

**PARLIAMENT OF VICTORIA**

**PARLIAMENTARY DEBATES  
(HANSARD)**

**LEGISLATIVE ASSEMBLY**

**FIFTY-SIXTH PARLIAMENT**

**FIRST SESSION**

**Tuesday, 14 September 2010**

**(Extract from book 13)**

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<sup>1</sup> Resigned 6 August 2007

<sup>2</sup> Elected 15 September 2007

<sup>3</sup> Resigned 2 June 2008

<sup>4</sup> Elected 13 February 2010

<sup>5</sup> Elected 28 June 2008

<sup>6</sup> Resigned 18 January 2010

<sup>7</sup> Resigned 25 August 2010

<sup>8</sup> Elected 15 September 2007

<sup>9</sup> Resigned 6 August 2007



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## Tuesday, 14 September 2010

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

### IVANHOE BY-ELECTION

**The SPEAKER** — Order! I advise the house that on 13 September 2010 I issued a writ, as I was required to do under section 61(2) of the Electoral Act 2002, requesting that a by-election be held for the electoral district of Ivanhoe on Saturday, 6 November 2010.

By operation of section 38 of the Constitution Act 1975 the Legislative Assembly will expire on 2 November 2010, with the consequence that there will be no right for any member of the Legislative Assembly to sit and vote as a member of the Assembly after that date. On 2 November 2010 the Governor is required by section 61(1)(a) of the Electoral Act 2002 to issue a writ for the general election to be held on 27 November 2010 at which all the members of the Legislative Assembly and all the members of the Legislative Council have to be elected, including the member of the Legislative Assembly for the electoral district of Ivanhoe.

The expiry of the Legislative Assembly would result in any person declared to be elected as a result of a by-election after that date not being able to exercise a right to vote as a member of the Legislative Assembly. Further, the writ for the general election would itself cause a further election for a member of the Legislative Assembly in the electoral district of Ivanhoe and therefore operate to overtake the writ for the by-election. In the circumstances the continued conduct of the by-election would result in significant expense being incurred with no utility and would not result in a person being able to represent the electors of the electoral district of Ivanhoe in the Legislative Assembly.

I sought and obtained legal advice concerning the implications of conducting a by-election in those circumstances. According to that advice the inherited privileges, immunities and powers provided to the Legislative Assembly by virtue of section 19 of the Constitution Act 1975 include the power for the Speaker to cause a writ of supersedeas to be issued to discharge a writ for a by-election. This is further supported by the practice of the House of Representatives, where on two occasions a Speaker in similar circumstances has withdrawn a by-election writ. I am further advised that section 41A of the Interpretation of Legislation Act 1984 operates to mean

that the power in section 61(2) of the Electoral Act 2002 to issue a writ for a by-election includes the power to revoke such a writ.

Today I used the powers available to me to issue a writ of supersedeas to direct that the conduct of the by-election cease and to revoke the by-election writ issued on 13 September 2010.

Finally, I suggest that in the next Parliament consideration be given to amending the Electoral Act 2002 to clarify the situation regarding the conduct of a by-election should similar circumstances occur in the future.

**Mr McIntosh** — On a point of order, Speaker, I was very grateful that just moments before you spoke the clerks provided me with a written copy of what you have just read out to the house. I note that you have sought and obtained legal advice concerning the implications of conducting a by-election in the circumstances that you outlined. I wonder whether you would make that advice available to the house at any stage so that could be perused in the normal course.

**The SPEAKER** — Order! I am happy to discuss this matter further with the member for Kew. I am inclined to make the legal advice available to the member for Kew without making it available to the house, but I would appreciate the opportunity to discuss the matter further.

### QUESTIONS WITHOUT NOTICE

#### Floods: infrastructure repair

**Mr RYAN** (Leader of The Nationals) — My question is to the Premier. Given that as a result of the recent floods local government assets in flood-affected municipalities have sustained damage, which even at this stage is valued at tens of millions of dollars, will the Premier confirm that the state government will fund the cost of repairs to these assets under the terms of the natural disaster relief arrangements?

**Mr BRUMBY** (Premier) — I thank the Leader of The Nationals for his question. Last week we saw significant flooding across the state, and it was particularly marked on the Saturday and Sunday after the rains. Two hundred and sixty-eight houses across the state have been inundated. We expect further rises in the height of the Murray River. Victoria, particularly in the north of the state, is wetter and more sodden than we have seen it in many, many years, so if we get further significant rain events in September or October,

we could see further minor, moderate or major flooding.

I have established a task force which includes eight cabinet ministers and which is headed by the Treasurer, John Lenders. That task force has been busy visiting most of the flood-affected areas, but it is not possible — as I think the Leader of The Nationals would be aware — to make an assessment at this stage of the extent of the damage because in many areas roads that have been washed away or bridges that have been washed away are still covered in water. Engineers from local government areas have not been able to make assessments as to the cost of replacements.

The purpose of the task force is to collate all of the information and to gather all that together to look at what it is the government needs to do to work with local government to ensure the speediest possible recovery. That will entail funding under the normal arrangements, but it may well include some additional matters that we may wish to consider as a government to enhance and speed up recovery in those areas.

The government has a good record in this area. Members will recall that following the Gippsland floods in 2007 we met our obligations under the agreement but in addition provided some funding for community recovery, some funding for community halls and also some funding to bring tourists back to the area.

I do not pre-empt the work that the task force will undertake, but of course the government will meet any necessary obligations. In addition we will look at whether we can bring forward other relevant spending initiatives within government without an additional call on the budget to help those areas that have already been damaged.

Finally, with regard to the work of the State Emergency Service, we now have something like nearly 1300 SES volunteers across the state. I can only describe their work as magnificent. I hope I speak for all members when I say that. The volunteers have been out everywhere, and in particular they have been doorknocking, constructing levee banks and sandbagging. They have been assisted by members of the defence forces from the artillery division. We have also had 150 extra police in northern Victoria. Their combined efforts, coordinated by the SES, have worked exceptionally well. The coordination involving the Country Fire Authority, the Metropolitan Fire Brigade and Victoria Police has worked exceptionally well. As a result of that we have seen far fewer houses inundated than would otherwise have been the case. On behalf of

the Parliament I thank our volunteers and our career staff for the wonderful job they have done protecting the state.

### **Toyota Australia: Altona plant**

**Ms HENNESSY** (Altona) — My question is to the Premier. 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 Premier outline to the house what steps the government is taking to secure jobs in the automotive industry, and is he aware of any challenges?

**Mr BRUMBY** (Premier) — I thank the member for Altona for her question. On Friday I was happy to be with the member for Altona and the federal Minister for Innovation, Industry and Science, Senator Kim Carr, when we joined Toyota representatives for this fantastic announcement for the future of Toyota and the future of manufacturing in our state. The announcement was of \$300 million-plus of new investment by Toyota in a new global engine line at its Altona plant.

I said during the announcement with Toyota that if you look at how many major auto companies around the developed world are making new investments at the moment, as distinct from closing plants, you see there are very few indeed. The story of the auto industry across the developed world has been one of closure after closure after closure, but here in Victoria and in the rest of Australia we have seen new investment, with new production and new jobs created.

I am pleased to say in relation to the Toyota announcement that this is a project we have been working on with Toyota for two years. We started discussions with the company in late 2008. It is fair to say that we were hoping to get an announcement on this in late 2009, but the global financial crisis meant that that was a difficult time for Toyota. Getting this announcement now has locked in jobs — 320 jobs directly, 3000 at the Toyota plant in total and thousands and thousands of direct and indirect jobs across the state.

The flow-on effects from this are enormous. For example, there are 1500 Futuris automotive employees in the member for Albert Park's electorate who depend on Toyota for their continued employment; there are 1400 Robert Bosch employees in the member for Clayton's electorate; 400 Australian Arrow employees in the member for Cranbourne's electorate; 150 Backwell IXL employees in the member for Geelong's electorate; 60 Acument jobs in Rowville, in the member for Scoresby's electorate; 100 jobs at

aiAutomotive in the member for Bayswater's electorate; and 374 at Denso's Australian Automotive Air in the member for Kilsyth's electorate. All of these jobs depend on having the manufacturing capability at Toyota established in our state.

I am obviously concerned that amidst the raft of positive statements there has been a lack of —

*Honourable members interjecting.*

**The SPEAKER** — Order! I ask the member for Malvern not to interject in that manner.

**Mr BRUMBY** — I note particularly the statements made earlier this year by the shadow minister for manufacturing and export criticising the investments made by Toyota in its new hybrid facility and now of course its new engine line. In total this represents hundreds of millions of dollars of investment in our state.

This investment by Toyota builds on the wonderful jobs news we have had in Victoria over the last few months, with 300 new jobs at CSL. That is an investment that could have occurred anywhere around the world, but we won it for Victoria — again with the support of the federal Labor government. There are the 100 information and communications technology jobs at NetApp, which we announced in July. The 400 jobs at the Macarthur wind farm were announced on 12 August, and, as the CEO of AGL said, that investment only occurred in our state because of our policies — it would never have occurred if Liberal Party policies were in place.

**The SPEAKER** — Order! The Premier is debating the question.

**Mr BRUMBY** — Vertex has 400 new jobs at Bentleigh, which was announced in August. I thank the Minister for Industry and Trade for her great work in securing the Toyota investment. She was able to highlight the regional benefits of that and the regional jobs associated with that, which add to the great announcement we saw just a couple of months ago in Ballarat with Vertex putting on 600 jobs. All of this goes to create a great story of Victoria as the jobs engine room of Australia.

### **Kilmore: link road proposal**

**Mr BAILLIEU** (Leader of the Opposition) — My question is to the Premier. When will the Premier abandon his widely condemned and dangerous Kilmore link road scheme, which will see B-double trucks and other dangerous traffic diverted through suburban

Kilmore streets and thundering past several schools, homes and an aged-care facility?

**Mr BRUMBY** (Premier) — One of the claims that has been made about this issue in relation to the Kilmore-Wallan bypass is that the Wallan Avenue of Honour would be 'partly destroyed' by a link road. That claim was made by opposition members, but I remind them that the link road they are talking about goes around Kilmore, not Wallan.

*Honourable members interjecting.*

**Mr BRUMBY** — If you do not know the difference between Kilmore and Wallan, you are unlikely to get the plan right. This announcement was one of I do not know how many dozens made last week by the Leader of the Opposition totalling more than \$1 billion.

**The SPEAKER** — Order! I ask the Premier to confine his remarks to government business. The member for Warrandyte is not helping with the smooth running of question time.

**Mr K. Smith** interjected.

**The SPEAKER** — Order! The member for Bass!

**Mr BRUMBY** — Not again — number 20.

**Mr Hulls** interjected.

**The SPEAKER** — Order! I ask the Deputy Premier for some cooperation in the smooth running of question time. I also ask the member for Bass for some cooperation.

**Mr BRUMBY** — The record was wrong; I think he has only been removed once, actually, not twice.

A study which has been released by VicRoads and independently reviewed by Parsons Brinckerhoff showed that the proposed Kilmore-Wallan connection, which is being touted by the coalition, will not in fact get trucks out of Kilmore.

*Honourable members interjecting.*

**Mr BRUMBY** — Well, you asked about trucks.

*Honourable members interjecting.*

**The SPEAKER** — Order! I ask the members for Scoresby, Kilsyth and Yuroke to stop interjecting.

**Mr BRUMBY** — Under the plan that was released by the Leader of the Opposition last week there would still be —

*Honourable members interjecting.*

**Mr McIntosh** — On a point of order, Speaker, the Premier is clearly debating the issue. He should come back to the question, which was about his failed policy, which is going to be an utter disaster for the people of Kilmore, and explain why.

**The SPEAKER** — Order! I uphold the point of order. I believe the Premier can address the question without referring to opposition policy.

**Mr BRUMBY** — The work that has been done by VicRoads and the other consultants shows that even if you built a road around that area there would still be 600 truck movements down the main street of Kilmore. This is the policy, which is undercosted, by the way, by more than \$100 million —

*Honourable members interjecting.*

**Mr Baillieu** — On a point of order, Speaker, the Premier is quite clearly debating the question. He has now had several minutes to address this question, and he has not yet even mentioned the Kilmore link road scheme. The Premier is on his feet, he is debating the question, and as diversions go, the Kilmore link road scheme is one thing, the Premier's diversion here is another.

**The SPEAKER** — Order! I ask the Premier to address the question without reference to opposition policy.

**Mr BRUMBY** — We have been working closely with the Mitchell shire to get a long-term and sustainable solution to this issue. As I have said to the Parliament and as has been made clear in all of the work that has been undertaken by VicRoads and other consultants, a so-called 'ring-road' around the outside would still result in 600 truck movements through the main street of Kilmore — and that is the plan announced by the Leader of the Opposition.

### **Floods: emergency response**

**Mr HOWARD** (Ballarat East) — My question is for the Minister for Police and Emergency Services. I refer to the recent floods and heavy rainfall in regional and rural Victoria, and I ask: can the minister advise the house of the efforts taken by the state's emergency services in responding to these events?

**Mr CAMERON** (Minister for Police and Emergency Services) — I thank the member for Ballarat East for his question and for the support he has

shown to his community during the floods that affected his area two weekends ago.

The last time the house met I set out the preparations that were being made by emergency services because of the fear of rain that would fall over the weekend of 4 and 5 September. Members will be aware that this is a matter we took very seriously as a government; we took it very seriously on this side of the house. Certainly many members of The Nationals took it very seriously, given that the floods may very well have impacted upon their areas. Unfortunately that was not the case across the entire house, with members of the Liberal Party giggling at the potential impact on flood victims.

What we saw with that preparation was the emergency services working together in anticipation of what could occur. Certainly that is what did eventuate, with something like up to 100 millimetres of rain falling in the west of the state and across into the north-east. That resulted in flash flooding in the honourable member's area, for example, and it also resulted in floods through many catchments across the state. As part of the preparations, advertisements were placed in the newspapers and an emergency line was established by the SES (State Emergency Service) to provide 24-hour information during the major period, and it received more than 4000 calls.

Coupled with the rain over that weekend were very strong winds. The result was over 5000 calls to the SES requesting assistance. One hundred and twenty-five SES units from across the state were involved in the response — that is, around 1300 volunteers and around 60 full-time staff of the SES. All of the state's stock of sandbags was used up, and 110 000 additional sandbags had to be obtained. Police responded — not only the local police but an additional 150 police were brought in — and hundreds of people from the Country Fire Authority, the Metropolitan Fire and Emergency Services Board and the Department of Sustainability and Environment contributed as well. The SES was able to call upon South Australia and Queensland for assistance, and also Ambulance Victoria was able to contribute, together with the army. We thank all those people and congratulate them on the work they did in dealing with the response.

