring them to lodge a complaint with the commissioner first, as is currently the case.

This new model will be supported by the establishment of an independent specialist legal advice and assistance service designed to give people early strategic advice about their matter and to provide representation where appropriate. The commissioner must offer services to facilitate the resolution of disputes; but use of these dispute resolution services will be voluntary, meaning any party can withdraw at any stage. People with a dispute will not be required to go through the commissioner's dispute resolution services before they can take their dispute to VCAT, though VCAT will continue to have the power to order compulsory mediation and strike out claims in certain circumstances.

Changing the commission's focus from formal complaint handling to flexible dispute resolution will allow disputes to be resolved more quickly, minimising the harm caused not only by discrimination and sexual harassment, but by the expense associated with protracted complaints processes. It will also allow relatively minor disputes to be resolved quickly and at a low level, through the provision of information to duty-holders.

In this way, while direct access to VCAT will be available, it is intended that the commission retain its critical functions; providing general information and education to both duty-holders and people with a dispute.

Removing legal and technical barriers to the elimination of discrimination

Simpler definitions of discrimination

The bill clarifies the meaning of discrimination so that it is easier to understand for both duty-holders and complainants, and so that a complaint will no longer fail on unnecessary technicalities.

The bill provides that direct discrimination occurs if a person treats, or proposes to treat, someone with an attribute unfavourably because the other person has the attribute. This definition removes the technical difficulties associated with the current requirement to compare the treatment of the person with a person in the same or similar circumstances.

The bill provides that indirect discrimination occurs if a person imposes a requirement, condition or practice that has, or is likely to have, the effect of disadvantaging people with an attribute and the requirement or condition is not reasonable. The definition removes technical difficulties associated with the current definition, which requires a complainant to show that a substantially higher proportion of people without the attribute can comply with the requirement, condition or practice.

The definition also requires the person imposing the requirement, condition or practice to show that it is reasonable. This reflects the fact that the evidence about what is reasonable is usually controlled by the duty-holder, not the person being discriminated against, and follows the approach taken in other Australian jurisdictions. The definition includes a list of factors to provide guidance about what may be relevant when assessing the reasonableness of a requirement, condition or practice.

Special measures are not discrimination

The bill makes a clear statement that taking special measures to address the disadvantage of a particular group protected by the act is not discrimination. Special measures recognise that achieving equality is not about treating all people the same, but is about treating people differently in order to cater for different experiences and circumstances; to aim for equality of outcome, rather than just equality of opportunity. Special measures are therefore an expression of equality, rather than an exception to it.

Duty to make reasonable adjustments for people with impairments

The current act imposes duties on employers, firms, educational authorities and service providers to make reasonable adjustments for people with impairments. These duties are implied by the requirement not to indirectly discriminate and by various exceptions allowing discrimination against people with impairments in certain circumstances.

The bill reframes the existing exceptions as positive duties to make reasonable adjustments for a person with an impairment. This approach provides greater clarity and certainty about the obligations of duty-holders under the act and will more effectively address systemic discrimination experienced by people with disabilities.

The new provisions set out a list of factors relevant to determining whether an adjustment is reasonable, which provides guidance about how to balance the action to be taken with the expense or effort involved. If an adjustment requires disproportionately high expenditure or disruption, then it will not be reasonable. The bill continues to allow discrimination where an adjustment is not reasonable or would not be effective.

Extending protection from discrimination to volunteer workers

The bill extends the existing protection against discrimination for employees to unpaid workers and volunteers. Victoria values the countless numbers of volunteers that contribute to the life of this community and this change recognises the simple fact that a person can experience discrimination or sexual harassment in the workplace even if they are not paid a wage. Most other Australian jurisdictions provide some protection against discrimination or sexual harassment for unpaid workers and volunteers, and have done so for many years.

However, it is also recognised that this change will present challenges to some organisations, especially those in the community and not-for-profit sector that have limited resources. The bill therefore delays the commencement of these amendments until 1 July 2012. This will give organisations sufficient time to understand, and prepare for, the changes. It will also allow the commission to develop education material and to conduct training with affected organisations. It is anticipated that the commission will collaborate with a range of representatives from organisations that rely on volunteers in developing this material.

Exceptions to unlawful discrimination

As noted above, given the high level of community interest that the issue attracted, the government requested SARC to undertake a review of the exceptions and exemptions in the current act. SARC tabled its final report in November last year.

The government has considered SARC's recommendations and is tabling both this bill and a formal response to set out very clearly its position on the exceptions to unlawful discrimination.

The government's aim in reforming the exceptions is to ensure that they are reasonable and appropriate, and in line with other government policies and laws. The government agrees with SARC that consistency with other jurisdictions is desirable and this approach has been adopted where appropriate. However, exceptions that allow discrimination that is already allowed by another law are redundant and have been repealed. The bill has also repealed exceptions from the 1995 act that served no purpose and, in some cases, caused considerable confusion.

There will always be circumstances in which discrimination is justified. In equal opportunity law, these circumstances are reflected in the exceptions. Exceptions balance the right to be free from discrimination with other important rights. Most exceptions are straightforward, non-contentious and indeed expected, such as allowing sex discrimination in employment for jobs involving fitting clothes or conducting body searches; or allowing discrimination against a person with an impairment where not doing so puts a person's, or the public's health and safety at risk.

Other exceptions are not so straightforward and framing them involves the difficult task of balancing competing rights. This bill draws that necessary line.

The religious exceptions — those allowing discrimination by religious bodies, religious schools and individuals based on their religious belief — have been particularly contentious. Framing the religious exception involves striking the balance between freedom of religion and freedom from discrimination. The bill retains, but tightens, the religious exceptions.

Discrimination by religious bodies and religious schools will no longer be allowed on grounds such as race, age and impairment, which are not connected to any religious doctrine. However, discrimination will continue to be allowed on other grounds such as religious beliefs, sex and sexual orientation, which may be connected to particular religious doctrines.

In order to rely on the exceptions, religious bodies and schools will have to show that the discrimination conforms with the doctrines of the religion, or is reasonably necessary to avoid injury to the religious sensitivities of adherents of the religion. In relation to employment, religious bodies or schools who wish to discriminate will have to show that having a particular attribute, for example being heterosexual, or being of a particular faith, is an inherent requirement of the particular job. This will continue to allow religious organisations to remain faithful to their religious doctrines where this is required for a particular job while prohibiting discrimination where it is irrelevant to the job.

In order to avoid requiring people to act in a way that is inconsistent with their faith, the exception allowing individuals to discriminate where this is reasonably necessary to conform with the doctrines of their religion has been retained. This exception has also been narrowed to only apply to certain attributes and to require a more objective assessment of when such discrimination is necessary.

Another area that has been contentious is that of private clubs. Regulation of club membership grapples with the right to freedom of association as well as the right to freedom from discrimination.

Most jurisdictions in Australia define clubs by reference to their membership size and whether they hold a liquor licence. The bill adopts this definition and drops the distinction between private and other clubs in the current act. The rationale behind this approach is that the granting of a liquor licence by the government is accompanied by responsibilities to the community, and this should include the responsibility not to discriminate without justification.

No other jurisdiction defines clubs by reference to whether they are on public land or receive public funding, which is the definition in the current act. No other jurisdiction allows clubs to discriminate in a wholesale fashion simply because they occupy private land or do not receive public funding.

There are some exceptions to the prohibition against discrimination in relation to club membership. Exceptions exist in the current act to allow clubs for minority cultures and for different age groups. These are retained in the bill.

The bill also includes a new exception allowing single-sex clubs, one that has been included to avoid inconsistency with the commonwealth Sex Discrimination Act 1984. While there are various community views on this issue, and the house would be well aware of my view, I believe we have struck the right balance, limiting the ability of single-sex clubs to discriminate at whim against a whole range of people.

Obviously it is a matter for the commonwealth government to decide whether to amend their Sex Discrimination Act in relation to single-sex clubs, and if they took such action, all states, including Victoria, would have to review their law in this area. In order to promote transparency and ensure that the exception is being applied in as narrow a way as possible, however, single-sex clubs will be required to make their membership rules publicly available.

In addition to reforms to these two contentious issues, reforms have also been made to a number of exceptions in relation to employment. While modest, these reforms will clarify the rights and duties of employers and employees. A number of exceptions in the current act appear to give rights to employers that they already have. These exceptions have been repealed. For example, employers have the right at common law to set reasonable terms of employment and to set reasonable standards of dress and behaviour, so the exceptions appearing to give those rights to employers have been repealed.

I wish to make it clear that in repealing these redundant exceptions the government in no way intends to take rights away from employers. Rather, it intends to avoid the confusion that can arise from including such rights as exceptions in equal opportunity law. Repealing these exceptions aligns Victoria with other Australian states.

Conclusion

Each example I have cited tonight illustrates the way in which the government has taken a measured approach and, step by step, struck the right balance. We have sought the views of the community; we have carefully considered the recommendations both of the independent reviewer Julian Gardner, and those of SARC in relation to exceptions and exemptions; we have recognised that an appropriate amount of time is required to prepare for commencement of the new legislation, which is why the bill builds in a default commencement date of 1 August 2011.