The national emergency warning system, Emergency Alert, was used 18 times, and in excess of 150 000 messages were sent out. Of course we have had great news today from the federal government that that system, which Victoria has pushed, will be going to the second stage in relation to mobile phones in the area of location. Can I say to the emergency services commissioner, Bruce Esplin, and his deputy, Joe

Buffone, that they have led the way, fully supported by the Victorian government, and it is great to have the nation on board.

Around 370 properties were impacted on by the floods, including a great many which were inundated, and some 660 properties were isolated at one time or another during the event. The honourable member for Shepparton puts her hand up as being in one of those properties. Four hundred and sixty personal hardship grants were administered.

We saw this event through, and I think a great summary of it was provided in an article by the former deputy director of the New South Wales SES, Chas Keys, in which he said:

What has been achieved may well become a model for flood managers elsewhere.

He also said:

The SES responded speedily and effectively. It employed a battery of management tools that are too infrequently used in concert in Australian flood management.

To all of the SES, to everybody who has been involved, to all the volunteers from across the state: as Victorians, we join together to say thank you.

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

**Mr MULDER** (Polwarth) — My question is to the Premier. Given that not a single adult passenger travelling without a validated myki card on Melbourne's trains, trams and buses has been fined, will the Premier acknowledge that the cost of myki has now risen from \$1.35 billion to more than \$1.4 billion, because fare evasion has more than doubled to at least \$124 million a year?

**Mr BRUMBY** (Premier) — I thank the honourable member for his question. I am reminded of some of the comments that have been coming out about myki, and here is one:

Myki offers great benefits for public transport users ... there will be no more searching for loose change or fussing with tickets, and best of all ... fares will be cheaper ... It has been very well received so far; compared to the old system, this is a lot faster.

The person who said that is Michael Laker, the Liberal Party candidate for Seymour.

I am advised that authorised officers now have about 250 hand-held myki checking devices, and that is enough for every group of authorised officers across the network to check mykis. I am also advised that in the past month authorised officers have checked thousands

of mykis each week in the metropolitan area. However, the reality is that this is a new system. Each week we have thousands and thousands of new users, so the checks — —

**Mr K. Smith** interjected.

**The SPEAKER** — Order! The member for Bass will cease interjecting in that manner.

**Mr BRUMBY** — The checks are being made, but with any new system, with any new technology, there will always be people who innocently make mistakes in using that new technology, and I think it is entirely appropriate that there be some element of leniency as people get used to using the system.

**Mr Mulder** — On a point of order, Speaker, the Premier is clearly debating the question. The question related to the cost of myki. Is it now \$1.4 billion because of fare evasion? I ask the Premier to answer the question.

**The SPEAKER** — Order! The member has been in the chamber long enough to know that political commentary in the lead-up to the question is seen as part of the question. The Premier is clearly relevant to the question.

**Mr BRUMBY** — I was saying that authorised officers have been educating many customers who appear to have made a mistake and are providing them with warnings in the first instance. However, public transport users who are caught actively fare evading can still have their details taken and may be issued with a ticket infringement notice. I understand that a number of people have been issued with an infringement notice in that regard. As I said before, I think the approach of giving those who are new to the system a warning is a reasonable and fair thing to do. As is the case with the introduction of any sophisticated new technology, I believe it is entirely appropriate to give that degree of leniency at the introduction of this program.

### **Locusts: control**

**Mr HARDMAN** (Seymour) — My question is to the Minister for Agriculture. I refer to the recent floods and heavy rainfall in regional and rural areas, and I ask: can the minister update the house on how the Brumby government is standing by our farmers as they prepare to respond to the imminent threat of locusts?

**Mr HELPER** (Minister for Agriculture) — I thank the member for Seymour for his question, and I join with other members and the Premier in thanking members of our emergency services who responded to

the recent floods. The floods, as they relate to locusts, will have some impact. Unfortunately they will not drown the locust eggs; the impact will be that some egg beds will be exposed due to erosion caused by the floods and the movement of soil by the floods, and as a consequence those eggs may hatch earlier. We saw isolated incidents of that occurring some time ago, and we are likely to see a little bit of that occurring again as a consequence of these floods.

However, the predicted hatching dates of locusts is fast approaching. I remind honourable members that the Australian Plague Locust Commission predicts that hatchings will occur from 25 September onwards in this state. That will see the war on locusts, which was declared by the Premier in June this year, spring into action. What will occur is that landowners and land managers right across the state will put into place their locust response plans.

Landowners will use chemicals in a safe and controlled manner as a consequence of information we have been able to provide to them and as a consequence of their engaging their normal sources of information. We will see the hard work that my department, the Department of Primary Industries, has been putting in place pay off in mounting what will be a very significant response to the threat of locusts.

I need to remind members that if the locust plague were left untreated, it would have the potential to cause \$2 billion worth of loss to our agricultural production, and clearly we want to avoid that. That would be on top of a considerable impact on amenity, be it at airports, be it road travel or be it at the Spring Racing Carnival — certainly the roses at Flemington would look very sad if they were set upon by a plague of locusts. But we are relying on an extraordinary amount of cooperation between not only government agencies and local government but landowners and farmers right throughout the state.

I do not want any member of this house to underestimate the impact that locusts can have. We will of course see locusts. Even if we were extraordinarily successful with the war on locusts, we would still see some impact from them. I urge members in affected areas, as well as members right throughout the state, to work with their local communities to ensure that we mount the best possible response to locusts.

I reiterate that we will likely see some isolated incidents of locusts hatching earlier as a consequence of eggs being exposed by recent floods, but certainly we can expect to see the full impact of hatchings not very far down the track. I thank the member for Seymour again

for allowing me to draw the attention of the state of Victoria to the imminent locust threat.

### **Justice: double jeopardy**

**Mr CLARK** (Box Hill) — My question is to the Premier. Given that New South Wales, South Australia, New Zealand and England have all legislated to reform double jeopardy laws to allow a new trial to be ordered where new and compelling evidence comes to light, will the Premier accept the recommendation made three years ago by the Council of Australian Governments (COAG) and support amendments to Victorian double jeopardy laws to prevent dangerous criminals from escaping punishment?

**Mr BRUMBY** (Premier) — I thank the honourable member for his question. As the honourable member is aware, the government has already changed double jeopardy laws in relation to sentencing, and it has said that it would consider further changes where a tainted acquittal is concerned. We have also amended legislation to allow pre-verdict appeals, which enable prosecutors to take up critical issues before a person is acquitted. The government has an open mind in relation to reforms of double jeopardy. In relation to the specifics of the question raised by the honourable member, no other state has yet adopted the Council of Australian Governments model legislation and the commonwealth itself has yet to implement the proposals.

### **Floods: infrastructure repair**

**Ms DUNCAN** (Macedon) — My question is to the Minister for Roads and Ports. I refer to the serious flooding that continues to impact on communities in rural and regional Victoria, and I ask: can the minister update the house on the effects these floods and heavy rainfall are having on the road network and what steps the Brumby Labor government is taking to assist these communities to rebuild?

**Mr PALLAS** (Minister for Roads and Ports) — I thank the member for Macedon for her question and for her continuing concern about the plight of constituents in rural and regional Victoria as they deal with the impact of the floods right across the arterial and local road networks. We have had 110 roads closed due to inundation, rockfalls, tree falls and bridge damage, and 75 roads are still closed as a consequence of an accumulation of those issues. Many of these road closures are in the north-east, particularly in the alpine region, which I visited recently to inspect the damage and get a firsthand appreciation of what action is being

undertaken by VicRoads and local communities in order to address these matters.

Last Thursday I met with Shire of Murrindindi representatives and members of the Thornton and Taggerty communities as I inspected the damage to the Rubicon River bridge. I was pleased to be able to assure those people, who are clearly concerned about the damage to the bridge and the impact that damage will have on access to vital snowfields in the near vicinity and Lake Eildon and surrounds, and, more importantly, on tourism linkages, that the temporary replacement bridge will be in place within two weeks and that the government will be putting in place a single-lane replacement bridge.

Work started on that replacement bridge today, and I expect that we will put a fully restored bridge in place within about nine months. It will be substantially better, because it will not have a footing in the middle of the river which would be likely to cause great damage as a consequence of accumulating debris when flooding events occur in the future. The temporary alignment will enable 44-tonne timber trucks to use the one-way bridge, and the communities will be reconnected.

I have also looked at a number of other locations where damage has occurred. I had the opportunity to meet with councils, particularly in the northern areas. They have sent a very clear message to the government that they are looking to work in partnership with us. They are concerned that they be not put in a position where an assessment of the damage is required to be made immediately and precipitously. They want to work in cooperation with the government to assess the full extent of the damage, and we have committed to working closely with them.

The cabinet committee that the Premier has established includes both the Treasurer and the Minister for Local Government — an outstanding Minister for Local Government, I might say. His presence was well received.

**Mr Hulls** — The Treasurer is outstanding too.

**Mr PALLAS** — The Treasurer is not only outstanding, he is generous. That generosity and the outstanding representation from the Minister for Local Government has been reflected by the fact that the councils themselves are very keen to recognise the effort made by the state government.

I would especially like to acknowledge the words of the mayor of the City of Greater Shepparton, Geoff Dobson, and the mayor of Alpine Shire Council, Nino Mautone, who spoke on behalf of all the councils

present in expressing their appreciation of the response by VicRoads. They told of the significant damage to council assets, including culverts, bridges and footpaths. They also indicated their appreciation to VicRoads for making its services available to assist with engineering assessments of the damage and to work with local councils to assess this damage.

We have consistently said that we will work with local government in order to make good the damage that has occurred, and that level of cooperation is something we will continue. We have established a task force that has a clear plan for working with regional communities to make good the damage from these floods.

I particularly want to acknowledge the efforts of VicRoads. It dealt with something like 7000 calls during the inundation and flood events, and it took quite substantial action to address the problems. Let me give you just one example. There has been a very substantial landslide on Mount Buffalo Road, causing that road to be shut and access to the chalet to be compromised. We are now working to re-establish the link. There are two slippages in that area. That work will take about two weeks; we expect that we will be able to open up a single-lane road into the area within two weeks.

I want to thank the workers who are participating in that process in very inclement conditions for their motivation and skill. They are doing an outstanding job and demonstrating in many ways the level of commitment of this government to work in cooperation with local communities and to make a contribution where it counts — on the ground, happening now.

### **Member for Burwood: comments**

**Ms ASHER** (Brighton) — My question is to the Premier. I refer the Premier to claims by the member for Burwood in Parliament two weeks ago that the Auditor-General was upset by a minority report by non-Labor members of the Public Accounts and Estimates Committee, and I ask: given that the Auditor-General has stated that the member for Burwood ‘is clearly mistaken’ and stated that he ‘did not express those sentiments at all, or use any words to that effect’, will the Premier now insist that the member for Burwood apologise to the house and to the people of Victoria for this gross misrepresentation, or is this just part of the government’s orchestrated campaign —

*Honourable members interjecting.*

**The SPEAKER** — Order! Government members will come to order. I apologise to the Deputy Leader of

the Opposition. I was unable to hear. I ask the member to repeat the question from where she asked for the member for Burwood to apologise.

**Ms ASHER** — I will repeat from the actual question; the question is in order. Will the Premier now insist that the member for Burwood apologise to the house and to the people of Victoria for this gross misrepresentation, or is this just part of the government's orchestrated campaign to undermine, abuse and intimidate independent officers of the Parliament?

**Ms Thomson** — On a point of order, Speaker, I believe question time is for asking about government administration. This question is about matters that were raised in the house by a member of Parliament, and there are other processes that need to be entered into, not at question time, for answering those concerns.

**Ms ASHER** — On the point of order, Speaker, the question is clearly government business on many fronts. First of all, this fracas has been prompted by the Public Finance and Accountability Bill, and in the second instance, it is a question related to the conduct of government and its treatment of independent officers of the Parliament — and that is clearly government business.

**Mr McIntosh** — On the point of order, Speaker, there was a preamble to the question, but it clearly goes to, and indeed the real question for the Premier is: is this just part of the government's orchestrated campaign to undermine, abuse and intimidate independent officers of the Parliament? It is a clear question about government business, and the Premier ought to answer the question about government business.

**Mr Hulls** — On the point of order, Speaker, in relation to whether or not this question relates to government business, it is very much akin to me or the Premier asking the Leader of the Opposition whether or not they have apologised yet to Ches Baragwanath — in other words, it does not relate to government business.

**The SPEAKER** — Order! I find it difficult to relate the question as asked to government business, but I give the Deputy Leader of the Opposition the opportunity to rephrase the question. I ask the house to allow some courtesy to be given to the Deputy Leader of the Opposition in asking the question.

**Ms ASHER** — Given that we have seen from the government an orchestrated campaign to undermine, abuse and intimidate independent officers of the

Parliament, will the Premier advise whether the member for Burwood will apologise for being part of this campaign?

**The SPEAKER** — Order! I rule the question out of order.

### Hospitals: elective surgery

**Ms GREEN** (Yan Yean) — My question is to the Minister for Health. I refer to the Brumby government's commitment to make Victoria the best place to live, work and raise a family, and I ask: will the minister inform the house of recent elective surgery performance, investments to drive improvement and any alternative policies?

**Mr ANDREWS** (Minister for Health) — I thank the member for Yan Yean for her question and for her long-term commitment to better health services in Melbourne's north. The *Your Hospitals* report released yesterday shows that in the last financial year our dedicated health professionals treated more elective surgery patients than has ever been the case — 155 326 episodes of elective surgery, more than has ever been done in a single financial year. I would say on behalf of all honourable members — certainly those on the government side — that that is an absolute credit to our staff, and I thank them on behalf of these 155 000 patients but also on behalf of the broader community. That is only possible because of the strong, consistent and enduring support our government has provided to every hospital in every community in every year of our term in office.

That additional elective surgery activity has seen a substantial fall in the elective surgery waiting list, down to some 37 194 patients from nearly 41 000. That is important in terms of faster time to treatment, less people waiting and more people getting the surgery they need faster. That is altogether the product of additional investments by our government — in this year's budget with a further \$45 million, in last year's budget with a further \$45 million and in the 2008 state budget with a further investment, in partnership with the commonwealth, of \$60 million — to, as I said a moment ago, do more surgery and do it faster. That is only possible when you make those long-term, consistent investments, backing our doctors and backing our nurses to treat more patients and provide better care.

But we know there is always room to do more and to provide even better care to Victorian patients. That is why I was pleased to join with my now re-elected federal colleague Nicola Roxon, the Minister for Health

and Ageing, to make an announcement about expansions to our theatre capacity. I know the member for Yan Yean will be very pleased to learn of expansions at Northern Health — \$7 million to take the number of theatres to eight and the number of endoscopy suites to three at Northern Hospital. I know the member for Prahran will be pleased to see \$11.5 million for Alfred Health. Part of that additional investment is to expand operating theatre recovery areas to see more patients move through the Alfred centre.