Just as importantly, we recognise that this legislation is just part of a broader framework — one that includes other laws such as the Charter of Human Rights and Responsibilities and the Racial and Religious Tolerance Act 2001, yes, but which also includes wider efforts, such as programs which educate, which raise

awareness, which strengthen communities and equip them to support the fair go.

In introducing this bill to the house today, then, I take the opportunity to thank Julian Gardner, whose report provided the opportunity for us to look at this area of the law with new eyes; as well as the members of SARC, a committee that plays a very important role in our parliamentary process. I thank the many, many contributors who took the time to express their views to both the Gardner review and to the SARC inquiry; and I thank the commission for their tireless support of a fair go for all Victorians. I also thank the hardworking officers from the Department of Justice, as well as Mr Brian Tee, MLC, for their commendable work on this significant piece of reform.

This bill is about bringing equal opportunity law into the 21st century. Supported by the best academic and industry research, and by the practical firsthand experiences of businesses that have long known the value of tackling discrimination on a systemic rather than just an individual level, this bill is about reflecting the value that Victorians place on the fair go — on the opportunity of every person who lives here to contribute to the social and economic life of this great state.

I know all members of this house who support the fair go will support this legislation, all members who have a belief in the equal rights and dignity of every person.

As much as we may champion the equal opportunity reforms of 30 years ago, our understanding of the way discrimination operates has changed. We now understand that we cannot satisfy the fair go by merely reacting to discrimination once it has occurred — that we must instead be positive and proactive about tackling it in all its various forms.

It is time, then, to take this next step in our journey towards a fairer society, towards realising our shared affection and ambition for the fair go.

It is time to make every opportunity in Victoria a genuinely equal one.

I commend the bill to the house.

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

Mr HULLS (Attorney-General) — I move:

That the debate be adjourned for two weeks.

Mr CLARK (Box Hill) — I am sure the Attorney-General would be the first to agree that this is a very far-reaching bill he has introduced to the house. A quick assessment reveals that it make changes in a wide range of areas that affect many different groups within the community. Picking up briefly on the second-reading speech, matters the Attorney-General has referred to include a proposal for new powers for proactive investigation of systemic discrimination, a restatement of the definitions of discrimination in positive terms, further changes to the definitions of discrimination, a goal of equality of outcomes, the establishment of positive duties to make reasonable adjustments, the extension of prohibitions from discrimination to volunteer workers, the terms for the implementation of the exemption for religious and faith-based bodies and schools and whether or not the bill gives effect to the announcements made by the government some time ago, and the provisions relating to private clubs.

All of these and many other measures contained in the bill affect a wide range of different groups and individuals within the community. It obviously follows that there is a need, firstly, for the opposition and other MPs to consult widely in relation to the bill, and, secondly, a need for many different groups in the community to read and assess what is obviously a large and complex bill to be able to be in a position to respond to matters that make significant alterations to the existing law and will have significant effects on their activities.

Given those facts and given that Parliament will be sitting two weeks from today, it may well be that if the government brings the bill on for debate at that time, there will not have been an adequate opportunity for those community groups and Victorian citizens who will be affected by the bill to give proper consideration to the legislation and make their views known to members of this house. There will also have been an inadequate opportunity for the opposition and other members to engage with and receive the views of those various groups and individuals. With that in mind I ask that the Attorney-General undertake, should it prove necessary and should it prove to be not feasible for all groups and individuals who will be affected by the bill to have a reasonable opportunity to have input to members of Parliament on the legislation, to allow more time than the two weeks set out in this motion before he seeks to bring the bill on again for debate in this house.

Mr HULLS (Attorney-General) (*By leave*) — On the question of time, it is true that this piece of legislation is substantial but consultation on this legislation has taken place over a long period. There has been community input on this bill from the time we

announced that Julian Gardner was conducting a review of the act to the point at which SARC (Scrutiny of Acts and Regulations Committee) conducted public hearings in relation to the exceptions and exemptions. I do not recall any piece of legislation on which the government has embarked on such an extensive consultation process as the process for this bill.

Groups right across the spectrum of the Victorian community have been consulted, not just by the government but also by members of SARC, which is a committee made up of representatives from all political parties. As a result of the SARC recommendations and the Julian Gardner review I contend there is nothing in this bill that requires any more than the normal consultation period.

I could understand the shadow Attorney-General's view if this was a bill that had been plucked out of the blue, if there had been no announcement on the nature of the forms, if there had been no indication given to the Victorian community about the general tenor of the reforms, including the ability to address systemic discrimination and the exceptions and exemptions, but that has not been the case with this bill. I repeat that there has been enormous consultation over a long period of time, some years in fact. In my opinion, if the shadow Attorney-General is not able to consult on this bill with the relevant stakeholders, then he is not doing his job appropriately.

It may well be that he wants to raise further issues during the debate. This is all about getting down and doing the hard work and consulting on a piece of legislation that has already been consulted on. The general thrust of the legislation has been consulted on, and there have been public inquiries into the exceptions and exemptions in the legislation.

Honourable members interjecting.

Mr HULLS — Whilst it might be smart for those opposite to be making inane interjections across the table, the fact is that this is an important piece of legislation. It is not due to come into effect for a substantial period of time to ensure that appropriate processes are put in place to phase the legislation in. There is also a further phase-in period, particularly in relation to volunteers. It is just a nonsense to be saying that there has not been consultation in relation to the general direction of this bill and that this bill has been sprung upon people.

I repeat that I do not know of one piece of legislation that has been introduced in this place in the last 10 years that has had so much consultation to get it to this stage. Two weeks is more than enough time for the adjournment of debate on this legislation. I urge the shadow Attorney-General to get on and consult. I am more than happy to offer him, through my department, as many briefings as he wants in relation to the legislation, but I would be most surprised if any of this bill comes as any surprise to him or his colleagues because when he looks at the exceptions and exemptions aspect of the bill he will find that most of SARC's recommendations are being implemented. Let us get on with the consultation and have the debate on this very important piece of legislation in two weeks time.

Mr O'BRIEN (Malvern) — The time is 9.10 p.m. on Wednesday evening. The people of Victoria have only had the opportunity to see this piece of legislation since about 9 o'clock tonight. This minister thinks that he can have all the time in the world to put it together, to get rolled in the process on some issues and to be given his head on others, but that the people of Victoria and members of this Parliament should be allowed to have only two weeks to consider a piece of legislation which will turn equal opportunity on its head.

The reason more time is required on this matter can be summed up by referring to page 7 of the second-reading speech, which says that achieving equality is about treating people differently 'to aim for equality of outcome, rather than just equality of opportunity'. This is turning the fundamental principle of equal opportunity law in Victoria on its head. That is clearly the intention of the Attorney-General and his government who think that something which is such a fundamental change in how equal opportunity legislation operates in this state should not be subject to proper scrutiny and debate.

If this matter were to go and be debated in Parliament in two weeks time, we would have at most one hour on the Wednesday night of the next sitting week and then one day. Quite clearly the idea is that the Attorney-General will gag debate on this bill. He does not want to give us time to consult. He does not want to provide time for the opposition to consult with the Victorian community, with those groups that are going to be affected by this, like those new groups which have never been subject to these equal opportunity laws before but are going to be brought into his net. The Attorney-General wants us to have no time to consult. He wants to give the Victorian people no opportunity to learn what this bill is going to do to them, how it is going to change the way they go about their lives, businesses and private activities. He does not want to give them the time to do that. He wants to have this rushed through as quickly as possible so that he will not

be embarrassed in an election year by being exposed for what he is trying to do.

The Attorney-General said that the general thrust of this bill has been known for quite some time. The Attorney-General must have gotten his law degree from the same place as Dennis Denuto from *The Castle* because the general thrust, the vibe — call it what you will — is not the same thing as a bill. A bill is a specific piece of legislation and it requires time to be consulted on. It requires time to be debated properly. The Attorney-General can talk about the general thrust all he likes, but the people of Victoria only saw this piece of legislation about 15 minutes ago and they deserve far better than to be shoehorned by this minister and his radical left-wing agenda into rushing this legislation into and through the Parliament with minimum debate, scrutiny and consultation.

The member for Box Hill has put very reasonably and rationally why it is so important that there be adequate time for this bill to be debated and why it is so important that there be adequate time for consultation on this bill in relation to not only the way in which the bill is going to change the way equal opportunity works but also the fact that new groups are going to be subject to it.

Does the Attorney-General really think members of the Parliament are not entitled to speak with volunteer organisations and to find out from them what impact this bill might have on their operations? Does the Attorney-General really think that two weeks are sufficient? The Attorney-General says, 'That is all right because we are phasing in the way in which the bill will impact on them'. The Attorney-General says, 'Take my word for it. Do not take time to consult on what is in here. Do not take time to debate it properly. Just pass it and it will be okay because it will not start for two years'. That is not the way Parliament is supposed to work. Parliament is supposed to work on the basis that legislative propositions contained in bills are thoroughly consulted on and thoroughly tested before they pass the Parliament. Why is the Attorney-General so frightened of giving the community, the Parliament and the opposition the opportunity to look through this bill and to discuss it with those organisations and businesses and individuals and groups who are going to be affected by it? What has he got to hide? The Attorney-General's failure to support the very reasonable position put by the member for Box Hill speaks volumes about what is contained in this bill.