I know that members in Melbourne's west — and there are many I could name, particularly the member for Williamstown and the member for Altona — are very happy and very pleased to see a fourth theatre opening at the Williamstown Hospital, which is something for which that hospital's team of dedicated staff and others have campaigned for some time. We are delighted to be able to provide that investment.

This is not just a metropolitan package: there are investments in rural and regional parts of our state as well. Colac Area Health, for instance, will see an expanded recovery area, assisting it with throughput — patient flow — so that more patients can receive their care faster. Finally, Northeast Health Wangaratta will also receive some important infrastructure works to grow through a capacity boost the total amount of elective surgery it can perform.

I was asked about alternatives, and clearly there is an alternative to this consistent and important investment. There is a clear alternative. One could, for instance, as an alternative come to government with a waiting list of less than 30 000 and then leave government with a waiting list of more than 40 000. Rather than cutting the list, you could actually grow the list. One could also come to government inheriting a situation where some 112 000 episodes of elective surgery were being performed each year and then leave government seven years later with only 116 000 episodes of elective surgery being performed — only 4000 more over seven long, dark years.

Or you could make consistent, targeted and important investments right across the state to deliver a situation where rather than 4000 more patients getting their surgery, 40 000 extra Victorians receive their elective surgery each and every year. That is the alternative; that is the choice; that is our record and our commitment to every single Victorian.

**Mr Baillieu** — On a point of order, Speaker, in relation to your ruling the Deputy Leader of the Opposition's question out of order, as I understand it,

Speaker, you ruled the question out of order, but when you made your ruling you did not further explain it, so I can only assume that your previous commentary applied and that somehow the question was deemed by you to not be about government business.

May I respectfully ask you, Speaker, to reconsider the decision, to review the question and to appreciate that the question was about government business. Given that the question was about misrepresenting the Auditor-General in the conduct of deliberations over a bill in this Parliament such that the Auditor-General himself has seen fit, we understand, to write to the member for Burwood, to the Premier and to members of the opposition — and indeed this case has been prosecuted widely in the media as well — surely, Speaker, this issue is worthy of your reconsideration as a matter of government business.

**The SPEAKER** — Order! The Deputy Leader of the Opposition was given the opportunity to rephrase the question in a form that would have been within standing orders. There is no point of order.

## BUSINESS OF THE HOUSE

### Notices of motion: removal

**The SPEAKER** — Order! I inform the house that notices of motion 123, 153 and 216 to 221 will be removed from the notice paper unless members wishing their notice to remain advise the Clerk in writing before 6.00 p.m. today.

## PETITIONS

### Following petitions presented to house:

#### Transport: Victorian plan

To the Legislative Assembly of Victoria:

The petition of residents and businesses in the eastern suburbs of Melbourne points out to the house that the Victorian transport plan does not make provision for the extension of much-needed rail services and improved passenger facilities to Melbourne's eastern suburbs.

The petitioners therefore request that the Legislative Assembly of Victoria seek a commitment from the government to modify the plan to include:

1. a full and public feasibility study for a heavy rail line to Rowville;
2. a full and public feasibility study for a heavy rail line to Doncaster;

3. a greater commitment to the extension of the Metro rail tunnel from Domain to Caulfield;
4. a full and public feasibility study for an increase in capacity on the Belgrave–Lilydale and Glen Waverley lines;
5. improved facilities for passengers, particularly at interchanges located in central activity districts — Ringwood, Dandenong and Box Hill;
6. fully accessible public transport facilities and vehicles.

destruction of native habitat for threatened plants and animals;

electromagnetic radiation;  
noise and light pollution.

- (4) The unpredictable, and often short, lifespan of geothermal developments.
- (5) The threat of compulsory land acquisition.

The petitioners therefore request that the Legislative Assembly of Victoria not allow any geothermal development to proceed in the Gherang and Wensleydale communities or any other populated area in the state owing to the inherent risks.

**By Ms LOBATO (Gembrook) (10 883 signatures).**

**Rail: Mildura line**

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

This petition of residents of Victoria draws to the attention of the house for the reinstatement of the Mildura–Melbourne passenger train.

The petitioners register their request for the passenger train to Mildura to be reinstated. People living in smaller towns need connectivity to larger towns for work, health, education, shopping and social activities.

The petitioners therefore request that the Legislative Assembly of Victoria reinstate the passenger train to service the needs of residents in the state’s far north who are disadvantaged by distance.

**By Mr CRISP (Mildura) (64 signatures).**

**Energy: Gherang geothermal project**

To the Legislative Assembly of Victoria:

The petition of residents of Victoria draws to the attention of the house:

- (1) Greenerth Energy Ltd’s proposed Geelong geothermal power project in the Gherang and Wensleydale communities, comprising 12 power plants and transmission pylon network located within a densely populated residential rural neighbourhood.
- (2) The state government funding of \$25 million for this project.
- (3) The inherent and unpublicised hazards and effects of geothermal developments including:
  - carbon dioxide emissions;
  - groundwater contamination (adjoining Anglesea borefield supplies Geelong’s drinking water);
  - substantial and damaging man-made earthquakes;
  - toxic chemicals and gases brought to the surface in the hot water;
  - subsidence of the ground;
  - industrialisation of residential rural communities;

**By Mr MULDER (Polwarth) (142 signatures).**

**Rail: Brighton level crossing**

To the Legislative Assembly of Victoria:

The petition of the residents of the City of Bayside draws to the attention of the house the urgent need to reopen the New Street/Beach Road railway gates for the benefit of Bayside and Melbourne motorists so that motorist inconvenience and traffic delays are eliminated and to avert the diversion of traffic into Hampton Street and the dangerous traffic build-up at other intersections along Beach Road where right-turning vehicles forced to use alternative routes impede the city-bound traffic flow.

The petitioners therefore call upon the Brumby government, Metro and the City of Bayside to instigate immediate action so that Bayside and Melbourne motorists are not endangered or inconvenienced any further by the closure of the New Street railway gates.

**By Mr THOMPSON (Sandringham) (6 signatures).**

**Tabled.**

**Ordered that petition presented by honourable member for Gembrook be considered next day on motion of Ms LOBATO (Gembrook).**

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

**Ordered that petition presented by honourable member for Polwarth be considered next day on motion of Mr MULDER (Polwarth).**

**SCRUTINY OF ACTS AND REGULATIONS  
COMMITTEE**

***Alert Digest No. 13***

**Mr BROOKS (Bundoora) presented *Alert Digest  
No. 13 of 2010* on:**

**Education and Care Services National Law Bill  
Fire Services Commissioner Bill  
Government (Political) Advertising Bill  
Judicial Commission of Victoria Bill  
Marine Safety Bill  
Road Safety Amendment (Hoon Driving) Bill  
Traditional Owner Settlement Bill  
Transport Accident and Accident Compensation  
Legislation Amendment Bill**

**together with appendices.**

**Tabled.**

**Ordered to be printed.**

**DOCUMENTS**

**Tabled by Clerk:**

*Agricultural Industry Development Act 1990* — Order under s 8

Agriculture Victoria Services Pty Ltd — Report 2009–10

*Audit Act 1994* — Report on the Performance Audit of the Victorian Auditor-General and Victorian Auditor-General's Office, August 2010

*Crown Land (Reserves) Act 1978:*

Determination under s 17CA giving notice of intention to grant a lease over Albert Park Reserve

Order under s 17D granting a lease over Albert Park Reserve

*Financial Management Act 1994:*

Reports from the Minister for Agriculture that he had received the reports 2009–10 of:

Dairy Food Safety Victoria

Murray Valley Wine Grape Industry Development Committee

Northern Victorian Fresh Tomato Industry Development Committee

Phytogene Pty Ltd

PrimeSafe

Veterinary Practitioners Registration Board of Victoria

Report from the Minister for Environment and Climate Change that he had received the Report 2009–10 of the Alpine Resorts Co-ordinating Council

Geoffrey Gardiner Dairy Foundation Ltd — Report 2009–10 (two documents)

*Interpretation of Legislation Act 1984* — Notice under s 32(3)(a)(iii) in relation to Statutory Rule 86 Gazette S358, 3 September 2010

*Major Sporting Events Act 2009* — Major sporting event order under s 22

Primary Industries, Department of — Report 2009–10

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

Cardinia — C141, C148

Frankston — C48

Golden Plains — C48, C49, C56

Greater Dandenong — C106

Knox — C79

Melton — C97

Mornington Peninsula — C129

Stonnington — C75

Victoria Planning Provisions — VC73

Recreational Fishing Licence Trust Account — Report 2009–10 on the disbursement of Revenue

*Road Management Act 2004* — Code of Practice for Worksite Safety — Traffic Management

Statutory Rules under the following Acts:

*Corporations (Ancillary Provisions) Act 2001* — SR 83

*Court Security Act 1980* — SR 85

*Electricity Safety Act 1998* — SR 86

*Supreme Court Act 1986* — SR 83

*Victims of Crime Assistance Act 1996* — SR 84

*Subordinate Legislation Act 1994:*

Minister's exception certificates in relation to Statutory Rules 67, 83, 84

Ministers' exemption certificates in relation to Statutory Rules 85, 86

VicForests — Report 2009–10.

The following proclamation fixing operative dates was tabled by the Clerk in accordance with an order of the House dated 19 December 2006:

*Domestic Animals Amendment (Dangerous Dogs) Act 2010* — Whole Act (except s 17) — 1 September 2010; s 17 — 1 January 2011 Gazette S354, 31 August 2010.

**IVANHOE BY-ELECTION**

**The SPEAKER** — Order! I inform the house that today the Victorian Electoral Commissioner returned the writ of supersedeas advising that he had ceased to conduct the by-election for the electoral district of Ivanhoe.

**CONSUMER AFFAIRS LEGISLATION  
AMENDMENT (REFORM) BILL**

*Council's amendments*

**Returned from Council with message relating to amendments.**

**Ordered to be considered next day.**

**ROYAL ASSENT**

**Messages read advising royal assent to:**

**7 September**

**Firearms and Other Acts Amendment Bill  
Personal Safety Intervention Orders Bill**

**14 September**

**Climate Change Bill  
Energy and Resources Legislation Amendment  
Bill  
Gambling Regulation Amendment (Licensing)  
Bill  
Liquor Control Reform Amendment Bill  
Local Government and Planning Legislation  
Amendment Bill  
Mineral Resources Amendment (Sustainable  
Development) Bill  
Plant Biosecurity Bill  
Private Security Amendment Bill.**

**APPROPRIATION MESSAGES**

**Messages read recommending appropriations for:**

**Education and Care Services National Law Bill  
Fire Services Commissioner Bill  
Judicial Commission of Victoria Bill.**

**DRUGS AND CRIME PREVENTION  
COMMITTEE****Reporting date**

**Mr BATCHELOR** (Minister for Energy and Resources) — By leave, I move:

That the resolution of the house of 2 September 2009 providing that the Drugs and Crime Prevention Committee be required to present its report on the impact of drug-related offending on female prisoner numbers to the Parliament no later than 31 August 2010 be amended so far as to require the report to be presented to the Parliament no later than 7 October 2010.

**Motion agreed to.**

**BUSINESS OF THE HOUSE****Program**

**Mr BATCHELOR** (Minister for Energy and Resources) — I move:

That, under standing order 94(2), the orders of the day, government business, relating to the following bills be considered and completed by 4.00 p.m. on Thursday, 16 September 2010:

Education and Care Services National Law Bill.  
Fair Trading Amendment (Australian Consumer Law) Bill  
Fire Services Commissioner Bill  
Judicial Commission of Victoria Bill  
Road Legislation Miscellaneous Amendments Bill  
Road Safety Amendment (Hoon Driving) Bill  
Transport Accident and Accident Compensation Legislation Amendment Bill

In moving this government business program for the penultimate sitting week of this parliamentary session I advise the house that these seven bills that are on the government business program, which will be spread out over the next three days as shown on the notice paper, indicate what the government would like to achieve as a result of this parliamentary sitting week. Given the types of legislation before us and their spread over the week they should easily be considered and dealt with in the time available to the Parliament, and I recommend the motion to the house.

**Mr McINTOSH** (Kew) — The opposition does not oppose the government business program. I note that the Transport Accident and Accident Compensation Legislation Amendment Bill, the Road Legislation

Miscellaneous Amendments Bill and the Fair Trading Amendment (Australian Consumer Law) Bill can be dealt with today, but as the Leader of the House has indicated, the Fire Services Commissioner Bill and the Road Safety Amendment (Hoon Driving) Bill are not listed until tomorrow, and then the Judicial Commission of Victoria Bill and also the Education and Care Services National Law Bill cannot be dealt with until Thursday. Given my perusal of the whip's list on the opposition side in relation to each of these bills, I have every confidence that we will complete the government business program during the course of this sitting week.

**Mr DELAHUNTY** (Lowan) — I rise on behalf of The Nationals in opposition. We do not have major concerns about the government business program. Three bills can be dealt with today, two can be brought on tomorrow and two more can be brought on on Thursday.

We will have about 3 hours of debating time today. That will not get everyone through, but for each bill it should give at least four members on each side time to speak. It will get a bit tight. In the last couple of weeks we have found we have not been able to get every member up, but with cooperation from the new whip and the Liberal Party Whip we have been able to come to an agreement whereby each member will have 5 minutes, which will give many more members the opportunity to have a say. There are many members who travel long distances to be here, and they want to have the opportunity to raise matters that are important to their electorates, particularly in relation to the Fire Services Commissioner Bill, which will be debated tomorrow.

Obviously there are road safety matters to be debated. I am standing here beside the member for Polwarth, who knows there will be a lot of debate about hoon driving and the problems in that area. I am sure there will be some good ideas and good discussion in relation to that bill, which will also be debated tomorrow.

The Education and Care Services National Law Bill will come on on Thursday. Education is vital to the continuing development of not only our younger generation but people of all ages, and it is important that we have ample opportunity for members to get up and speak on that bill. I am sure that with good cooperation between all sides of the house most members will get the opportunity to put forward the views that are important to their electorate. With those few words, The Nationals in opposition are not opposing the bill.

**Mr BROOKS** (Bundoora) — I am a bit shocked by those kind words from the member opposite. This is a solid and orderly business program. As the previous speaker mentioned, the bringing on of a number of bills each sitting day presents an opportunity for members to contribute to the various bills we will be dealing with. The business program provides members with an adequate opportunity to contribute to the debate on these important pieces of legislation.

**Mr HODGETT** (Kilsyth) — I wish to make a brief comment on the government business program. As has been said, we on this side of the house do not oppose the government business program moved by the Leader of the House for this parliamentary sitting week. We have seven bills to get through, and those bills should be able to be dealt with while allowing adequate time for speakers to debate them by the 4.00 p.m. deadline on Thursday, 16 September.

I am disappointed that the member for Lowan in his contribution did not note item 9 on the notice paper. I take the opportunity to remind the Leader of the House that with one sitting week remaining there is still time to debate the Water Amendment (Critical Infrastructure Projects) Bill 2006 and the amendments from the Legislative Council. We were all dragged back in December 2006 to deal with the critical water infrastructure project bill, and with one sitting week remaining after this parliamentary sitting week we look forward to that being on the government business program for that final sitting week.

**Motion agreed to.**

## MEMBERS STATEMENTS

### Believe in the Beat

**Mr BATCHELOR** (Minister for the Arts) — Last Friday I was very honoured to meet a number of young talented women who are participating in the Believe in the Beat project. Believe in the Beat, through the Decibels Youth Music Centre in Reservoir, aims to empower a range of young women from culturally and linguistically diverse backgrounds through music-oriented training and practical experiences. The program utilises key facilitator DJ MzRizk to train young women aged between 15 and 18 in songwriting, MC-ing, DJ-ing, live performance, technical production and event promotion and marketing.

Believe in the Beat fulfils an important role in community building by providing access to and encouraging participation in expressive arts projects. It

gives young women a voice, confidence and opportunities to gain useful skills while traversing perceived cultural barriers. This project has been so successful that I was pleased to announce a Victoria Rocks grant of \$7300 to support the 2011 Believe in the Beat project.

Congratulations to Kate Duncan and the current participants in the project: Iham Mohamud, Khadija Aseir, Mulki Ali, Hayat Mumin, Rei-Moana Rapana, Lindita Lerovski and Pennie Walford. I wish all these young women every success for their graduation, which will be held this Friday night.

### **Stamp duty: homebuyers**

**Mr WELLS** (Scoresby) — This statement condemns the Brumby Labor government for continuing to make home ownership for many Victorians an unobtainable dream due to the state's dubious honour of charging the highest stamp duty in the nation. The most recent Housing Industry Association-Commonwealth Bank of Australia housing affordability index sank in the June quarter to a level 32 per cent lower than in the same period a year ago and close to a record low. A significant factor in this increase in housing unaffordability continues to be the high level of inequitable taxes applied to housing, including state property taxes. Since 1998–99 income from stamp duty on land transfers will have increased by 270 per cent from \$1 billion to an estimated \$3.7 billion in 2010–11 and by a further 14 per cent to a forecast \$4.2 billion in 2013–14.

On a \$559 000 median-priced home in Melbourne non-first home buyers pay \$28 610 in stamp duty compared to \$20 645 in New South Wales, \$11 005 in Queensland and \$19 910 in Tasmania. For a decade Labor has overrelied on property for tax revenue. This dependency has doubled from 15 per cent of total state taxes to almost 35 per cent in 2010–11, and it is set to rise even further.

### **Adult and community education: awards**

**Mr PALLAS** (Minister for Roads and Ports) — I would like to congratulate the recipients of the 2010 Adult Community Education awards, announced recently. Joanna Weeku of the Werribee community and education centre was named the 'outstanding ACE learner' in Victoria. Joanna commenced at the centre under a language, literacy and numeracy program. She went on to take part in a community learning partnership grant, during which time she and other refugee women started cooking Friday lunches at the centre. Joanna then achieved qualifications in food

handling, and the kitchen now runs a catering service. Joanna is a single mum who has also completed the driving safely program, and through her work at the centre she has been able to support her family and buy a car.

Sudanese and Karen women are now being mentored by Joanna. Scholarships worth \$1000 were recently awarded to assist some early childhood workers with their study costs to complete the early childhood certificate III qualification. I congratulate Dinlini Rodrigo and Lorraine White of my electorate, who were successful in obtaining scholarships.

The winners and entrants of the 2010 Wyndham City Council's Business of the Year awards are also to be congratulated. A special mention goes to the Alex Fraser Group, which took out this year's coveted Wyndham Business of the Year Award for its ongoing investment in innovation and the development of strong long-term relationships with its customer base, which have enabled it to build a world-class recycling facility in Laverton North.

### **Floods: infrastructure repair**

**Mrs POWELL** (Shepparton) — I would like to congratulate local councils, the State Emergency Service, the police, other emergency services and army personnel and pay tribute to them for the action they took in protecting communities from the recent floods in regional Victoria. They worked tirelessly with the community to protect homes and towns from floodwaters.

The Shepparton community was on high alert last week as the rising floodwaters threatened many homes, farms and businesses. My family, like many others, was isolated on our property. It was great to see the wonderful community spirit as residents helped each other protect their properties. Thankfully there have been no reports of significant damage or loss of life. Councils are now assessing the damage and the effectiveness of their response to the emergency. Although it is too early to tell what is the full extent of the damage across the regions, a number of bridges, roads, fences and other public assets have been damaged, and I call on the state government to urgently provide local councils with the funds required for their repair.

The cost to repair this infrastructure is likely to be in the tens of millions of dollars and will be far beyond the budget of many of these local councils, especially those which are still recovering from the Black Saturday bushfires. Many of these councils in country Victoria

cover large geographic areas with small populations and do not have the capacity to raise the funds necessary to repair their damaged infrastructure without immediate and significant support from the government. I call on the Premier to urgently assist local councils affected by the floods with the funding necessary to ensure the repair of roads, bridges, fences and other infrastructure damaged by the floods in regional Victoria and to provide any other expert engineering expertise needed by councils.

### **Maribyrnong Park Football Club: premiership**

**Mrs MADDIGAN** (Essendon) — I would like to pay tribute to the premier football club in the Essendon District Football League (EDFL), of which, coincidentally, Kevin Murray and I are no. 1 supporters. On Sunday Maribyrnong Park won back-to-back premierships, defeating Greenvale in the final held at Windy Hill. The EDFL has gone from strength to strength over the years, mainly because it insists on junior teams being part of the competition. Maribyrnong Park, a club which about five years ago was struggling to field its required junior teams, now has 11 junior teams and is proving to be a real force in the EDFL. Greenvale was once again beaten by Maribyrnong Park, so it has been unlucky. It has been defeated in the last three grand finals, but it did put up a fine fight on Sunday and its players should be proud of the effort they put into it.

I would just like to congratulate all those involved with the Maribyrnong Park Football Club, particularly senior coach Brodie Holland, reserve coach Scott Agresta, president Luke Di Pietro, secretary Tanya Taylor, team manager Wayne Taylor and captain Heath Ayres. Congratulations to all those supporters, past players, parents and players involved with the club today who have made this club so strong once again in the Essendon District Football League.

### **South-western Victoria: storm damage**

**Mr MULDER** (Polwarth) — During the week beginning 16 August a major weather event hit south-western Victoria, causing significant damage to roads and infrastructure within the Colac Otway, Corangamite and Moyne shires. I toured the affected areas and saw firsthand the damage, in particular in and around the Otway Ranges. I also looked at the roads in the Moyne shire with residents and carried out an inspection of the roads with the mayor of Corangamite shire.

Major impacts have occurred with landslips, removal of material from gravel roads and damage to bridges and

the council road table drains throughout the municipalities. With damage bills in the millions for the Colac Otway, Corangamite and Moyne shires, the cost of rectification is well outside my councils' normal operational and maintenance requirements. Significant safety risks to the general public have been exposed. It must be remembered that these areas are high tourist destinations with, for example, some 700 000 visitors coming to the Colac Otway shire annually. Just for this reason alone it is imperative that restoration work be done as soon as possible.

I am aware that councils have submitted funding applications under the natural disaster financial assistance program and are seeking confirmation from the government that their claims will be supported. Given that these claims have been in the system for some weeks now, it is imperative that they continue through the process without delay and are not put on the backburner due to the more recent weather event which affected areas in Victoria's north-east. These councils require the security of knowing that they will receive government assistance to continue their clean-up and rectification work. This is going to place an enormous burden on ratepayers in small country rural councils if indeed the support is not provided by the government. I ask the government to act urgently.

### **Laverton College P-12: science and mathematics excellence award**

**Ms HENNESSY** (Altona) — I rise to recognise all those at Laverton College P-12 and to congratulate them on winning one of the inaugural Victorian Science and Mathematics Education Excellence awards. These awards recognise partnerships that aim to increase student interest in science and maths and encourage more students to pursue science and maths-related careers, which will support Victoria's future economic, social and environmental needs. The LAVNET program provides a science and technology program for the local community. LAVNET works with other primary schools in the western region and promotes science and technology for all students.

In the west we are incredibly proud of the journey of transformation undertaken by Laverton P-12. It is a school community that has come together as part of a wider community renewal program in Laverton. Around \$20 million has been invested in constructing a new school on the former secondary college site. The new facilities are designed to support the college's four learning communities, which are based on student ability rather than age. The aim is to better engage students with learning and to support teachers to adopt modern teaching methods and personalised learning. A

strong focus on literacy and numeracy is paying off in spades. In 2009, 98 per cent of Victorian certificate of education students in Laverton were offered a place at either university or TAFE.

It should come as no surprise that Laverton P-12 has won this award, but I wish to pay tribute to the work of the Laverton community, the teachers and the students for improving their educational outcomes and continuing to build better outcomes in the west.

### **Public Accounts and Estimates Committee: Public Finance and Accountability Bill**

**Mr CLARK** (Box Hill) — The report in today's *Age* newspaper that the Premier has been warned directly by both the Auditor-General and Ombudsman that the Public Finance and Accountability Bill threatens their independence and yet has continued with his plans raises to a new level the concerns about this bill. The Premier can no longer claim this is simply an issue involving the Minister for Finance, WorkCover and the Transport Accident Commission. It is clear that the Premier himself has been involved in the decision to try to undermine the independence of the Ombudsman, the Auditor-General and other independent public bodies.

The hopelessly inadequate amendments announced by the government today confirm the threat but fail to fix it. When Labor was elected it claimed to be the defender of independent public bodies, but 11 years later we have an arrogant and out-of-touch Brumby government threatening not only the Ombudsman and the Auditor-General but also bodies such as the Director of Public Prosecutions, the courts, the Victorian Electoral Commission and the Office of Police Integrity.

Under this legislation the government will have the power to require any independent public body to hand over information, comply with government directions and implement government policy. The government will also be able to cut their funding at any time. Not only has the government sought these extraordinary powers but it has even tried to gag the Auditor-General from telling Parliament about these threats. In the process the Labor members of the Public Accounts and Estimates Committee have badly damaged the reputation of that committee. Instead of standing up for the independence of the Auditor-General and other public officers and urging the government to back down on its threats — —

**Mr Stensholt** — On a point of order, Acting Speaker, I just want to say that any imputations against members should be made by substantive motion.

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

**Mr CLARK** — The Labor majority has shown every sign of simply bowing to instructions from above. The member for Burwood, as chair of the committee, must accept particular responsibility for what has happened.

### **Youth Projects**

**Ms BEATTIE** (Yuroke) — Today I rise to recognise the terrific efforts of the youth-based support group Youth Projects. For the past 25 years, Youth Projects has offered support and guidance to marginalised youth in the north-western suburbs of Melbourne. Youth Projects goes above and beyond the call of duty, addressing issues such as homelessness, alcohol and drug use and mental health through health, education, outreach and training services for youth who have fallen on hard times.

On 28 August this year, Youth Projects was awarded a 2010 Melbourne Award for its outstanding contribution to the community. That award was presented at the Melbourne Town Hall. As with many groups, there are a large number of people who are vital to the organisation, but I would like to commend two in particular — the chairperson, Melanie Raymond, and the director, the Honourable Monica Gould, for their dedication and their fantastic efforts in supporting the youth of Victoria. Members may recall that the Honourable Monica Gould was the first female President of the upper house. She has continued to go on and do fantastic work after her retirement from this Parliament. More power to Youth Projects.

### **Gippsland: cost of living**

**Mr NORTHE** (Morwell) — The costs of living continue to burden those residing in Gippsland in general and those within the Morwell electorate in particular. Far too frequently my office is contacted by community groups, businesses and individuals who are extremely concerned about rising electricity, water, gas and fuel prices. Many people are finding it increasingly difficult to pay these costs and in some cases are going without necessities to ensure that their utility accounts are paid.

Whilst many Victorians are experiencing similar circumstances, it appears that in comparison with people in some other regions, those residing in

Gippsland are receiving a raw deal when it comes to utility and fuel prices. As indicated recently in the *Herald Sun*, Gippsland residents are currently paying on average \$440 per annum more for electricity and gas compared to 2008, which is a greater increase than anywhere else in the state. Gippsland Water ratepayers have higher average water rates than those from any other water authority.

The cost of fuel impacts heavily upon Latrobe Valley motorists and businesses. For example, if you fuelled up in Melbourne today, you would pay approximately 113.6 cents per litre for unleaded fuel. If you then headed 150 kilometres east to Morwell, the price would rise by some 12 cents per litre. If you then travelled another 130 kilometres east to Bairnsdale, the price for unleaded fuel would decrease by 8 cents per litre in comparison to Morwell.

This does not seem fair, nor does it seem fair that this government has wasted enormous amounts of taxpayers' money by incurring substantial cost blow-outs on projects such as the myki ticketing system, the smart meter rollout and the Wonthaggi desalination plant, which all add to the consumer's financial pains.

### **Gembrook electorate: special needs forum**

**Ms LOBATO** (Gembrook) — Yesterday I held a forum for families with special needs children at the Gembrook community centre so that families could meet with departmental officers to inform them of the multitude of issues that confront these families each and every day. I am very thankful to all Department of Human Services and education department staff who attended, and I was greatly encouraged by their willingness to assist our families and their commitment to address families' needs. I am also thankful to them for their commitment to expand this consultation to the rest of the electorate in acknowledging the number of families requiring special needs assistance.

Many individual circumstances were presented to the departmental officers, including the massive increase in autism rates, particularly Asperger's syndrome, and the lack of assistance provided to high-functioning children with special needs due to their IQ exceeding the funding assistance criteria.

The issue of bus travel to special schools was also highlighted, as some special needs children are spending unacceptably long times on school buses. The need for special schools throughout the electorate was also discussed. We discussed the new eastern autism P-12 school that my constituents are very pleased with, and I was delighted that a member for Eastern

Metropolitan Region in the other place, Shaun Leane, accepted my invitation to address the forum to discuss his involvement in the development of the school and also hear from families.

The southern metropolitan region education department regional director spoke about plans for a special needs school in Officer and the work we did with the Cardinia Shire Council to include this provision in the Officer structure plan. Peter Greenwell spoke about the demographic study that is currently being undertaken to determine the level of need and the types of need that will guide — —

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

### **Desalination plant: road damage**

**Mr K. SMITH** (Bass) — The issue I wish to raise today is the damage to the roads and highways leading to the desalination plant at Wonthaggi. The Bass Highway, the South Gippsland Highway and the Pakenham-Koo Wee Rup road are falling apart with the weight of the loads being carried by some of the sand-carrying and pipe-carrying trucks associated with the pipe from the site to the Pakenham and Berwick areas.