Mr LUPTON (Prahran) — I rise to speak against the proposition the member for Box Hill has advanced and to support the motion that this matter be adjourned for two weeks. In that context I think it is important for the house to have a bit of a look at the history of this legislation, how it has developed, the processes that have gone into developing the bill that is currently before the chamber and the way in which the community has been involved in that process over an extended period of time.

The Equal Opportunity Act that is currently in place in Victoria has been on the statute books for a considerable period of time, and it was undoubtedly right and proper for the government and Attorney-General to go through a process of review in order to ascertain whether or not it was appropriate to reform and modernise that piece of legislation which was, I have to say, advanced and in some respects groundbreaking for its time. It has been on the statute books in Victoria for a considerable period of time, so it was right that a review was undertaken and that the public, the community of Victoria, was widely consulted and involved in that review process.

The Attorney-General set up a public consultation and review process chaired by that well-known law reformer Julian Gardner, who has made a great contribution to the community of Victoria over many years in a number of roles. He is in fact regarded as an expert not only in this field but also in the area of community consultation. The review that was carried out by Julian Gardner consulted the Victorian community very widely and over a significant period of time.

I think it is probably right to say that the review was carried out from Mildura all the way to Mallacoota and everywhere in between, even Melbourne. No doubt there were people from Malvern, Box Hill and I suggest even from Doncaster involved in that review. I can knowledgeably say that many people involved in the Prahran community were part of that review process, and it was as a result of that wide, broad and deep community consultation that the government has developed this legislation. Not only that but since the Gardiner report was delivered there has been continuing consultation with a wide range of groups, from clubs to churches and community organisations across the length and breadth of this state, to ensure that the views of the community are well known, understood and taken into account.

There is no doubt that there is a wide variety of viewpoints about this sort of legislation, but as a government we are determined to make sure that the equal opportunity legislation in this state reflects modern times, reflects current community attitudes,

reflects modern Victoria and the people and the community that we represent.

To suggest that the most appropriate process for this Parliament is to adjourn this legislation for some period of time other than a fortnight is wrong and outrageous and should be resisted and rejected. We need to get this debate going in this chamber and hopefully pass this legislation here and also through the other place so the community of Victoria can gain the benefit of modernised, up-to-date equal opportunity legislation that is fit for the 21st century. The delaying tactics employed by the opposition are wrong and should be resisted. This bill should be debated.

Mr JASPER (Murray Valley) — I implore the Attorney-General to listen to the comments made by the member for Box Hill in seeking to get a further adjournment of debate on the legislation beyond the two weeks which he has moved.

Mr Hulls — How long for you?

Mr JASPER — If the Attorney-General will listen — and it is about time the Attorney-General did listen on occasion — I will make some comments. I am a member of the Scrutiny of Acts and Regulations Committee (SARC) and participated in extensive investigations into this legislation. I acknowledge the comments made by the member for Prahran and also by the Attorney-General about the extensive investigations undertaken by the government. He mentioned the investigations by the Scrutiny of Acts and Regulations Committee and the recommendations that committee came up with.

What we are seeing tonight is the Attorney-General introducing the bill into the house and the government saying, 'We want you to have a look at that bill in two weeks', but we do not know what precisely is in the legislation. The opposition needs to look at the legislation and review it as it refers to the original act, the current Equal Opportunity Act, to see how people we will be consulting with over that period of time consider the matter.

I suggest to the Attorney-General that as a country member of Parliament I would take this bill back into my electorate. The opposition would distribute it to responsible people who can comment on the legislation. To expect the opposition to be able to get appropriate responses and be able to come back into this Parliament in two weeks time to debate the legislation is not quite in the world of reality.

Mr Hulls — You can do it, Ken. Don't put yourself down.

Mr JASPER — The Attorney-General says I can do that. As a member of Parliament from north-eastern Victoria I suggest to the Attorney-General that we go home on Thursday or Friday night to our electorates, we distribute that legislation to responsible people within the electorate and beyond who will respond to us when they are able to assess the legislation. They can then come back to us and say, 'This is what we think the legislation will be doing, where it may affect us adversely or otherwise affect people in your electorates'. It may be that the current legislation is quite adequate.

I listened with a great deal of interest in my office to the second-reading speech given by the Attorney-General where he commented on the extensive representations and investigations undertaken on the legislation. Until we get the bill in the Parliament we do not know what it is saying. We need to be able to reflect on that proposed legislation and see how it is different from the provisions of the current Equal Opportunity Act. We need to go back to the people who can respond and comment on the legislation. The opposition believes that that may not be able to be done in the next two weeks.

I implore the Attorney-General to give some thought to this one. The Attorney-General quite rightly says this legislation has been under investigation for an extended period of time. He says it is groundbreaking legislation and he believes the changes will be adequate in bringing the Equal Opportunity Act into the current century. If that is the case, we need the most time we can have to be able to assess that legislation on the basis of the investigation undertaken by Julian Burnside and then by SARC, and to be able to come back — —

Mr Hulls — It is Julian Gardiner.

Mr JASPER — Thank you for the correction. It is all right for the Attorney-General to smile, but on occasions one makes a small mistake.

Mr Hulls — We couldn't afford Julian Burnside!

The ACTING SPEAKER (**Mrs Fyffe**) — Order!

Mr JASPER — I understand what the Attorney-General is saying. Let us get it quite correct: it is Julian Gardiner. The only person who does not make a mistake is one who says nothing, so the Attorney-General should not be laughing. He says this legislation is serious. I believe it is serious too. I believe we should look at the information provided in the investigations undertaken by Gardner and SARC and be able to come back after we have been given further time to understand the implications of this legislation and been

able to go to the people who will be able to respond appropriately to the legislation, whether it is positive or negative, and see how the government responds.

I believe the Attorney-General should stand in this place and say that if further time is required, he will consider the suggestion put forward by the member for Box Hill. To get the best legislation going forward, just as the Attorney-General suggests, let us have time for consultation so we can look at the legislation objectively and put forward representations from the people we represent in our electorates right across Victoria. I acknowledge that the legislation will not be introduced until 2011 but we as a Parliament need to be able to look at this bill and see how it affects us as members of Parliament, come back, adjust the bill and debate it accordingly.

Motion agreed to and debate adjourned until Wednesday, 24 March.

SEVERE SUBSTANCE DEPENDENCE TREATMENT BILL

Second reading

Debate resumed from 9 March; motion of Mr ANDREWS (Minister for Health).

Mr PERERA (Cranbourne) — I rise to speak in favour of the Severe Substance Dependence Treatment Bill 2009. This is a very important bill designed to protect the people who have gone off track and become dependent on substance usage to their detriment. Therefore I am very pleased to see bipartisan support for this bill.

Drug and alcohol abuse ruins lives, damages communities and disrupts families. Victorians are concerned not only about the welfare of these groups but also about the potential harm they cause to society in so many ways.

Convicted drug traffickers end up with capital punishment in some jurisdictions around the world. Assisting people to deal with their drug use and get their lives back is an important part of the Brumby government's alcohol and drug policy. This bill aims to save the lives of the small number of individuals who have reached the point of severe harm due to their long-term addictions and their inability to make decisions about their lives.

The legislation is intended to provide life-saving care when all forms of voluntary treatment and action have failed. This bill was introduced after wide consultation for a period of time with key stakeholders. A discussion paper was released in 2005 calling for submissions. Since that time the Department of Health has been working with key stakeholders, including other government departments, in particular the Department of Justice, in developing this important piece of legislation.

This bill addresses difficult and complex issues. Given the issues involved, the Brumby government was committed to getting it right. This meant taking the time to carefully target and draft the bill to get it right the first time, and the Brumby government got it right. I congratulate the minister and the government for that.

Research in this area has shown that civil commitment for a short period can be effective in harm minimisation in life-threatening circumstances. It is the view of the Brumby government that the limitations introduced by the bill are necessary, and it can be demonstrably justified that they are proportionate. The bill is ultimately concerned with protecting and upholding a person's right to life.

This bill will repeal and replace the Alcoholics and Drug-dependent Persons Act 1968, which provides for involuntary treatment and detention but does not comply with the charter of human rights. Only 6 to 10 persons have been detained under the Alcoholics and Drug-dependent Persons Act 1968, and it is expected that the status quo will prevail. These are people who have completely lost the capacity to make decisions about their substance use and personal welfare. This bill provides for a period of up to 14 days detention and treatment for those who are over 18 years of age. The treatment is restricted to medically assisted withdrawal. The determination to allow 14 days is based on the clinical advice on withdrawal, assessment and treatment. Withdrawal commonly takes 7 to 14 days.

Only after withdrawal can an adequate assessment be made of a person's capacity to make decisions about their substance use and need for further treatment. After 14 days the person will be discharged but they may choose to stay if doing so is deemed to be beneficial for the person. After 14 days it is not the end of the world: they can still be in safe hands.