What were once small country roads are now potholed piles of rubble, and hundreds of massive trucks are speeding along these roads every day doing untold damage and placing local residents and drivers themselves at risk. I would like to know who is going to pay for the damage that has been caused because of this government's disgusting haste to get the project finished. An amount of \$12.1 million was made available to the Bass Coast Shire Council some time ago to carry out some of the works in the Wonthaggi area and near the desalination plant, but millions of dollars are still going to be needed to be spent to return some of these roads and highways to some normality.

I want to know who is going to pay for this. The damage that has been done is horrific. The danger that is being caused to motorists using these roads in a normal way is becoming extremely high, and it is time this government, through VicRoads and the Minister for Roads and Ports, came down, looked at these roads, saw the damage that is being done and made some commitment to getting them fixed. We cannot afford to have people killed because of the trucks that are going to the desalination plant.

### **Federation of Indian Associations of Victoria: friendship fair**

**Ms GRALEY** (Narre Warren South) — As part of the celebration of 63 years of independence for India, I had the pleasure of attending a number of special events. As always I enjoyed fabulous Indian hospitality, entertainment and food.

At the Federation of Indian Associations of Victoria celebration the Premier recalled that wonderful moment 63 years ago when Prime Minister Nehru was finally able to tell the world that:

At the stroke of the midnight hour, when the world sleeps,  
India will awake to life and freedom.

We are fortunate to have in our prosperous, happy and cosmopolitan Victoria a growing Indian community. The Indo Australian Friendship Council, in its own words, works:

To look after the welfare and do everything to raise the image of Indian community by developing healthy social and cultural values between Indian community and other communities in Australia.

The friendship fair was a great occasion for people of all backgrounds to experience Indian culture. It was a fantastic feast of musical performances.

The committee members of the Indo Australian Friendship Council are my dear constituent, the president, Manjit Singh Aujla; vice-president Himat Arora; secretary Taswinder Singh; treasurer Tej Mann; and committee members Daljit Singh, Ravinderpal Singh, Harjinder Singh, Harinder Balbir Singh, Sachendee Singh Toor and Yudhveer Singh. I thank them very much for the extraordinary job they are doing of promoting camaraderie and understanding between India and Australia.

Gandhi always insisted that people of different faiths, cultures and traditions could all benefit if they came together in peace and with mutual understanding. Members of the Indian community in the Narre Warren South electorate are moving into new houses and taking up jobs, and the youngsters are excelling at school and of course cricket. They are taking every opportunity this terrific state offers them. Victoria is home to many generous and welcoming people from many different backgrounds, making it a great place for all of us to live, work and raise a family.

### **Small business: shoplifting**

**Mr BURGESS** (Hastings) — The Brumby government's soft-on-crime policies are affecting the

entire community; however, small business owners in particular are feeling their effects. I have been approached by a large number of local business owners who are concerned by the effects that increasing levels of crime are having on their businesses. Owners of local liquor outlets are particularly concerned about the massive impact shoplifting is having on their businesses. These business owners have stated that whilst thieves are sometimes caught, prosecuted and ordered to repay the value of what they have stolen, this restitution seldom occurs. Magistrates take into consideration an offender's agreement to repay what he or she has stolen and therefore give a lighter sentence. However, after a court order is made for restitution, nothing is ever done to make sure it is complied with. Victims are also seldom informed that restitution has been ordered.

To compound the problem, the fact that the offender does not repay is never taken into consideration in sentencing for subsequent offences. When a victim raises this unsatisfactory situation with the court they are advised that if they want to pursue restitution, civil action is the only avenue. However, because of privacy laws victims cannot get the details of offenders needed for such action to be taken. Shoplifting imposes an enormous burden on Victoria's small businesses. The state government must act to ensure that our justice system reduces this burden.

### **Schools: technical education**

**Mr BURGESS** — Not all children are the same, and many are not suited to learning within mainstream educational facilities. Since the Joan Kirner Labor government closed all of Victoria's technical colleges, Victorian children have been forced through a one-size-fits-all education system. When a child is forced into a system that does not suit them, they can struggle to cope and can eventually feel they are failures. The damage done to so many Victorian children by this shameful Labor Party policy is a disgrace. We all know children who struggle with algebra but who could dismantle a car and put it back together again with their eyes closed.

### **Bridges: Taggerty-Thornton Road**

**Mr HARDMAN** (Seymour) — I rise to thank the Minister for Roads and Ports and VicRoads for their speedy response to the communities of Taggerty, Thornton, Alexandra, Rubicon, Snobs Creek and Eildon, which are very concerned that an important connection — the bridge at Tumbling Waters over the Rubicon River on the Taggerty-Thornton Road —

could be cut off for quite some time due to irreparable damage done in the recent floods.

The minister and VicRoads have visited the bridge. They travelled a long way, going to Thornton with local community members, representatives of the shire and me to inspect the damage and announce that a temporary single-lane bridge which can carry vehicles up to the size of a 44-tonne truck would be erected within two weeks, with a new bridge to be put in place within 12 months to allow people to access the shops and schools in Thornton and Taggerty as well as the outdoor education centres in Rubicon and Eildon. Very importantly, the new bridge will allow tourists to access Lake Eildon this season in the most direct manner from Melbourne. The local community was devastated by the bridge collapse.

For the first time after many years of drought Eildon is looking great. The community has suffered significant issues as a result of this drought; it has suffered significantly as a result of a lack of tourist visitation, because after Black Saturday people kept away for a long time. These communities can now have the confidence that they will have every opportunity to access their services and take advantage of this future holiday season.

### **State Emergency Service: Seymour electorate**

**Mr HARDMAN** — I would also like to take this opportunity to thank the State Emergency Service across the state for the ongoing dedication of its members to our communities. I say a particular thankyou to the local SES volunteers, who look after the many areas around the Seymour electorate. Their efforts are unsung, yet I know they work for people all the time.

### **Solar energy: Mildura project**

**Mr CRISP** (Mildura) — TRUenergy proposes to build a 180-megawatt solar power station as part of the commonwealth government's Solar Flagships program. TRUenergy and its partners and associates are currently involved in a community consultation in Mildura, and I wish to congratulate not only TRUenergy but also First Solar, Bovis Lend Lease and Element Projects on choosing Mildura, Victoria's solar capital, for this project. I am sure the community will be supportive and will look forward to their success in the Solar Flagship program.

### **Police: northern Victoria**

**Mr CRISP** — On another matter, the recently released crime statistics reinforce the need for additional police numbers in northern Victoria. Of particular concern is the rise in the incidence of burglary, highlighted in the *Sunraysia Daily* today with the front-page headline of 'Break-ins warning'. It appears it has become such an issue that Mildura police have formed a dedicated theft and burglary investigation team. It also appears the burglaries are occurring not just in occupied homes but also in homes under construction — builders have been reporting a spate of thefts to my office. Mildura needs additional police and Ouyen and Robinvale need additional police. Let us get on with delivering the resources to my community so residents can feel safe and confident that when they return home from work or when they take possession of their new home there will still be possessions in their homes.

The crime figures are quite concerning, with burglary from residential properties rising by some 27 per cent and thefts from motor vehicles up 29 per cent. Truly it is time that these numbers are considered by all to be unacceptable. The community needs extra police.

### **Cranbourne Integrated Care Centre: services**

**Mr PERERA** (Cranbourne) — It was with great pleasure that I joined the Minister for Health on a recent visit to the wonderful Cranbourne Integrated Care Centre. Since opening in May 1999 the centre has become a vital part of our rapidly growing community, providing a wide range of acute medical and same-day surgical services, primary health care, mental health services and rehabilitation. Improving the quality of life and the wellbeing of our community is the major focus of the centre's early intervention, health, education and promotion activities.

On 31 August this year the renal dialysis unit at Cranbourne Integrated Care Centre celebrated 10 years of innovative care for people with kidney failure. The dialysis unit delivers an incredible service to its clients, and the nursing and medical care is simply outstanding.

The Brumby Labor government is working hard to support our health system, and that is why funding to Southern Health increased by 11.3 per cent last year and is up by 173.7 per cent on 1999–2000 figures.

### **Carlisle Park Children's Centre: community room**

**Mr PERERA** — It was also with great pleasure that I joined the Minister for Community Development in supporting a Brumby Labor government grant of \$200 000 for the construction of the Carlisle Park Children's Centre community room project. The community room will enable the centre to be used as a more flexible multi-use facility and it will increase the rate and diversity of participation by allowing a range of local groups to conduct activities and programs and — —

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

### **Alfred hospital: Caulfield electorate constituent**

**Mrs SHARDEY (Caulfield)** — In the adjournment debate on 12 November 2009 I raised a matter for the Minister for Health. It concerned the case of 47-year-old Grant Cavanagh Tweedie, who claimed that he had been waiting in great pain to receive treatment from the Alfred hospital since 2001. He has a degenerative disc disease in his back which has now become inoperable, and this leaves him dependent on a plethora of prescribed drugs to control the pain. At the time this man wrote to me he had also been waiting for more than a year for a colonoscopy, which was needed because there is a strong history of bowel cancer in his family. Mr Tweedie complained that the Victorian public health system was failing him in every way, and I asked the minister to investigate and take action to help this man.

I received my written response from the Minister for Health on 7 September this year, 10 months since raising the matter in this place. I dare say this lazy, incompetent government is trying to clear the decks before the election — without a care in the world for the poor person to whom the request related and with no word to me as to whether my constituent has now received treatment. What did the Minister for Health actually write to me some 10 months later? In his letter he says that:

... issues relating to services in a Victorian public hospital should be investigated by the health service concerned.

He even gave me the name and phone number of the patient liaison officer — —

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

### **Northcote electorate: sporting clubs**

**Ms RICHARDSON (Northcote)** — With the close of the winter sporting season, clubs in my electorate have much to celebrate. The Darebin Falcons women's Australian rules football team was particularly outstanding yet again. The club's seniors, reserves and youth teams were all undefeated throughout their seasons in the Victorian Women's Football League. For the seniors it was their fifth premiership in a row, and the reserves made it back-to-back premierships. Darebin women clearly set the footy standard.

I would also like to congratulate the Northcote City Soccer Club, which in 2010 celebrated 50 years by reaching the finals of the Victorian Premier League. Another small but very enthusiastic club, Darebin United, finished third in its division. Well done.

While the senior team of Northcote Park Football Club had a moderate season by its high standards, its junior teams fared much better, with the under-11s and under-12s being premiers and the under-10s and under-17s runners-up. Congratulations, too, to the under-17s coach, Vince Fontana, who was recognised as the best youth coach of the season by the Northern Football Coaches Association. Knowing Vince as I do, I believe he would trade this award in a heartbeat if only he could secure the premiership for his fabulous under-17s. Better luck next year.

Parkside Football Club plays in the third division of the same league. Both its seniors and its under-11s team in the Parkside Junior Football Club made the finals. This club that so nearly folded some years ago is simply inspiring.

The Westgarth Baseball Club had another successful year. Its under-17s side was the champion team, while its seniors, reserves and Little Leaguers reached the finals, setting themselves up well for 2011.

Whatever the level of on-field success, I can vouch for the dedication, effort and community leadership that all these clubs display. I am especially appreciative of the focus these clubs give to young people in our community. We would all be much poorer without them. Well done everybody!

### **Bulleen electorate: government funding**

**Mr KOTSIRAS (Bulleen)** — I stand to condemn this lazy government. For 11 years it has ignored the residents of my electorate. For 11 years the residents in my electorate have been calling out for funding for traffic lights to operate on the major roads, and for 11 years this government has ignored their wishes.

There have been 11 years of inaction and 11 years of neglect, but the government is very good at spin. The government can pay millions of dollars for advertising, but it provided very little money to the residents of Bulleen. Crime rates are up, roads are decaying and school buildings are crumbling, yet this government refuses to listen to the residents of Bulleen.

There are only a few weeks to go before the Victorian election, when the residents will have their say. The residents will have their say on 27 November, because for 11 dark years the government has done nothing at all. It is a shame. It is an insult to the residents and an insult to Victorians.

## TRANSPORT ACCIDENT AND ACCIDENT COMPENSATION LEGISLATION AMENDMENT BILL

### *Second reading*

**Debate resumed from 29 July; motion of Mr HOLDING (Minister for Finance, WorkCover and the Transport Accident Commission).**

**Government amendments circulated by Mr HELPER (Minister for Agriculture) pursuant to standing orders.**

**Mr WELLS** (Scoresby) — I rise to join the debate on the Transport Accident and Accident Compensation Legislation Amendment Bill 2010, and from the outset I state that the coalition will not oppose the bill. I also state that at this point we are not moving amendments to the bill, but we have two main concerns which I will outline later in my contribution. Hopefully that will give the government the chance to formulate amendments while the bill is between here and the Legislative Council.

In relation to the TAC (Transport Accident Commission) scheme the bill provides, firstly, that a person who is injured in a transport accident and who is convicted of a drug-driving offence has their compensation reduced by one-third; secondly, that if the TAC fails to determine the degree of impairment suffered by a transport accident victim within six years of the accident, the impairment is deemed to be zero; thirdly, that claimants entitled to compensation as a result of accidents which took place before 16 December 2004 have an option to buy out their weekly impairment benefit annuity entitlements as a lump sum; fourthly, that domestic partners of pregnant women who are injured as a result of a transport accident have the same equivalent entitlement to

child-care assistance as their injured partners would have; fifthly, that a child who is injured as a result of a transport accident and who has not made a claim or had a claim made on their behalf within the required time frames has three years from attaining the age of 18 to make a claim; sixthly, that only a natural person who has a serious injury or dies as a result of a transport accident can claim damages under the TAC scheme; and seventhly, that in relation to an accident no compensation other than for medical and like services is payable to the driver of a motor vehicle who is convicted of dangerous driving causing death or serious injury. The last point with regard to the TAC is that any information or documents obtained pursuant to a section of the act may be used in relation to any other section of the act.

The second part of the bill relates to the WorkCover scheme. The main points it refers to include the following. It updates the definition of pre-injury average weekly earnings to include piece rates and commissions, and specific non-pecuniary benefits, such as motor vehicle, residential accommodation, health insurance and school fees. The second main point is that it changes the name of the body corporate from Victorian WorkCover Authority (VWA) to WorkSafe Victoria, and that is one of the issues that we have a concern about, which I will come back to at a later point. The third point is that it simplifies and streamlines the test to determine whether a contractor is deemed an employee for WorkCover purposes, and that is another point that we have concerns about, especially with regard to sharefarmers. I will come back to that soon. The fourth point is that it removes the requirement for premiums to be paid by both the principal and incorporated contractor in respect of contract workers.

Further, the bill makes a number of technical corrections arising from the Accident Compensation Amendment Act 2010. The second last point is that it allows for the Governor in Council to make orders for legal costs in respect of serious injury and common-law matters. The last point we would like to make with regard to the WorkCover scheme is that it introduces a new power for the minister to issue directions with respect to fees. The first issue that we would like to outline, and I will go into in great detail, is that the bill is described as a further and final tranche of legislation to implement the government's response to the Hanks inquiry into the Accident Compensation Act.