This bill provides the opportunity for any adult to help somebody who engages in severe substance usage by making an application through the Magistrates Court for an order for detention and treatment. A detention and treatment order is a serious matter as it deprives the person who is the subject of the order of their liberty. Therefore it is appropriate that the order be made by a

court rather than by a medical specialist or a tribunal. However, the applicant needs to provide the information about the person's cultural and social background. This information is provided to enable the court to make decisions about the detention and treatment in a restrictive environment.

Some communities will have close-knit, large extended families. These connections could be useful in the long-term treatment process. Members of some communities will experience a negative impact as a result of their isolation from their family and community.

The bill aims to break the cycle of drug use among those where it poses a real risk to their wellbeing. The bill provides the opportunity for a person to nominate a person to act on their behalf. That person can also act independently if they see fit for the benefit of the person receiving the treatment. This role is not intended to be one of advocacy; the Office of the Public Advocate will play the advocacy role. The bill will facilitate the Office of the Public Advocate in assisting a person throughout this 14-day period and if necessary making an application to the courts for early release.

In 2009–10 the Department of Health will provide $127.5 million for drug prevention and treatment programs through more than 105 alcohol and other drug services across the state. The Brumby government committed $37.2 million over four years in the 2008–09 budget for initiatives outlined in the Victorian alcohol action plan. Since 1999 the government has made a record investment of over $490 million in a wide range of initiatives across government to address drug and alcohol issues in Victoria.

Since coming to office the Labor government has almost doubled the number of drug treatment beds. Waiting times have been cut. Counselling waiting times have decreased from 6.3 days in June 2000 to 2.2 days in December 2008. Residential withdrawal waiting times have decreased from 9.4 days in June 2000 to 6 days in December 2008. Unfortunately, despite the availability of voluntary drug and alcohol treatment, there is still a need for this bill. The bill and the proposed service model provide a specialised response for a small group of people with high and complex needs. This group of people has come to the attention of many agencies over many years.

By providing a specialised and more effective response this initiative will build capacity within the sector and reduce some of the burden on other health services. This legislation and the service model will result in substantial improvement to the health services supporting these individuals, including increasing specialist medical and intensive support with up to six months of follow-up support for voluntary treatment in the community. The proposed service model will be fully funded by the Brumby government. I commend the bill to the house.

Mrs FYFFE (Evelyn) — As a parent you are painfully aware of the harm that can come to your children from substance abuse. You hope desperately that none of your children will ever come home one night with a glazed, emotionless expression, over-hyped or drifting in and out of consciousness. However, it happens every day to many families from diverse backgrounds. As the member for Preston said last night, it has a wide rippling effect on someone, whether it is a parent, a sibling, a friend or a child. If someone becomes addicted, it affects many people.

Substance use ranges from ad hoc experimentation to more entrenched binge drinking, which is, disappointingly, a common practice among many under-age children today. Irrespective of the pattern of use, parents are usually left shocked and fearful about what lies ahead. Deciding what to do next begins a long and challenging journey that can wear away the strongest and most loving bonds. Those who become seriously addicted to alcohol or other drugs are the people who will need the support that this bill will provide.

The bill will repeal the Alcoholics and Drug-dependent Persons Act 1968. It aims to set out criteria to determine the detention and treatment of a person with a severe substance dependency. This measure will apply where the situation is urgent and classified as fatal or necessary to prevent serious damage to a person's health.

The 14-day detention and treatment order provides a short period of detoxification which provides a substance-dependent person with an opportunity to detox in order to be in a position to make decisions about future treatment. The bill focuses on the involuntary commitment of non-offenders to treatment. In Australia drug dependence is not a crime nor is it subject to the criminal justice system unless it is associated with an offence. An average of six people per year are admitted to treatment centres, which is not expected to increase when this bill comes into effect. As I remarked earlier, those are the people who are very much addicted, whose families can no longer reach them and who need that extra help to break from their addiction.

In the past there have been a number of issues with section 11 orders. The 2004 Turning Point review

identified that very few magistrates and drug and alcohol treatment providers were aware of the powers of the legislation. Also, section 11 orders were sometimes used as a way of circumventing treatment agency waiting lists. Australian legislation has been criticised as breaching a number of human rights such as right to liberty, freedom from arbitrary treatment and access to an independent appeal process. There are some areas of concern with this bill and although I note that the Minister for Mental Health was not able to present the second-reading speech, I hope that she can come into this house at the end of the debate and give serious responses to all the areas of concern that have been raised by several of the contributors to the debate on this bill.

It is noted that the government is yet to complete the accompanying regulations for this bill, which could have a significant bearing on its effective operation. Failure to properly define who will be responsible for assessing a person with severe substance dependence may lead to inaccuracies in the way the bill is administered. In the bill it is a 'registered medical practitioner' who is charged with assessing the individual, and that is a very general field of expertise.

I read in the minister's second-reading speech that she acknowledges the need for practitioners to have some knowledge or experience of alcohol or other drug treatment issues. Experience certainly suggests that a specialised set of skills is required to be able to negotiate with a drug or alcohol-dependent patient. It is not simply a case of identifying that there is a problem and shuffling the patient off to the next person. Given the minister's acknowledgement of the importance of using specific categories of medical practitioners to accomplish the goals of the bill, I am curious why this detail has been omitted from the bill and will be considered in regulations that are yet to be devised. I would like to see the categories of specialised medical practitioners formally identified in the bill so that corresponding accountabilities can apply.

Under clause 20 of the bill a detention and treatment order must be made by the Magistrates Court before detention is authorised. However, a patient can walk out of the facility whenever they choose. This right has been guaranteed by section 12 of the Charter of Human Rights and Responsibilities Act which provides that every person lawfully within Victoria has the right to move freely within Victoria, to enter and leave it and to have the freedom to choose where to live. While I concur in principle, in my mind's eye I cannot help but picture the devastating condition many people are in when suffering substance dependence. I cannot help but feel that we are in fact letting these people down by making it too easy for them to opt out of help. Requiring that the individual be detained for treatment for a period of 14 days while they detox so they can make what is believed to be a more informed choice about future treatment is not likely to be long enough.

For many drug and alcohol-addicted people it is not just a substance reliance they have developed, it is a behavioural reliance. In other words, after 14 days the addictive substance may be out of their system yet the routine — the people they have shared their addiction with and the places they have frequented — is just as likely to suck them back into the cycle. The human right provided for in section 12 of the charter was undoubtedly developed to prevent harm to an individual and unfair treatment by the state. While I appreciate that some may see forced completion of a prolonged treatment program as psychologically scarring for an individual who does not believe they are ready for it, it must equally be recognised that when someone has been jolted out of a substance-induced haze through detoxification, it is frightening to them. They are seeing the world in a very different way to what they have become accustomed to. Suddenly the problems they have been trying to avoid, suppress or delete are front and centre. Therefore when they are released after 14 days the temptation to slide straight back into a zombie-like state is overwhelming, which is why so many people with drug dependency relapse.

My worry is that we will have people referred to detention with a treatment order only to drop out before they can fully function as clean and sober members of the community. People who eventually join Alcoholics Anonymous to try to overcome their alcohol addictions are told that every day they must remember they are an alcoholic and that it never goes away. So how will we have really helped these people with the two weeks? What will have been the cost to the taxpayer?

I am aware that the Scrutiny of Acts and Regulations Committee has received a number of submissions regarding this bill, expressing concern about detention without consent and the way in which it is seen to encroach on personal liberty. I certainly have the utmost respect for a person's freedom. This why it is imperative that the justifications for treatment are robustly tested by the Magistrates Court.

I receive copies of the drug and alcohol journal *Of Substance* which gives a complete picture and provides a tremendous amount of information. Out in my electorate I meet and talk with people, and I have friends who have had family members with alcohol and drug addictions. It is very difficult. As I said, the member for Preston encapsulated that when he spoke

about how it reaches out into a wider circle. It is not just the person who is addicted who has the problems, it is everybody else who is trying to help them as well.

It is very interesting that the minister's second-reading speech highlighted that the bill focuses on the most severe cases to ensure any delays in hearing an application should be kept to the minimum possible in the circumstances — that is, the court must list the application for hearing within 72 hours of the application being lodged. But what about all those people who do not qualify as being the most severe? What is to become of them? The impact that substance abuse has on a person's physical and mental health is horrendous. While I recognise the need to set priorities, one cannot help but feel that if the current government was to dig a little deeper into its hip pocket, it could extend services to a wider group of people trying to break the habit. I am sure we will all wait with bated breath to see what additional support is provided for people with drug and alcohol dependence in the 2010–11 state budget. I know I will.

In regard to my own electorate, in October 2005, which is the latest date for which I can find any detailed statistics, it was reported that Yarra Ranges recorded more overdoses of prescribed drugs and amphetamines over 12 months than any other council in the eastern region. Paramedics were called to 244 drug-related incidents across the shire. Of these 16 were heroin related. Alcohol is also a big problem in the shire of Yarra Ranges and in my electorate, and people who are intrinsically decent can find themselves unable to control aggressive impulses. The next thing they know they are being taken off to the police station for questioning about an incident of which they have no recollection.

Failure to treat a substance dependence can see people who would never harm a fly doing the most outrageous things, only to regret them later, and much more has to be done for people suffering from these addictions — and these addictions are an illness that maybe masking other things in their lives. However, they need assistance. I hope the Minister for Mental Health comes into the chamber and responds to our concerns.

Dr SYKES (Benalla) — I rise to contribute to the Severe Substance Dependence Treatment Bill. This bill reforms the Alcoholics and Drug-dependent Persons Act 1968, and its main objective is to set out criteria determining the detention and treatment of a person with a severe substance dependency.

A number of speakers made presentations on the bill, in particular the members for Doncaster, Mildura and Shepparton all raised issues, as did the member for Evelyn. The issues that have caught my attention include the low number of people that this bill caters for, and I suspect it is artificially low because there appear to be no formal waiting lists. Secondly, a matter which was raised by the member for Doncaster is that there are charter of human rights issues that need to be worked through delicately. In addition the bill is light on detail, and we are yet to see the regulations, so it is another 'trust me' bill.

In relation to compulsory treatment, it is suggested that the jury is out on the role or effectiveness of compulsory treatment. Whilst there are certainly some benefits, including respite for the carers, there are concerns about the success of compulsory treatment if the patient is not motivated to change their behaviour, and also about how successful a two-week detention can be, albeit that there is post-discharge care incorporated into the thought processes. On the issue of the two weeks, for those of us who did FebFast and went without alcohol for a month, it would be fair to say there was still a lingering for a drink at the 14-day mark.

In relation to the relevance of this bill to my constituents, I had to deal with a difficult situation only a few months ago in the electorate of Benalla, where a person came to me expressing concern about the wellbeing of a friend of his. I will read out what this person said to me because it shows the complexity of the issue:

> As you know I have cerebral palsy, chronic obstructive airways disease, and multiple massive head injuries, and have lived on the streets for a fair time. Some of these people —

the ones sending his friend away —

> should try this for a while — being in a wheelchair for over 20 years. They couldn't cope like I have had to, they would mentally and physically fall apart.

The person with that condition came to me on behalf of his friend who was living under similar circumstances on the street, and the friend had been relocated to a care situation about 80 kilometres away. I followed up on behalf of this person and was able to establish that the patient had gone willingly to an intensive form of care; that the Office of the Public Advocate had been appointed his guardian for 12 months; that the management of the person's finances was being dealt with by the State Trustees for a period of three years; and that these processes would be reviewed upon completion of the appointed time. There is in place a mechanism for dealing with people in these serious circumstances, but clearly there is a need at times to take the next step and make this treatment compulsory.

Other members, including the member for Shepparton, highlighted the importance of appropriate facilities in country Victoria. Locally we have one facility. That is Odyssey House at Benalla. It has a voluntary program for people wishing to kick drug and alcohol abuse problems. It is called the Circuit Breaker program. The member for Shepparton, Damian Drum, a member for Northern Victoria Region in the other place, and I have been to the premises and spoken with patients — people grappling with their alcohol and drug abuse problems and addictions — and I take my hat off to them for the courage they have demonstrated in facing their demons.

A critical success factor for any form of treatment is that these services must be available at the time the person develops and exhibits the strength to say, 'I want to kick the habit'. That means we need these facilities to be made available. We need beds and accommodation available at short notice, and to only have a small number of beds available in country Victoria means that this program is going to be denied to many people in need of this support.

The other thing about people in country Victoria — and this was demonstrated at the F House facility at Benalla — is that country Victorians can feel more comfortable going to an establishment in the country. They feel at ease in the country environment, watching the little robin red breasts flittering around the garden and listening to the magpies warbling in the morning. That puts them at ease and helps them kick their habit so it is critical that we have these facilities available in the country for country people.

The next issue is for people to have access to these facilities. You need the physical presence of the facility but you also need access to these sorts of facilities and other specialist treatment, and that is where we have a problem with country people being able to access facilities that other people in metropolitan Victoria consider to be as of right.

I am talking about the need for the Victorian Patient Transport Assistance Scheme (VPTAS) to be overhauled so that people in need of these sorts of supports and other medical specialists can access that support, as people living in metropolitan Melbourne do as of right. We are talking about adjusting the eligibility criteria so that it is not so draconian, so that people do not have to live at least 100 kilometres from specialist support, they do not have to travel at least 500 kilometres a week and that the subsidy is somewhat more than 17 cents a kilometre and $35 overnight. To that end other members and I have been circulating petitions, calling on the government to review these support measures so that country people can have equitable access to medical support services, including the services that are contemplated in this legislation.

The other aspect that has been touched on by a number of speakers, certainly from this side of the house, is that prevention is better than cure, and in our area we have seen many people taken to the edge of their physical and emotional capabilities over the past 12 years. It has been the result of the drought and also a consequence of natural disasters such as bushfires. Anyone who comes to country Victoria will see the walking wounded; people who are damaged goods; people who have been damaged by 12 tough years or by the horrific experience of the bushfires, or in some cases a combination of both.

We need to support those people so that they do not go down the rocky road of substance abuse and dependence, and that is why we have outreach workers such as Ivan Lister, who has now been working in our area for six or seven years, providing an outstanding service and winning the confidence of people who have dropped their bundle. We are talking about people who are sitting around the kitchen table and do not have the courage to go out and face the light of day. They drink coffee or alcohol, but they are in a serious mess. Fellows like Ivan Lister can go along, cold call, knock on the door, engage with those people, win their confidence and connect them within a matter of hours to the essential support services, which may be straight-out GP services, but often it is mental health services and substance abuse support services.

The problem is that services such as those provided by Ivan Lister are subject to drip-feed funding, and again we have a situation where Ivan Lister's funding looks like cutting out within a short period of time. I say to the government as it brings forward this piece of legislation that it also needs to ensure that other parts of the jigsaw puzzle are in place and that that includes adequate funding for people such as Ivan Lister. In the case of Ivan's salary and on-costs it is about $100 000 of total cost. That is a very small price to pay to save the lives of many people. I can assure members that Ivan Lister, his co-workers and the people who relate with him have saved many people from committing suicide or going down the rocky road of severe substance abuse.

In concluding my remarks, I indicate that what is proposed is supported by both sides of the house. The government needs to look at some of the issues that have been raised, particularly by the member for Doncaster, in terms of application. We need to see that

the regulations and the detail reflect adequately the intention of the legislation, but we also need to have in place an appropriate number of facilities, including available facilities in country Victoria.

We need for people who need access to these services to be able to afford to get there. That means that subsidies like VPTAS (Victorian Patient Transport Assistance Scheme) need to be made more equitably available and need to be worth more. Finally, we need to ensure that prevention needs are well serviced, and I make one last plea for the government to make sure that Ivan Lister continues to be funded.

Mr LANGUILLER (Derrimut) — It is my pleasure to make a contribution to debate on the Severe Substance Dependence Treatment Bill 2009. From the outset I have to say that the bill repeals the Alcoholics and Drug-dependent Persons Act and establishes a new system of civil detention for persons with severe substance dependence.

It is worth noting the following important matters in relation to issues of eligibility for a detention and treatment order. First of all, the detention is strictly limited to adults who require immediate treatment as a matter of urgency for the purpose of saving their lives or preventing serious damage to their health. It is important to reiterate that these are extreme circumstances, which apply only to a very small group of people in the community. Unfortunately, in some instances there is a need for a compulsory detention order.

The second matter relating to the detention order is that it must be the only means by which treatment can be provided. In other words, unless the person is detained, that treatment cannot be provided. There must be no less restrictive means reasonably available to ensure treatment. Those engaged in making this determination will have to ask themselves whether that is the only measure available by which treatment can be provided; if the answer is yes, then that order must proceed.

In terms of the process of making an order, a detention and treatment order must be made by the Magistrates Court before detention is authorised. That is dealt with in clause 20. The second matter of importance is that before a detention and treatment order may be made, a prescribed, registered medical practitioner must certify that all the criteria for detention and treatment outlined have been satisfied. The categories of medical practitioners will be prescribed in regulations, which will include the expectation that practitioners have some knowledge and experience of alcohol or other drug treatment issues. A number of speakers have referred to this matter. Unfortunately, as we know, there are some individuals in the community who may well require a compulsory detention order in order to save their lives.

I wish to take this opportunity to commend the minister for the statement of compatibility on the bill. As you may be aware, Acting Speaker, I am an active member of the Scrutiny of Acts and Regulations Committee, and recommendations for the statement of compatibility have come through the committee. I think this is a good statement. We ought to put that on record. It raises relevant and pertinent issues.

In 2008 the Brumby government approved the Victorian alcohol action plan as a comprehensive strategy to prevent and reduce harm associated with alcohol misuse in Victoria. The plan included a commitment to introduce legislation to provide for the short-term involuntary detention of people with severe alcohol or drug dependence where they were at risk of serious harm. The bill does not target the issue of alcohol-fuelled violence or street drinking. Neither is the bill concerned with binge drinkers or those who become aggressive when under the influence of alcohol.

It applies strictly only to those who have substantial, severe substance dependency, and only where the practitioners involved in making this decision are of the view that the only measure available to them in order to save these individuals' lives is to apply for an involuntary detention order.

The foremost objective in the development of this bill has been to ensure that only those people with the most severe substance dependence who urgently require treatment to save their lives or prevent serious damage to their health come under the legislation. That is an important matter. Detention must be the only means by which the treatment can be provided, and there must be no less restrictive means available to ensure the treatment.