However, there appears to have been no industry consultation prior to the introduction of this bill. The second issue that we would like to raise is the government has failed to deliver Hanks's first

recommendation for a simplified, plain language rewriting of the WorkCover legislation. The coalition has announced that as part of our policy we will undertake a legislative rewrite. The third main issue we would like to raise is that we have concerns that have been expressed that the contract provision will not provide for the desired clarity, which will rely on as yet unseen VWA guidelines. A clearer alternative may be to deem a person who pays a superannuation guarantee contribution to be the employer for the purpose of WorkCover. The bill has failed to update contractor deeming provisions with respect to sharefarmers — as I mentioned earlier; and I will come back to it later — deeming them to be employees if they are entitled to receive less than one-third of their income derived from a share farm.

A ministerial fee-setting power may be used to impose fees on self-insurers for the VWA administration costs. Default zero impairment assessments may disadvantage claimants where TAC has failed to make a required assessment. Privacy of TAC clients may be undermined by allowing any information provided to TAC for a specific purpose to be used by TAC for any purpose under the act. Cost orders in respect of WorkCover matters disadvantage claimants with extended proceedings.

The other main point that we are looking at and calling on the government to make amendments with respect to regards the renaming of the organisation as WorkSafe. That action undermines the independence of the occupational health and safety enforcement agency, WorkSafe, and the insurance part of the business, WorkCover. The last point is that the bill contains a number of drafting errors which the government will need to introduce house amendments to correct. I suspect that is what we have just received from the Minister for Agriculture, and we will look at that in due course.

I have referred to two main concerns. We have great concerns about WorkSafe and WorkCover being joined under the one name. We are uncomfortable about that. Feedback from the consultations that we have had with industry is that the industry is also uncomfortable about that — that is, having the insurance part of the business and the enforcement part of the business under the one umbrella. I and many in the industry do not think that is the right thing to do.

With regard to the sharefarmer issue, for many of us who grew up in country areas sharefarming was important. There were lots of sharefarmers in East Gippsland. The provision regarding having one-third of income derived from a share farm does not allow for circumstances such as, for example, in East Gippsland, floods, long-term drought or a significant bushfire.

Such events could significantly reduce the income of a sharefarmer. I do not think the bill provides sufficient flexibility to deal with that situation. I will listen to the member for Rodney, who has special concerns about that.

I now refer to the second-reading speech of the Minister for Finance, WorkCover and the Transport Accident Commission, which states:

An internal review by the Transport Accident Commission (TAC) to improve the effectiveness and efficiency of the scheme has identified a number of improvements in the delivery of benefits to those injured in transport accidents.

We agree with that; we do not have any issues with that.

The minister said:

This government committed to update the Accident Compensation Act 1985 ... to improve workers compensation arrangements while ensuring that Victoria's workers compensation scheme remained the national benchmark in efficiency and business competitiveness.

Mr Peter Hanks, QC, was engaged to conduct an independent review into the operation of the WorkSafe scheme, and on 17 June 2009 the government released its response to the Hanks report, announcing a \$90 million per year reform package in direct benefit improvements for injured workers and their families.

Most of these benefits were implemented by the Accident Compensation Amendment Act 2010 ... However, a number of recommendations arising from the review that were supported by the government remained outstanding.

He further stated:

The key AC act changes include:

streamlining the provision that sets out the calculation of pre-injury average weekly earnings ...

codification of WorkSafe's current policies relating to the calculation of pre-injury average weekly earnings ... and the recognition of salary packaging and injury prior to taking up a promotion ...

restructuring and streamlining of the provisions that govern coverage of certain workers and contractors.

Further, a number of new proposals have also been included in the bill aimed at enhancing the useability of the AC act, the effective management of the WorkSafe scheme and its ongoing sustainability.

The report that Peter Hanks brought down in August 2008 makes for quite interesting reading, because in the no. 1 recommendation he made to the government he stated:

- 1.1 One of the key frustrations with the current workers compensation system is the overly complex legislation that sets out the rules that govern the scheme. Two significant features of the legislation make it particularly

difficult to understand and use: the many amendments to the legislation and the absence of a hierarchy of scheme legislation.

In another key recommendation Peter Hanks stated that:

- 1.3 There is an overwhelming case for rewriting the AC act and the ACWI act, with the objective of developing legislation that is arranged in a logical, intelligible and functional structure and that eliminates obsolete and contradictory provisions.

Yet we are back here again debating exactly the same piece of legislation. The government has still not accepted the recommendation made at 1.3 — that is, that the bill should be rewritten. Hanks made a number of other recommendations, and we are working through them in this bill today.

When you look at the government's response to the Hanks report it is interesting that under the heading 'Chapter 1 — Improving clarity and understanding of the act' it summarises the Hanks recommendation as follows:

1. Recast Victoria's accident compensation legislation into a comprehensive act arranged logically and expressed in plain language.

The government's response is 'Support'. It has a long drawn-out response accepting the report, but it does nothing about it. It is not committed to rewriting the Accident Compensation Act. The government's commentary states:

Consistent with Hanks's recommendation, the government supports recasting the accident compensation legislation in stages.

The government's priority will be to legislate to implement all significant policy and benefit changes arising from Hanks's review.

It sounds great, and there are people in the industry who would read that and say, 'That's good; we have the government's support to rewrite'. But we are here once again making bandaid amendments to the bill, and this will go on and on.

As I mentioned earlier, the responsible shadow minister has made a commitment that if we win the election on 27 November, we will rewrite this act and we will follow the Hanks recommendation as set out at 1.1. It is as clear as day: the government supports the recommendations, but it is not going to do anything.

It is interesting that we are back here again making more amendments to this act. In my contribution to the second-reading debate on the Accident Compensation Amendment Bill on 2 February 2010 I made the same

point over and over again. I quoted recommendation 1.2, which states:

The AC act has been amended on 80 occasions —

can we believe that? —

and now prescribes a series of separate accident compensation schemes for different periods since 1985, which operate from a variety of dates. This makes the AC act quite difficult to navigate, particularly for those who are unfamiliar with the history of the legislation.

I also referred to recommendation 1.3, which is about rewriting the act, and we are making the same point nine months later.

In the speech I gave on 2 February 2010 I also stated:

What has the government done? It has completely ignored the very first and most important recommendation and instead has put to the house 350 pages of amendments be added to a principal act of 677 pages.

This government talks about reducing red tape and bureaucracy — jumping jeepers! When you are talking about adding the first lot of 350 pages of amendments to an act of 677 pages, something is very wrong. It is very difficult for those in the industry to deal with it. As I said, we will make the necessary changes to rewrite this act to make it easy for people to understand, especially those in small business.

After we had had a look at the bill, the assistant shadow Treasurer in the other place, Gordon Rich-Phillips, put out a press release on 3 February with the heading 'Coalition government to rewrite WorkCover act'. I will quote a couple of paragraphs from it to make it very clear. The press release states:

A Victorian Liberals-National coalition government will undertake a complete rewrite of the Victorian WorkCover legislation, assistant shadow Treasurer Gordon Rich-Phillips said today.

It goes on to say:

Labor has ignored Hanks's no. 1 recommendation of simplifying the legislation in a plain-language format. Instead, we have a bill which adds 350 pages of amendments to an act which is already 677 pages long.

As I mentioned, in regard to our two main concerns we will not be moving amendments in the Legislative Assembly, but we are giving the government the opportunity to consider the points we are making. We hope the government will introduce those amendments in the Legislative Council. If the government is not keen to do that, we will introduce amendments in the Council to correct the situation.

As I said, our basic concern is about the renaming of the agency to WorkSafe. The distinction between the insurance business, WorkCover, and the enforcement arm, WorkSafe, is being lost. Those functions should be kept separate and be seen to be kept separate. I refer to Clause 36 of the bill under the heading 'Division 2 — Amendment of Part 2 of the Accident Compensation Act 1985'. Subclauses (1), (2) and (3) are the parts we would like amendments made to so that there will be a clear distinction between the enforcement arm and the insurance arm. We ask the government to look at that matter.

As I mentioned, our second concern is in regard to sharefarming, which is dealt with under part 3 of the Accident Compensation Act 1985. Clause 28, headed 'New Section 11 — share farmers substituted' states at new subsection 11(1):

For the purposes of this Act —

- (a) if, under a contract entered into between an owner of land and a share farmer, the share farmer is engaged by the owner and —
  - (i) is entitled to receive as consideration a share of the income (being less than one third of that income) derived from the land whether in cash or in kind or partly in cash and partly in kind; or
  - (ii) if the contract is in writing, the contract provides that the owner is liable to pay compensation under this Act in respect of any injury arising out of or in the course of any work carried out by the share farmer in the performance of the contract —

then, for the purposes of this Act —

- (b) the share farmer is deemed to be a worker ...

As I said, for those who live in East Gippsland and have seen significant drought, significant floods and significant bushfires, that is what we would call very unfair. Relying on the one-third income rule makes it very difficult for people who live in harsh farming areas — and East Gippsland is one of those. We have just seen massive floods up in the north-east and over in the western parts of the state. We ask the government — and the Minister for Agriculture is at the table — to consider moving an amendment to address that concern so the situation for sharefarmers is more flexible and fairer.

The opposition has undertaken consultation and has sent out a number of letters in regard to the consultation process. The Master Builders Association of Victoria raised a couple of points, which I have mentioned. The association said to the coalition:

The vast majority of the content of the bill is fine; it does not hold too many surprises. A significant concern is that the bill provides for the rebranding of the Victorian WorkCover Authority to WorkSafe ...

WorkSafe have over the last four–five months started referring to the accident compensation scheme (traditionally called WorkCare or WorkCover) as the 'WorkSafe scheme'.

It said the Master Builders Association and the Victorian Employers Chamber of Commerce and Industry (VECCI) have met and that they believe there is a conflict of interest:

... arising from the merging of the two arms of the division that have traditionally separately dealt with workers compensation and OHS-related matters ...

I think that is a fair point. Further, it stated:

The renaming of the scheme seems to have been largely driven by the organisation's senior management ... and there has been no discussion ...

There is a concern — and there has been no discussion — regarding occupational health and safety (OHS):

OHSAC only meets once every six months and by the time it meets again this matter will —

have been dealt with in the Parliament. Further, it stated:

The names WorkCare and WorkCover are synonymous with compensation and rehabilitation. WorkSafe is a name that is synonymous with safety.

I think that is a pretty fair point. Looking at the ads on television, that point has been made clearly.

I move on to what VECCI has said:

VECCI were surprised by the tabling of this bill. We were informed only on ... 30 July that further amendments were planned for the Accident Compensation Act. Due to the lack of notice VECCI have not been in a position to seek legal advice or to obtain stakeholder feedback on the bill.

That is incredibly disappointing. As I mentioned, the government brought in the first lot of amendments on 2 February 2010, when I spoke in the debate, but with the second lot of amendments the fact that the government has not consulted a large business and industry organisation such as VECCI is very concerning. Further, VECCI went on to say:

VECCI are supportive of the redefinition of medical and like costs for the purpose of clarity.

That is supported. In regard to contractors and deemed employers, this is what it said:

The explanatory statement states the provision will not change who is and is not a deemed employer. VECCI has long argued for clarification in this area to limit innocent non-compliance by employers. The amendments are clearer but only slightly clearer. Much will depend on quality of the guidelines to be developed by WorkSafe.

You would hope — and maybe the member for Northcote or the member for Burwood could clarify this — that when the WorkSafe guidelines are to be drafted and drawn up, there has been extensive consultation with organisations such as VECCI to make sure that they are completely happy with them.

VECCI made the same point in relation to WorkSafe branding. It said:

VECCI have expressed concerns about this single branding to WorkSafe and WorkCover in recent times. Our union colleagues have also expressed concerns but for different reasons. They fear the insurance business overriding the OHS and regulatory functions. The enthusiasm to adopt a single brand is not shared by WorkSafe's stakeholders.

Maybe in following contributions Labor members can clarify that point in relation to why there was the push for the single branding, from WorkCover to WorkSafe.

In a letter received from the Self Insurers Association of Victoria, the association made this point. It stated that it:

... supports general proposals for clarification of contractor arrangements however is not satisfied following the briefing from WorkSafe that clarification will be achieved under the proposed amendments. A simpler approach is to align the definition of contractor with that ... under the taxation regime and define employer as any employer paying a contractor more than a set amount — currently \$450 per month. This approach is used in other jurisdictions and is both fair and simple to administer for both employers and contractors.

That does make a lot of sense. If you are abiding by the federal taxation laws, and they have a definition, then it would be easy to apply the same definition to the state acts. That is something the Self Insurers Association of Victoria is also looking at.

I will make a couple of quick points about a letter from the Australian Lawyers Alliance. The alliance stated that it does not support the introduction of the amendment in regard to an injured driver's entitlement if convicted of a drug-driving offence. It stated:

Whilst we understand the public policy reasoning behind such an amendment, we point out that the benefits are payable under the 'no fault' provisions of the legislation.

That is the point it made. Further, it said:

We do not support the contents of section 10 of the bill. This is in response to the decision of Justice Vickery in *Martino Developments Pty Ltd v. Doughty*, heard 10 September and judgement handed down 27 November 2008 ...

It went on to say that it strongly opposes the provisions of clause 12 of the bill.

In conclusion, we are not opposing the bill, but we would like the government to consider the two points that we make about two amendments. The first one relates to the branding of WorkSafe and WorkCover and bringing that under the one name. We do not support that.

The second point is the issue of sharefarmers having to receive more than one-third of income from the farm to be deemed genuine sharefarmers and otherwise being deemed to be employers. We ask in good faith that the government consider these two amendments. If the government is not forthcoming with support, the Liberal-Nationals coalition will move these amendments in the Legislative Council.

**Ms RICHARDSON** (Northcote) — I am pleased to speak in support of the Transport Accident and Accident Compensation Legislation Amendment Bill. The main objectives of the bill are to improve the transport accident scheme. Our Victorian scheme sets the standard for jurisdictions across Australia, and no doubt the improvements we make in Victoria will be replicated in other states. The bill also finalises the implementation of our response to the report by Peter Hanks, who conducted a review of Victoria's accident compensation legislation, and implements a number of technical amendments to the Accident Compensation Act to improve the effectiveness and efficiency of the WorkSafe scheme by resolving a range of anomalies in the legislation and protecting the ongoing financial viability of the scheme.

The context within which these changes are being made to the legislation follows an internal review by the Transport Accident Commission (TAC). Under the review a number of anomalies in the current benefits regime were identified and issues with legislation came to the fore that clearly required further work in response to recent court cases.

The total package that is being brought forward by the bill comes on the back of a Labor Party policy that was announced prior to the 2006 state election. Specifically that policy said we would 'review accident compensation legislation to ensure workers receive the assistance, support and benefits they deserve'. That is exactly what the ALP has done through a raft of measures — both those proposed here and those contained in earlier bills before the house.