The first point of access to the legislation will be through an examination or an assessment provided by a prescribed, registered medical practitioner. The practitioner may complete a recommendation that a person be admitted to and detained in a treatment centre if the practitioner is satisfied that all the criteria for detention and treatment apply to the person. The bill has been drafted to ensure that this assessment is thorough and is made with the appropriate level of knowledge and experience.

I think this is a very good measure. It is in line with the government's commitment, in plain English, to look after people and make sure that we can provide the best basis for their quality care and their quality of life.

Business interrupted pursuant to standing orders.

ADJOURNMENT

The ACTING SPEAKER (**Mr Nardella**) — Order! The question is:

That the house do now adjourn.

Ferntree Gully Primary School: historic buildings

Mr WAKELING (Ferntree Gully) — I raise a matter of significant importance for the Minister for Planning. The action I seek is that the minister retain the current historical buildings on the site of the former Ferntree Gully Primary School and for them not to be converted for housing but retained for community use. The minister would be aware that a significant number of residents in Ferntree Gully have raised concerns about the proposed housing development on the site. Unfortunately the government failed to properly consult with the community on a range of matters, and thus they remain issues of deep concern.

I wish to raise a specific concern about the historical integrity of the original school buildings on the site. Under the government's proposal these significant buildings are to be converted to public housing facilities. This approach is clearly against the wishes of the local community, which would prefer the buildings to be retained as a community facility.

This concern is also shared by both Knox City Council and the Knox Historical Society, and particularly its president, Karin Orpen. The society is very concerned about the ongoing historical integrity of these buildings. It has grave concerns regarding the conservation of these historic buildings, with no conservation management plan being available to date.

Furthermore, I am advised that the government's heritage impact statement indicates that there is an intention for the proposed dwellings in the heritage buildings to be subdivided at a later date. This raises a number of questions as to how the historic buildings will be preserved in the future. There is no solid plan for how the historical aspects of the buildings are to be retained as they are converted to dwellings with a view to being subdivided and sold. There are significant heritage timber-lined ceilings which are not protected by the heritage overlay, and the government has not indicated how it intends to preserve interior historical features. Furthermore, converting the buildings to dwellings will remove the public's access to these historic structures. Clearly the intention of this government is to sell off this significant community asset.

The president of the Knox Historical Society has called for the government to exclude the heritage buildings from the proposed housing development and to return them to the community to ensure that our heritage is preserved for future generations and to provide a facility that benefits the community. I am further informed that the president of the Ferntree Gully School 1307 Preservation Society also has concerns about how these buildings are to be converted.

The government failed to consult with the community over this development, and now it seems clear that it is prepared to show scant regard for the historical significance of these buildings. The Kennett government ensured that the former Ferntree Gully shire hall was retained for community use; today it serves as the home of the Knox Community Health Service.

I call on the minister to take action and reconsider the conversion of these historically significant school buildings to dwellings and to identify, in consultation with the community, an appropriate community use for the buildings that will retain their historical importance.

Burnside Heights: community centre and pavilion

Ms KAIROUZ (Kororoit) — I wish to raise a matter for the Minister for Community Development. I ask the minister to support a community support grant application made by Melton Shire Council for the Burnside Heights community centre and pavilion.

The proposed project involves the construction of a new co-located community centre and sports pavilion at the Burnside Heights Recreation Reserve. It is my understanding that the council has requested $240 000 from the Victorian community support grants program and a further $500 000 from the community facilities for growth areas program. If the council's applications are successful, Burnside Heights will be on the way to having its first multipurpose local community facility. The proposed community centre and sports pavilion is extremely important in servicing the community's needs locally.

This application and the design of the facility has been a real exercise in teamwork with involvement from local residents groups, community groups and staff and students of nearby schools. It is well located to foster opportunities for broad community engagement and will tie in with other facilities, activities and schools in the area.

The Brumby government's support for practical projects like this one is well noted. This proposal is a concept that was borne out of community needs, has involved the community every step of the way and will serve and hopefully strengthen the community. This is why I call on the minister to act in support of this project by approving the grant application.

Echuca Regional Health: funding

Mr WELLER (Rodney) — I raise a matter of critical importance for the attention of the Minister for Health regarding the unacceptable condition of infrastructure at Echuca Regional Health. The Echuca hospital is in desperate need of a major rebuild, and I ask the minister to ensure that capital funds are allocated in the May state budget to enable this to commence as a matter of urgency.

Last week representatives of the medical staff at Echuca spoke out in the media on the issue, stating that patient treatment facilities were 'not acceptable'. In addition, the hospital's general ward nurse unit manager has spoken out in today's media about the difficult conditions staff work in every day.

I draw the minister's attention to a front-page article in Friday's edition of the *Riverina Herald* newspaper. The article quotes the medical staff group's chairman, Dr Peter Nesbitt, as having said:

> The time has come for the state government to recognise the facilities at Echuca hospital are not acceptable …

The article went on to further quote Dr Nesbitt as having said:

> If the redevelopment is not funded in the May state budget … staff morale will drop, clinical positions will be hard to fill and it will become increasingly difficult to maintain the current high level of patient care, whilst at the same time patient admissions and emergency presentations continue to increase.

Dr Nesbitt is a highly regarded general practitioner in Echuca, and his comments on behalf of the medical staff are a true and clear indication of the dire situation facing the hospital.

Like Dr Nesbitt I make it very clear that the staff at the hospital are doing an exceptional job despite the building's deficiencies and the challenging environment in which they have to work. They are to be commended for their efforts. However, they should not be forced to put up with such antiquated facilities any longer.

The hospital's master plan for redevelopment was completed last year, and the entire project — staged over several years — is expected to cost about $92 million. The rebuild would result in an extra 45 beds, allowing patients to be separated by gender. The number of beds available to acute, surgical, medical, obstetric, paediatric, high-dependency and palliative care patients would increase from 48 to 70, creating space for an extra 22 patients. The hospital would also receive another chemotherapy chair and 22 rehabilitation beds, which it does not have at the moment.

As the minister well knows, the emergency department is located within a 120-year-old structure and is unable to cope with the rapidly increasing demands being imposed on it. The department has only 8 treatment cubicles, and the redevelopment would create an additional 10, addressing the very large problem of patient overcrowding.

Echuca Regional Health is seeking stage 1 funding of $30 million in the May state budget to enable this critically important redevelopment to commence. I ask the minister to make Echuca Regional Health a top priority during his budget deliberations and to commit the necessary funds to enable stage 1 of the project to proceed as a matter of urgency.

Police: Carrum Downs station

Mr PERERA (Cranbourne) — I rise tonight to raise a matter for the Minister for Police and Emergency Services. The action I seek is for the minister to work with Victoria Police in expediting construction work on the much-needed police station that will service Carrum Downs, Langwarrin and surrounding areas. Over my term as the member for Cranbourne I have taken many opportunities to interact with almost all of my constituents. Residents in Carrum Downs have time and again put to me with passion and determination that they need a police station located in their area.

Although the crime rate in my electorate has decreased, the number of front-line police has increased dramatically and there has been a multimillion-dollar state-of-the-art police station constructed in Cranbourne, a new police station in the Carrum Downs-Langwarrin area is warranted as the city of Frankston's population is continuing to grow. Recently there was a situation where it was alleged that up to 25 youths

rampaged through the fences of the home of Mr and Mrs Ranjit of Carrum Downs. Victoria Police is investigating these allegations, and it is my understanding that charges have been laid.

I have met with Mr and Mrs Ranjit at their home on many occasions in relation to these alleged attacks and assisted them where I could. Mr and Mrs Ranjit's home is approximately 500 metres from the proposed police station along Ballarto Road, Carrum Downs. I ask the minister to give this matter particular attention.

Wild dogs: control

Mr TILLEY (Benambra) — I wish to raise a matter for the attention of the Minister for Agriculture on the destruction caused by disease spread by wild dogs. The action I seek from the minister is that he revise prohibitively restrictive wild dog trapping and baiting guidelines to allow Department of Primary Industries rangers to get on with the job of eradicating these pests from our landscape.

A sad legacy of this Labor government will be its 10-year-long complete and utter disregard for those at the coalface in the agricultural industry. The level of this disregard by government was spelt out recently by the acting deputy secretary of the Department of Primary Industries, Anthony Hurst, who on the orders of the Minister for Agriculture responded to a local inquiry by saying that wild dogs are recognised as an important top-order predator in Australian ecosystems and can also aid in the control of rabbits and foxes.

Acting deputy secretary Hurst went on to say that the Department of Primary Industries policy on wild dogs is that it will not eradicate them. This out-of-touch response is proof positive that the minister and the department could not be more wrong on the issue.

Wild dog, fox and rabbit populations across my electorate and more widely across Victoria are out of control. They are not the solution to the feral animal problem; they are the problem. Recently a local Burrowye farmer reported the loss of half his lambs due to wild dogs running rampant.

It has also been reported recently that research has found wild dogs are carriers of neosporosis disease, which is deadly to cattle and costs the industry in excess of $30 million annually. The Department of Primary Industries also recognises that wild dogs are vectors for hydatid disease.

The attitude of government that wild dogs should not be eradicated shows that Labor is beholden to city-centric political influences which have no regard and total disdain for the very people who feed the state. Protecting livestock from attack, disease and death is a far more important prevention of cruelty to animals outcome than protecting the vermin that inflict such cruelty. Those who work at the coalface in the fight against the destruction and disease caused by wild dogs and pest animals such as foxes and rabbits are doing so with one hand tied behind their back.

I again call upon the minister to revise these prohibitively restrictive wild dog trapping and baiting guidelines to allow the Department of Primary Industries rangers to get on with the job of eradicating these pests from our landscape.

Toyota Australia: hybrid Camry

Ms HENNESSY (Altona) — I rise to raise a matter for the attention of the Minister for Industry and Trade, who I happily see is in the chamber. The action I seek is that the minister visit the Toyota plant in Altona and meet the hardworking employees in this important industry. I understand the minister recently attended an event with the Premier to formally receive the first of 2000 Toyota Camry hybrid cars to join the state government fleet. Toyota is a major employer in the electorate of Altona, directly employing more than 3200 people at its Altona plant as well as generating many indirect jobs.

The international car industry was hit hard by the global financial crisis, and tariff import reductions have also challenged the industry. The Brumby Labor government has worked hard to protect thousands of jobs in Melbourne's west by supporting Victoria's car industry during the global crisis. It is important that we continue to provide support and promote innovation in the car industry to drive growth and create jobs. Toyota will build 10 000 of the hybrid Camrys each year for the domestic market and will export 300 vehicles to New Zealand. This will secure jobs and boost exports while also helping to meet the challenges of climate change.

I know the minister is committed to this agenda, one that is incredibly important to the livelihoods of those who work in the vehicle industry, many of whom reside in my electorate. That is why I ask that the minister take action to visit the Toyota plant in Altona.

Rail: Mildura line

Mr CRISP (Mildura) — I raise a matter for the attention of the Minister for Public Transport. The action I seek is that he publicly release the terms of reference for the Mildura passenger train feasibility

study. The minister has commissioned a feasibility study into the return of the passenger train to Mildura. Community consultations are scheduled for 16 and 17 March. The minister has employed the firm SHJ, Scaffidi Hugh-Jones, to undertake the community consultation.

The community has expressed concern about and disappointment with the Brumby government for not releasing the terms of reference for the feasibility study. Concern has turned to anger at the lack of transparency as to what, if any, studies will be conducted as part of a feasibility study. At the very least there should be studies into the social justice and equity as well as the economics of a passenger train for Mildura. Surely any feasibility study would also have a report into the track capability, level crossings and rolling stock requirements and no doubt other aspects. Various service models also need investigation.

The failure of the minister to publicly commit to a process leaves a cloud of disingenuousness over this feasibility study. The leaking of a government email about sham consultations over the redevelopment of the Hotel Windsor further angers those in Mildura who are involved in the efforts to return the passenger train service. The lack of transparency about what information will be sought and the process of the feasibility study — that is, will the community be able to comment on the draft feasibility study — has led to the inevitable conclusion that this is just another government exercise in spin without substance.

Mildura is the only major inland city without a passenger rail service. Echuca has a population of 12 358 and has a train. Ararat has a population of 7200 and has a train. Maryborough has a population of 7990 and has a train, and regional fast rail will be extended to there from Ballarat in 2010. The Mildura region's population is approximately 60 000, but it has no train.

The Mildura district is a growth area and will continue to grow, yet there is no train. If the minister is committed to a fair dinkum feasibility study, he should produce the process and lay it out for all to see and understand. If the minister is not prepared to produce the process, then Mildura now has its answer from the Brumby government on the return of the passenger train.

Clyde Road, Berwick: duplication

Ms GRALEY (Narre Warren South) — The matter that I wish to raise tonight is for the attention of the Minister for Roads and Ports and concerns the duplication of Clyde Road. I call on the minister to take action to duplicate Clyde Road in Berwick between Kangan Drive and High Street.

The member for Gembrook and I have advocated tirelessly on this issue. We have sent countless letters, made lots of phone calls and had many meetings with the minister and VicRoads. In 2008 we secured $1 million from the Victorian transport plan for a planning study to investigate how best to move forward with improving Clyde Road, including duplication and improvements to the High Street–Clyde Road intersection.

By contrast, Liberal members have said that they will tear up the Victorian transport plan, because they are opposed to widening roads in the outer suburbs. Without a planning study a future project could never proceed. We want to get the best possible outcome for the people of Berwick and its environs, and that is why this study is so important. It will tell us what is safe, what alleviates congestion and what will provide local amenity. We want to get this work right. The member for Gembrook and I will continue to advocate for the community on this issue. It is a major issue in my electorate. Many people raise this issue with me on a regular basis, as it is most important to them. I do not want people stuck in traffic jams. I want them spending time with their families.

We have had an unprecedented investment in roads in our local area. This includes upgrades to Pound Road, Narre Warren–Cranbourne Road, Thompsons Road and most of Clyde Road. We want to see the duplication of the rest of Clyde Road delivered. I call on the Minister for Roads and Ports to take action and duplicate Clyde Road in Berwick between Kangan Drive and High Street.

Bushfires: Marysville rebuilding project

Mrs VICTORIA (Bayswater) — I rise to ask the Premier to appoint an independent auditor to investigate the current status of the rebuilding project at Marysville and the activities of the Victorian Bushfire Reconstruction and Recovery Authority (VBRRA) post the horrific Black Saturday fires of 2009, with a view to reassessing who is able to obtain financial assistance. It has come to my attention that Marysville is a town divided. There are those who have chosen not to rebuild, those who are in the process of re-establishing their lives in the town, and those who have been largely ostracised, ostensibly because they were not permanent residents.

Marysville has for so long been a tourism mecca — a place of tranquillity for people to live or spend their

spare time, to enjoy Mother Nature's ambience and relax. Its main industry, tourism, kept locals thriving. The bed and breakfasts, conference facilities and natural attractions were a source of pleasure for so many and a source of income for others, but since 7 February 2009 the town has changed. As I said, some have decided not to rebuild, others have spent grant money on other priorities, and then there are those who had so much invested in the area by having a second residence. One lady described to me at length the heartache of not only the loss of the home in which she spent two to three days of most weeks but also the bitterness brewing in so many who, under the current rules, have been unable to access assistance funds.

When Australians and people from overseas dug deep in those first few days, weeks and months to provide nearly $400 million to help with a quick recovery, most would have been unaware that a significant portion of the community would be left floundering. Some had adequate insurance, as did the lady who came to see me, but that does not cover anything more than the reconstruction of her home and some of its contents. It does not allow for additional preconstruction expenses in order to make the new home compliant by today's standards. This lady will be out of pocket by up to $50 000. She often does not know where to turn or to whom. She described the activities of VBRRA officials: sometimes they make superficial site visits, but at other times they sit around waiting to be reactive rather than proactive. She wonders why the public's donations are paying so many salaries instead of healing lives.

What will happen to Marysville? There is no doubt the town has changed forever, but the government and the Victorian Bushfire Reconstruction and Recovery Authority have the ability to make a difference to its future direction right now. To make this community move forward in unison, action needs to be taken. I respectfully ask the Premier to have an independent auditor assess the activities of VBRRA in Marysville and make access to funding equitable. The generous people who supplied the money for this fund expect nothing less.

Consumer affairs: seniors assistance

Mr TREZISE (Geelong) — I raise an issue for action tonight with the Minister for Consumer Affairs. The issue I raise relates to senior citizens within our community, including in my electorate of Geelong, being subject to fraudsters running scams. I know in Geelong in the last 12 months elderly people especially have been targeted by fraudsters seeking to rip them off through some type of shonky deal. I know also that many elderly people are very wary of people who now knock on their door, ring their phone or contact them via emails. Therefore the action I seek is for the minister to come to Geelong to meet with representatives of elderly citizens within my community to discuss what the government is doing about protecting them from such fraudulent practices and to provide people with ideas so they can protect themselves, their families and their assets from these sleazy operators.

We are all aware of fraudsters who are constantly looking for new schemes or scams to rip off unsuspecting people. They can be scams of people knocking on your door and asking to paint or repair your roof, which is one such fraudulent scheme that has done the rounds a couple of times in Geelong over recent years. As I said, elderly people are particularly susceptible to this scam, and this is one prime example. Scams can also come over the phone. As we all know, at night people are inundated with phone calls. Although they are annoying, most of them are legitimate, but a small percentage of these phone calls are shonky, The elderly are especially susceptible to such phone calls. The email system is also sometimes bombarded with notifications of million-dollar lottery wins or shonky messages allegedly from major banks. Those fraudsters are looking for people's banking details. Elderly people who are starting to use the internet or email are particularly susceptible to handing over their banking details.

This issue is of concern to my community. It is especially of concern to the elderly people who unfortunately can be easily preyed upon and duped into giving their private details or handing over hard-earned dollars. I ask the Minister for Consumer Affairs to come to Geelong to discuss this important matter with representatives of seniors within the community.