In terms of the specifics of the bill, it will provide TAC clients who were injured prior to December 2004 and are currently receiving weekly annuity benefits for impairment with the option of receiving an equivalent lump sum impairment payment instead. As I said, the

bill also addresses a number of anomalies to improve benefit delivery, clarify the legislation regarding action for damages by a corporation and clarify the six-year time limit for impairment determinations.

In terms of the alignment of this legislation, there will be changes in relation to driving under the influence of drugs and dangerous driving causing death. This will address existing anomalies when compared with other offences that already result in a restriction of benefits.

The bill will also extend the period of time that a person who was a minor at the time of an accident has to lodge a claim when he or she reaches the age of 18 where a parent or guardian has not lodged a claim on behalf of the minor. This will allow a person who was a minor at the time of the accident to lodge a claim at any time before he or she attains the age of 21.

The bill also makes important changes to the Accident Compensation Act in line with the commitments Labor made before the 2006 state election, as I said. It contains a package that completes the delivery of over \$90 million in increased benefits to injured workers and their families. It includes amendments that will streamline the provision that sets out the calculation of pre-injury average weekly earnings (PIAWE) and correct an anomaly in relation to the incorporation of commissions into the PIAWE. It will also codify WorkSafe's current policies that relate to the impact on remuneration of salary packaging and injury prior to taking up a promotion on the calculation of PIAWE. It will also restructure and streamline the provisions that govern the coverage of contractors. It will align the value of impairment benefits for injured workers assessed at 71 per cent of whole person impairment or above with the equivalent value of common-law damages payable for pain and suffering on an ongoing basis.

The bill also introduces greater clarity and equity for dependents of deceased workers in relation to medical and like benefits, how earnings are calculated and how partially dependent partners of deceased workers are compensated.

The bill will also improve the usability of provisions relating to medical expenses. It will extend an existing provision in the Accident Compensation Act to allow the making of a Governor in Council order that would permit the introduction of a fixed-cost model for a plaintiff's legal costs in the litigated phase of a serious injury application.

The bill also completes the rebranding of WorkSafe Victoria, which brings me to the member for

Scoresby's suggested amendment, which I understand will be moved. In respect of the WorkSafe name changes, the purpose of this proposal is to amend the act to effect a legal name change for the organisation from the Victorian WorkCover Authority to WorkSafe Victoria. The name 'WorkSafe Victoria' is intended to be used for both marketing and legal purposes. The change will bring the two entities into alignment so there will no longer be any confusion in respect of these two operating entities. This was the original intention; however, these amendments did not fully achieve the policy intention that was clearly indicated. They preserved the Victorian WorkCover Authority as the legal name of the entity established under the Accident Compensation Act. This amendment will make it clear that there is one organisation — one authority — and that is WorkSafe Victoria.

I would also like to refer to the member for Scoresby's comments about the need for a rewrite of the accident compensation legislation. I am pleased to hear that he is supporting the bill but would like to see a rewrite in line with Mr Hanks's recommendation. If you look at the complete package of reforms that is being put forward as part of this bill and previous legislation before the Parliament, you will see there has been quite a substantial overhaul of the accident compensation legislation.

Clearly if there were the opportunity in the future, the rewriting of the legislation would be considered. But when I hear Liberal Party members talk about rewriting legislation, what that means to me is that they are looking to again take away common-law rights. They come into this place and say, 'All we want to do is set about rewriting legislation'. But we on this side of the house and those in the wider community understand what they really mean when they say this — that is, they want to take away common-law rights.

The other point that the member for Scoresby raised is about the sharefarmers test. I understand an amendment will be proposed about this, although I have not seen it yet. This test is the same test that is contained in the bill, and it was in place prior to the Hanks review. I understand that the Victorian Farmers Federation is wanting to rewrite the test for sharefarmers. I understand that the minister will respond to the VFF and its request. That is the appropriate course of action to take.

In terms of stakeholder feedback and consultation there was an extensive consultation process with a variety of stakeholders. There was also a review process following the initial set of changes that were made after the Hanks review. This was a comprehensive and

complete consultative process. Through that process a variety of amendments and changes were made that meant that bills brought before the house, particularly this bill, were better as a consequence of the work that was undertaken. I encourage anyone to feed into the process in an ongoing way as the bill progresses through the Parliament, but I reject wholeheartedly any suggestion that there has been some sort of lack of consultation in relation to bringing these changes before the house.

The Transport Accident and Accident Compensation Legislation Amendment Bill builds on what has been brought before the house and passed through the Parliament previously. It is a comprehensive set of reforms that builds on what has been done in the past in terms of the TAC review and the Hanks review that was conducted early last year. Therefore I commend these changes to the house. I wish the bill a speedy passage.

**Mr WELLER (Rodney)** — It gives me great pleasure to rise this afternoon to speak on the Transport Accident and Accident Compensation Legislation Amendment Bill 2010. Firstly, I will pick up on some of the comments made by the member for Northcote, who said there had been extensive consultation and that type of thing. The Victorian Farmers Federation (VFF) made a submission to the Hanks review. It suggested there was a problem with the one-third test. By making that submission the Victorian Farmers Federation expected the government would have come back to it before it wrote the legislation so there could have been amendments to the one-third test, which has become unworkable over many years. The government does not understand how dairy farming practices have changed. The member for Northcote said the minister will be responding to the VFF. I would have thought there should have been a response prior to the bill coming into this place so that the minister could have said, ‘Yes, I am listening; I am understanding. We will amend it so it is in line with modern farming practices’.

In terms of the TAC (Transport Accident Commission) scheme, the bill provides that a person who was injured in a transport accident and who is convicted of a drug-driving offence will have their compensation reduced by one-third. I think that is a sensible thing to do. If the TAC fails to determine the degree of impairment suffered by a transport accident victim within six years of the accident, the impairment is deemed to be zero. Once again, that is a common-sense measure.

Claimants who are entitled to compensation as a result of any accident before 16 September 2004 have had an

option to buy out their weekly impairment benefit annuity entitlements as a lump sum. That is another positive step. Domestic partners of pregnant women who are injured as a result of a transport accident have the same entitlement to child-care assistance as the injured partner. A child who is injured as a result of a transport accident who did not make a claim or have a claim made on their behalf within the required time frame has three years from reaching the age of 18 years of age to make a claim. Only a natural person who has a serious injury or dies as a result of a transport accident can claim damages under the TAC scheme. No compensation is payable in relation to an accident other than for medical or like services to the driver of a motor vehicle who is convicted of dangerous driving causing death or serious injury. Once again we are encouraging safer behaviour on the roads.

Any information or document obtained pursuant to a section of the act may be used in relation to any section of the act. In relation to the WorkCover scheme bill, it updates the definition of pre-injury average weekly earnings to include piecework rates, commissions and non-pecuniary benefits. The bill changes the name of the body corporate from the Victorian WorkCover Authority to WorkSafe Victoria. It simplifies and streamlines the test to determine whether a contractor is deemed to be an employee for WorkCover purposes.

We also need to look at the sharefarmers issue. I will go into some detail about that. The bill removes the requirement for a premium to be paid by both the principal and incorporated contractor in relation to contracted workers. It makes a number of technical corrections arising from the Accident Compensation Amendment Act.

In relation to the sharefarming issue, I want to spend some time getting members of the house to understand the sharefarming problem that relates to clause 28, proposed section 11. It relates to the one-third test. It says the sharefarmer:

is entitled to receive as consideration a share of the income (being less than one third of that income) derived from the land ...

When this act was written in 1993, dairy farmers used to receive one-third of the income, and they would have no expenses relating to that. But as the industry grew it meant that if you were on a 30 per cent share, which is less than one-third, you might well incur some costs as well. I have an example of what it could look like.

If a sharefarmer is milking 300 cows, he could be receiving 25 per cent of the income from those 300 cows, which would be approximately \$270 000.

The landowner would have to pay a premium on \$270 000. The problem the VFF and the dairy industry have is that the sharefarmer does not receive \$270 000 net because he has to pay expenses, which could include with a herd of that number \$60 000 worth of grain, \$30 000 worth of hay and a labour unit which could cost him another \$65 000. So in reality the net income of that sharefarmer is \$115 000, not \$270 000. There is a premium being paid on \$270 000 rather than on \$115 000. And if that sharefarmer ever made a claim, it could only be made on that \$115 000. There is a premium being paid that will never be paid out.

Sharefarming is important to the dairy industry. There is a career path in the dairy industry. You start off either as an apprentice farmer on a farm or by doing a diploma course at one of our many TAFE facilities or a degree course at a university campus such as Dookie where you can get a ticket to do dairy farming. After you have worked on a farm for a while and have experience you then move on to sharefarming, where you may own some cows and some equipment. You have a net income, which is your wages — and that is what the premium should be paid on rather than the gross income. That is what the VFF wants to have amended.

The industry needs successful share farms so workers in the farming industry can become owners in the farming industry. It is like the great Australian dream of owning your own home: if you are a farmer, you want to eventually own your own farm. You go from being a worker to a sharefarmer, and after you have been sharefarming for a number of years you then have enough of a deposit for a small farm or a larger farm and you can become an owner in your own right. That is the career path. The dairy industry needs that career path to be protected. The dairy industry is one of the biggest employers in rural Victoria, and the Parliament of Victoria should be supporting it.

The VFF put in a submission to the Hanks review, but it was not consulted — until I rang it when the bill was second read. I told the VFF there was a clause in the bill about sharefarming and asked, 'What's your position?'. The VFF said, 'We haven't been consulted. We submitted to the Hanks review, but we've heard nothing since'. The VFF then went to the minister's office, and the minister directed it to WorkCover. The minister's office was meant to come back to it, but as of yesterday, when I spoke to the VFF it had heard nothing. Here we are debating the bill, and I would have thought an amendment would have been moved to help resolve this problem.

Even the minister in his second-reading speech agreed. He stated:

This government committed to update the Accident Compensation Act 1985 ... to improve workers compensation arrangements while ensuring that Victoria's workers compensation scheme remained the national benchmark in efficiency and business competitiveness.

By not rectifying this, the government is not setting the benchmark in business competitiveness. The government is out of touch, and it does not want to address an issue that would be simple to resolve. The tired old government we have here, which has been in power now for 11 years, has not bothered to consult with the VFF. It has been given a way forward, but it is arrogantly trying to just push this bill through without consulting the industry, the workers or the sharefarmers. It is time this tired old government consulted.

**Mr STENSHOLT** (Burwood) — Once again we have a bill that is symptomatic of what Labor stands for, and that is fairness, jobs, rights at work and a balance between investment, productivity, safety and families. We want to make sure that workers come home safely at night and that if there are safety problems or incidents, workers are properly looked after. And Victorian Labor also wants to make sure that our roads are as safe as possible. Unlike the opposition, which seems to want a free-for-all on the roads, we want to make sure that people arrive alive and that the injured in accidents are properly and well looked after.

The bill deals firstly with a range of amendments to the Transport Accident Act. As the explanatory memorandum outlines, and as the second-reading speech and the contribution of the member for Scoresby have outlined, a person who is injured in a transport accident and convicted of a drug-driving offence will have their compensation reduced by a third; the time limits for making impairment determinations have been clarified; clients entitled to compensation as a result of accidents before 16 December 2004 will have the option of buying out their weekly annuity entitlements; domestic partners of pregnant women who are injured as a result of a transport accident will have an equivalent entitlement to child-care assistance as their injured partner; the form of a claim will be one that is approved by the commission; and a child who is injured as a result of a transport accident and who has not had a claim made on their behalf within the required time frame will have three years from attaining the age of 18 to do so. There are a number of other provisions as well.

The main amendments are to the Accident Compensation Act. These are fully explained in the explanatory memorandum and outlined in the clauses of the bill. I will summarise them in a moment, but before I do so I want to repeat that this bill will deliver over \$90 million of increased benefits to injured workers and their families. Let us be clear about this: only Labor looks after workers. As I said before, this is a quintessential Labor bill, and it reflects the difference between this side and the opposition. We know the opposition's history; we know its form — on the Liberal side in particular. It has a history of taking away the rights of workers. We know what happened. The member for Scoresby said there have been a number of changes over the years. We remember the change when the common-law rights of workers were taken away. We all remember the folklore of the then member for Jika Jika in the upper house, Theo Theophanous, speaking for 24 hours in defence of many of these things. We remember that it was the Liberal Party members who took these things away. It is the Liberal Party members who ought to hang their heads in shame; they have an extraordinarily poor record on this issue of workers compensation and occupational health and safety.

Will the member for Scoresby put his hand on his heart and say that he will not reintroduce his party's denial of common-law claims, or do we just see crocodile tears from the member for Scoresby? Are his words merely a smokescreen to dilute the rights of workers?

There is to be no celebration, in the words of the member for Scoresby, about the provision of better compensation of \$90 million for the workers as part of the package introduced by the bill passed earlier this year, which is delivering. There are to be no celebrations on behalf of business, which is a bit surprising coming from the Liberal Party, but we understand it is not as friendly with business as the Labor Party is. The Labor Party stands up for all Victorians, not just for the workers — it stands up for families, it stands up for jobs, it stands up for the economy and it stands up for productivity — and it makes sure that Victoria is the best state in Australia, that the economy is rock solid and that people can live well. Victoria is a great place to live, work and raise a family. That is what it is about.

No celebrations of the cuts to WorkCover! Where were they from the member for Scoresby? Not there. But again and again there have been so many cuts that have been made. The occupational health and safety and the accident compensation areas have been so well run.

I note that the member for Scoresby talked about the change to WorkSafe Victoria. He is struggling with the concept of a totality in the way of managing these arrangements. He talks about enforcement and insurance as if there is a disjunction between them. I am not sure he really understands how these things work and how the Victorian WorkCover Authority and WorkSafe operate. There is a total context for what happens at work and for how problems are handled at work. There is a total context of protection for workers.

It is not just a matter of enforcement. It is not just a matter of occupational health and safety. It is wider than just simply enforcement. It is a set of arrangements, a set of attitudes, a set of guidelines. Having been involved in the review of occupational health and safety several years ago and having watched quite closely the changes that have followed from WorkSafe, I can say they have been quite considerable. Having been involved in the further review of occupational health and safety legislation only a couple of years ago, I understand the context is far broader than simply what the member for Scoresby wishes to put before the house.

It is a set of arrangements, a set of attitudes, good advisory services and a matter of getting people to work together productively — that is what is happening here. This is one of the big changes in the last 5 to 10 years. In terms of the total context you have got workers, employers and the regulatory body working together constructively — working together to bring down the costs of these programs and to make sure that workers who are injured get more support. That is what the bill is doing in this regard.

The aim of this name change is that within the community we have strong, united support. I would hope that we can try to get united support within this house and across the whole of the Parliament and that we can support the work of WorkSafe. I would hope that we have a strong, respected arrangement for looking after the workers' situation and the compensation situation to make sure that the whole of the Victorian community supports it very strongly.