Responses

Ms D'AMBROSIO (Minister for Community Development) — I want to congratulate the member for Kororoit on her dedication to serving her constituents. She has taken a keen interest in pursuing and clearly advocating to me a project that is important to her local community. The member has asked me to support two grant applications by Melton Shire Council for funding towards construction of the proposed Burnside Heights community centre and sports pavilion.

Victorian community support grants are aimed at building strong and more active and inclusive neighbourhoods. Typically, these grants support communities to build on their assets, whether they be

existing infrastructure or local skills and knowledge. By building on these assets communities are better placed to respond to challenges like population growth and disadvantage.

We all know that the city of Melton is facing a high population growth and that is why the community facilities for growth areas program has been tailored to assist Victoria's fastest growing local government areas to boost community infrastructure to meet the needs of their expanding resident base. These grant programs are a good option for Melton Shire Council in planning for the current and future needs of the Burnside Heights community, as it is one of the fastest growing communities in Victoria.

The Brumby government has long recognised the value of multipurpose facilities like the one proposed for Burnside Heights. It has funded a large number of projects which have clearly demonstrated the benefits of integrated infrastructure. These benefits have included improved connectivity of services and programs, a more efficient use of resources and more sustainable operations. This means that communities have better access to amenities and therefore greater participation in community life and stronger community networks. That has to be good for all communities.

This particular proposal includes the construction of shared community meeting and function spaces, kitchen storage space and other public amenities, including change rooms, first aid, administration and canteen facilities. I understand it is hoped that this facility will attract the area's large population of young people. Melton is burgeoning as a growth area with numerous young people who are in need of more community hubs so that they can come together and network. The proposal that has been put by Melton Shire Council will encourage young people to become more physically and socially active and to get involved in community life.

As the member for Kororoit pointed out, council has worked closely with the community in devising this proposal and finalising the design. It is owned by the community and is worth consideration by government. It is wonderful to see a very collaborative approach to the design of community facilities that will ultimately serve a diverse range of people. The best result will surely be achieved for everyone when there is very strong buy-in from the local community.

I again thank the member for Kororoit for taking the time to support the hard work of her constituents. I also thank the Burnside Heights community and Melton Shire Council for their work on this proposal. A lot of time and effort has clearly been dedicated to what seems to be an extremely worthwhile proposal.

Ms ALLAN (Minister for Regional and Rural Development) — I am pleased to respond to the member for Altona's adjournment matter this evening. It is fantastic to have another member in this chamber, particularly on this side of the house, who is absolutely passionate about supporting the car industry in Victoria, which is of vital importance to the state. I am sure the people of Altona will be pleased to hear how strong an advocate their local member is for the car industry.

As the member for Altona indicated, Toyota's Altona plant employs thousands of people. It is a vital source of income for many working families across the western suburbs, particularly those living in Altona. That is why the government has been a strong and passionate supporter of Toyota, particularly Toyota's efforts to build the hybrid Camry right here in Victoria. We should not underestimate how significant an achievement and endorsement this is of Victoria's car industry. There are only four sites around the world where Toyota will be manufacturing the hybrid Camry, and we should be proud to say that one of those four sites is here in Melbourne — in Altona in the western suburbs.

The member for Altona might also be pleased to know that we will shortly be celebrating Australian Automotive Week, an important week on the automotive calendar. This gives us once again a fantastic opportunity to showcase the many positive aspects of the automotive industry.

We should also remember that the automotive industry is not just about the cars that come off the production line from the big car companies, be it Toyota, Ford or Holden. There is also a vital supply chain network that, in turn, provides employment for thousands and thousands of people right across Victoria, both in metropolitan and regional areas.

This week, as part of Australian Automotive Week, there will be a strong focus around sustainability. The theme is innovative and green technologies; which very much mirrors the actions the Victorian government is taking in supporting the automotive industry. I am pleased to advise the member that we will provide $80 000 to support Australian Automotive Week. There will be a week-long celebration that starts from next Friday. As part of that celebration I advise the member that I will take up her invitation this evening to visit the Altona plant in the very near future. I believe we can accommodate that next week. I will be pleased to

accept her invitation and join with her to visit this major employer in her electorate.

Consider, too, that as those hybrid cars are rolling off the production line one of the key ways this government has been able to support the company is by agreeing that 2000 of those hybrid cars will come to the Victorian fleet.

Mr Weller interjected.

Ms ALLAN — I am pleased to hear the member for Rodney's interjection. I know it is disorderly to respond to interjections, but I believe — —

The ACTING SPEAKER (**Mr Nardella**) — Order! Especially when the member is out of his seat.

Ms ALLAN — Yes, we wish he was out of his seat permanently, do we not? I am pleased to inform all members of the house that I believe the member for Altona will shortly, as soon as she is able to turn over her electorate car, be driving one of the new hybrid Camrys. I am delighted to inform the house that I have also made a request to the transport area of the Department of Parliamentary Services to take a hybrid Camry as the car I will drive in my electorate when the lease comes up on the current car.

Honourable members interjecting.

Ms ALLAN — The comments of the members opposite clearly reflect how out of touch they are with the work that local members do. My car will soon turn over. I have had it for only three years; I am about to turn it over and I will be very proud to be driving a Melbourne-made — an Altona-made — Toyota Camry. The comments of those members opposite demonstrate just how out of touch they are with the automotive industry and with the activities of members on this side of the house in serving working families across Victoria.

The member for Ferntree Gully raised a matter for the Minister for Planning regarding the Ferntree Gully community hall.

Mr Wakeling — No, the Ferntree Gully Primary School.

Ms ALLAN — I will refer that matter to the minister for his attention and action.

The verbose member for Rodney raised a matter for the Minister for Health regarding the Echuca Regional Health service and the forthcoming budget. I am sure the Minister for Health will take note of the member's representations.

The member for Cranbourne raised a matter for the attention of the Minister for Police and Emergency Services, and that will be referred.

The member for Benambra raised a matter for the Minister for Agriculture regarding the baiting and trapping of wild dogs. I will refrain from the obvious lines that are there and refer that matter on to the Minister for Agriculture.

The member for Mildura raised the matter of consultation and the release of the terms of reference around the return of passenger rail to Mildura. I am sure the Minister for Public Transport will reply to the member in due course.

The member for Narre Warren South made very strong representations to the Minister for Roads and Ports regarding Clyde Road, and the minister will respond accordingly.

The member for Geelong made representations to the Minister for Consumer Affairs. The member is always a strong representative of his community.

Finally, the member for Bayswater raised a matter for the attention of the Premier. I wish to make some reference to this matter on its way to being referred to the Premier. The member has asked for an independent auditor to be established to assess the activities of the Victorian Bushfire Reconstruction and Recovery Authority (VBRRA) around the allocation of the public funds that were raised through the bushfire appeal.

What I find quite extraordinary about the matter the member has raised tonight is that despite there being a range of difficult issues we continue to work through with local communities she has chosen to play politics with this matter rather than making the appropriate referrals on behalf of her constituents. I raise this because the member has confused — I hope it is not deliberate; I hope it is just a genuine level of confusion around this matter — the activities of VBRRA versus the public — —

Mr Kotsiras interjected.

Ms ALLAN — No, this is a very important matter to get on the public record. Either the member has gone out of her way to deliberately and politically misconstrue the activities of VBRRA or she is genuinely confused. I certainly hope it is the latter because — —

Mrs Victoria — On a point of order, Acting Speaker, I did in fact have a matter for the Premier, and I believe that needs to be referred on. I do not know that comment is actually needed by Minister Allan.

The ACTING SPEAKER (**Mr Nardella**) — Order! I do not uphold the point of order. In referring a matter the minister may make comments on the way through.

Ms ALLAN — I raise this because $379 million was raised through that public appeal. That was a tremendous show of support for those bushfire-affected communities from people in Victoria, people around Australia and international contractors as well. The many ways people donated and were very generous are well recorded already.

These funds are administered independently of the activities of government. These funds are administered by the Red Cross appeal fund that is chaired by Pat McNamara, no less, the former Deputy Premier of this state. He heads up a strong and good committee which has gone through the difficult task of making sure that the immediate priorities were met in allocating the funds in the aftermath of the fires and is continuing to make sure those funds are appropriately allocated through the course of the rebuilding activities.

That is a completely separate task from the work of VBRRA, which is very much focused on the rebuilding and reconstruction efforts. A number of public servants have been seconded to this task. Christine Nixon is heading up this effort and is working very closely with a whole range of government departments to address the needs of communities in this rebuilding phase.

I hope the member has not been deliberately misusing this issue. The constituent matter she has raised is obviously a legitimate issue, but instead of playing politics with it and confusing the matter it would have been more appropriate and the member would have been better served in representing the needs of the person who came to her if she had made sure that she found out the appropriate way to refer those concerns and not confuse the very good work that VBRRA and the Red Cross appeal fund are doing in allocating appropriately the enormous amount of money that has been raised by those communities.

I am sure the Premier will have further comment to make in responding to the member's question, but I thought it was important that I put on the record the very different roles and responsibilities that are in play here between VBRRA and the Red Cross appeal fund.

The ACTING SPEAKER (**Mr Nardella**) — Order! The house is now adjourned.

House adjourned 10.39 p.m.