What is this bill actually seeking to do? There is a range of amendments that: streamline the provision that sets out the calculation of pre-injury average weekly earnings; codify WorkSafe's current policies relating to the impact on remuneration of salary packaging; restructure and streamline the provisions that govern the coverage of contractors; align the value of impairment benefits for injured workers assessed at 71 per cent whole person impairment or above or the equivalent value of common-law damages payable for

pain and suffering; introduce greater clarity and equity for dependents of deceased workers in relation to medical and like benefits; and improve the usability of provisions relating to medical expenses.

I note that in sections 89 and 91 the bill amends the hearing loss provisions to introduce consistent and clearer terminology to describe hearing loss. On behalf of all those people who suffer a hearing impairment, I commend these changes in these sections of the bill. There are amendments in section 88 to align the deemed date of injury for industrial deafness with the deemed date of other gradual-process injuries under section 98C(6)(a) recently inserted into the act by the Accident Compensation Act 2010. It is good to see this consistency and awareness of particular issues that come up.

In the brief time remaining I should say that there was a wide range of consultation on the Hanks review. It received over 100 submissions and undertook over 100 hours of face-to-face consultation with stakeholders. There was a stakeholder reference group, and following the release of the Hanks report the minister engaged Mr Peter Rose to report on stakeholders' views on the report. Following that, WorkSafe held at least three meetings with the reference group and with a range of people, and it even consulted the County Court of Victoria on a couple of occasions in relation to proposed parts of the bill. A range of other consultations were also conducted by departments to make sure that the proper context was achieved in the clauses of the bill.

This is a bill that completes the implementation of the government's policy response to the review of the accident compensation legislation undertaken by Peter Hanks. It completes the delivery of \$90 million of direct benefits to injured workers, and this will improve the effectiveness and efficiency of the WorkSafe scheme by resolving anomalies. WorkSafe will ensure that appropriate support and guidance materials are available to employers and workers to help them understand the impact of the proposed changes. The changes to the Transport Accident Act are intended to harmonise provisions with WorkSafe Victoria as well as address anomalies and improve the efficient operation of the Transport Accident Act. The proposed amendments are necessary to ensure that people injured in a transport accident receive their fair entitlement to compensation. This is a Labor bill. This separates the sheep from the goats — the Labor members from the Liberals.

**Mr BURGESS** (Hastings) — It is a pleasure to rise to speak on the Transport Accident and Accident

Compensation Legislation Amendment Bill 2010. In relation to the Transport Accident Commission scheme, the bill provides that: a person who is injured in a transport accident and who is convicted of a drug-driving offence has their compensation reduced by one-third; if the TAC fails to determine the degree of impairment suffered by a transport accident victim within six years of the accident, the impairment is deemed to be zero; claimants entitled to compensation as a result of accidents before 16 December 2004 have an option to buy out their weekly impairment benefit annuity entitlements as a lump sum; domestic partners of pregnant women who are injured as a result of a transport accident have the same equivalent entitlement to child-care assistance as their injured partner would have; a child who is injured as a result of a transport accident who did not make a claim or have a claim made on their behalf within the required time frames has three years from attaining the age of 18 to make a claim; only a natural person who has a serious injury or dies as a result of a transport accident can claim damages under the TAC scheme; no compensation is payable in respect of an accident other than for medical and like services to the driver of a motor vehicle who is convicted of dangerous driving causing death or serious injury; any information or document obtained pursuant to a section of the act may, under this act, be used in relation to any other section of the act.

In respect of the WorkCover scheme the bill updates the definition of pre-injury average weekly earnings to include piece rates and commissions and specific non-pecuniary benefits; changes the name of the body corporate from the Victorian WorkCover Authority to WorkSafe Victoria — I shall have more to say on that a little later; simplifies and streamlines the test to determine whether a contractor is deemed an employee for WorkCover purposes; removes the requirement for premiums to be paid by both the principal and an incorporated contractor in respect of contract workers; makes a number of technical corrections arising from the Accident Compensation Amendment Act 2010; allows for the Governor in Council to make orders for legal costs in respect of serious injury and common-law matters; and introduces a new power for the minister to issue directions with respect to fees.

The opposition has some concerns about this proposed legislation. Some of these concerns include the bill being described as a further and final tranche of legislation to implement the government's response to the Peter Hanks inquiry into the Accident Compensation Act. However, it appears that there has been very little, if any, industry consultation prior to its introduction. Concerns have also been expressed that the contractor provisions will not provide the desired

clarity and will rely on as yet unseen VWA (Victorian WorkCover Authority) guidelines. A clearer alternative may have been to deem the person who pays the superannuation guarantee contribution to be the employer for the purposes of WorkCover.

The bill has failed to update contractor-deeming provisions with respect to sharefarmers, deeming them employees if they are entitled to receive less than one-third of income derived from a share farm. This provision clearly may not have the effect that is intended. It does not allow for things such as bushfires or other significant events. The way that this provision has developed is that in the past one-third of income would not have incorporated any outgoings. These days that is certainly the case, so that provision may not have the effect that it is intended to have.

Ministerial fee-setting powers may be used to impose fees on self-insurers for VWA administration costs. Default zero-impairment assessments may disadvantage claimants where the TAC has failed to make a required assessment. The privacy of TAC clients may be undermined by allowing any information provided to the TAC for a specific purpose to be used by the TAC for any purpose under the act. Cost orders with respect to WorkCover matters disadvantage claimants with extended proceedings. Finally, renaming the organisation as WorkSafe would tend to undermine the independence of the occupational health and safety, enforcement, or WorkSafe, and insurance, or WorkCover, arms.

In closing, the government has failed dismally to deliver on Peter Hanks's first recommendation which was that the bill should be written in simplified, plain language — a complete rewrite of the WorkCover legislation. The coalition has announced that it is our policy to undertake such a legislative rewrite.

**Mr LANGUILLER** (Derrimut) — It gives me pleasure to rise today in support of the Transport Accident and Accident Compensation Legislation Amendment Bill. This legislation was introduced on 27 July by the Minister for Finance, WorkCover and the Transport Accident Commission. Members might be aware that every bill that is introduced needs to have a statement of compatibility under section 28 of the Charter of Human Rights and Responsibilities. The minister submitted one for this bill, and it was considered by the Scrutiny of Acts and Regulations Committee, of which I am a member. I wish to put on record that the committee wrote to the minister and the minister responded. The committee stated:

The committee notes that a number of provisions in the bill have retrospective commencements (clauses 2(2) to 2(6)).

This was a matter which was discussed in the committee, and I am pleased to place on record the minister's response, in which he said:

Most of these provisions correct anomalies and technical errors in amendments that were made by the Accident Compensation Amendment Act 2010 (the amendment act) which received royal assent on 23 March 2010. In general, the retrospective commencement of these provisions is to align with the commencement of the substantive changes made by the amendment act. This is to ensure that the original intention of the earlier amendments is achieved.

I thank the minister for his response and clarification in relation to this important bill.

The bill demonstrates this government's commitment to improving the effectiveness and efficiency of the transport accident scheme in maintaining a number of improvements in the delivery of benefits to those who are injured in transport accidents. Specifically it provides an option for claimants whose accidents predate 16 December 2004 to buy out the weekly annuity entitlement with a 3 per cent discount rate to accelerate the diminishing population of claimants receiving a weekly entitlement.

It aligns changes in the law in relation to driving under the influence of drugs and dangerous driving causing death. This will address anomalies when compared with other offences that already result in a restriction of benefits. It will extend the period of time in which a person who was a minor at the time of an accident has in which to lodge a claim when he or she reaches the age of 18 where a parent or guardian does not lodge a claim on behalf of the minor. These are important policy frameworks that were used in the bill.

In addition to that, the purpose of the bill is to amend the Accident Compensation Act 1985 and the Accident Compensation (WorkCover Insurance) Act 1983. It is important that it is understood that this is a response to the report and recommendations of Peter Hanks, QC, on which consultation was widely sought. Peter Hanks received in excess of 100 submissions from a broad number of stakeholders. I am sure there are more stakeholders that could have been spoken to, but in my judgement it has been a wide-ranging consultation with a range of stakeholders.

In relation to the Accident Compensation Act, I wish to place on record my recognition of the trade union movement. You would appreciate that, Acting Speaker, because the unions made important submissions to the Hanks report. They had made important contributions at a time when the Labor government introduced a very comprehensive system which dealt with the prevention of injury, the compensation of an injured worker and

the rehabilitation and return to work of the injured worker.

I will conclude my remarks by saying that this is good Labor legislation. In my judgement it will deliver a competitive, efficient and effective system: one that works for workers, one that works for the business community and indeed one that works for the state.

**Mr THOMPSON** (Sandringham) — The opposition does not oppose the legislation, although it has a number of concerns in relation to it. They include the fact that the government has failed to deliver Mr Peter Hanks's first recommendation for a simplified plain language rewrite of the WorkCover legislation. The coalition has announced that it will undertake to rewrite the legislation in the terms originally recommended.

Secondly, concerns have been expressed that the contractor provisions will not provide the desired clarity and will rely on yet unseen Victorian WorkCover Authority guidelines. A clearer alternative may be to deem the person who pays the superannuation guarantee contribution to be the employer for the purposes of WorkCover. The third issue I would like to raise concerns the renaming of the organisation as WorkSafe, which undermines the independence of the occupational health and safety enforcement arm, WorkSafe, and the insurance arm, WorkCover.

In terms of road safety overall, there are significant issues. On the day of the Kororoit by-election a couple of years ago there were two collisions along Beach Road that occurred in the middle part of the day. In one case, a person was riding his bike and ran into the back of a parked vehicle. He did a somersault over the boot of the car that was parked by the side of the road. An ambulance was called. He was taken to the Alfred hospital and discharged not a significant time later. On the same day at around the same time another cyclist was injured along Beach Road. He was forced into the back of a vehicle by a passing truck, and consequently was seriously injured. He was rendered quadriplegic, and he has had the support of the Transport Accident Commission (TAC) and company insurance to assist his rehabilitation.

I raise these matters in debate today in relation to the TAC regarding the importance of ensuring that, with the forthcoming clearway along Beach Road between 6.00 a.m. and 10.00 a.m. on weekend mornings between Mordialloc and Port Melbourne, or thereabouts, that in giving the green light to cycling through the clearway there is also an appropriate education campaign uplift to ensure there is not an

increase in the number of people who are seriously injured when cycling along Beach Road.

In the case of a person who runs into the back of the parked vehicle, on my understanding there is no TAC coverage for injuries sustained. A person in that circumstance is reliant upon their own circumstances to cover a range of tentative expenses. At the same time, if a cyclist comes off their bike as a result of touching the wheel of a bike in front in a large peloton, or alternatively by hitting a manhole cover because the pump comes off the bike and jams the spokes — if not of their own bike, then another bike in the group — or if there is another accident caused through inadvertence or in a circumstance that does not involve a motor vehicle, it can become a very serious issue. I am concerned with the promotion of Beach Road as a cycling route — as the world's premier cycling route — without an accompanying education campaign to make people aware that there are a number of dangers.

For those of us in the chamber who may not be familiar with the hazards concerned, they are currently listed on my website: [www.murraythompson.com.au](http://www.murraythompson.com.au). On the website there is a series of video excerpts from 2010 of cycling along Beach Road. Following the death in 2006 of James Gould, a pedestrian, when crossing Beach Road in Mentone the state coroner made a number of comments in relation to cycling along the road. He questioned the interaction between sport cycling and such an event being undertaken along suburban streets. In correspondence that will be landing on the desk of the minister soon, I will again be drawing these matters to the attention of the Minister for Roads and Ports.

In relation to sport cycling along Beach Road, the coroner noted:

The weekly Hell Ride, with hundreds of cyclists travelling at speed along Beach Road, was not a suitable term for suburban streets or main roads.

The behaviour of this large group, as was evidenced by the incident where Mr Gould died, is indicative of a high-risk event ... that is not suitable for either suburban streets or main roads where the public frequent.

In the opening up of Beach Road to peloton sizes that might be over 100 cyclists, I note that pelotons of that size are in contrast to the cyclist code of conduct, which recommends a peloton size of not more than 20, from memory. There is also the issue of how many bike riders ride abreast along Beach Road. The law requires that not more than two riders ride abreast. There are issues with overtaking where that number increases. As would be seen by a brief viewing of the Beach Road cycling video extract on my website, it is apparent the

law is breached virtually on a daily basis. The consequences of breaches will lead, in my view, to an uplift in accidents unless there is a very cohesive and comprehensive education campaign, which is needed because the consequences are so serious. A cyclist may be injured as a consequence of a collision with another bike rider, in which case the TAC does not chip in, or in an interaction with a motor vehicle, where the cyclist, albeit confronting a tragic maiming, nevertheless has the support of the state in their rehabilitation and recovery.

Immediate work is required by the government. The trial of the new system will be commencing in October, which means it will run for a two-month period before the next state election. The measures of the success of the trial have yet to be fully determined, on my understanding, but there has been some very good work undertaken by local doctors in the Sandringham and District Memorial Hospital emergency department in collating the accident data that needs to be collated, because one injury of one cyclist on the road is one injury too many.

As I have mentioned before, when the TAC picks up the cost of rehabilitation and recovery where a motor vehicle is not involved in the collision, tragically, many people are left to bear the costs of much of the rehabilitation and recovery work themselves. There is a certain inequity in the system that is yet to be fully addressed. But there is a stark contrast between the example of one cyclist who, tragically, two years ago, on the date of the Kororoit by-election, was injured and now has a program for recovery, and that of another cyclist who was injured on the same day, fortunately not as seriously, who has to bear his own costs for vertebra damage.

It is in that wider context of a TAC bill that I make these remarks. The government must step up to the plate and immediately introduce a very strong education campaign, because experienced cyclists know that Beach Road is not safe. According to some reports, 85 per cent of cyclists are inexperienced. To give the green light to cycling without having a strong safety campaign could be to the tragic detriment of cyclists in the future.

**Mr SEITZ (Keilor)** — I rise in support of the Transport Accident and Accident Compensation Legislation Amendment Bill, which arises out of an earlier bill that was before the house in 2010 and the review by Mr Peter Hanks of the Accident Compensation Act, which made some recommendations on anomalies. Those are dealt with in this legislation. The changes will be welcomed,

particularly by minors. A child will be able to make an application for compensation within three years of attaining the age of 18 in the event that they had not previously made a claim or a claim had not been made on their behalf. From that perspective, I have no difficulty with and welcome the amendments that are before us today.

Members will recall that we received a lot of correspondence after the release of the discussion paper for the review of the Accident Compensation Act which dealt with workers compensation, particularly from the trade union movement. Some anomalies had crept into the legislation and the Hanks review picked them up. It is important that we have reached a compromise and have a robust system that is able to survive. At one stage some years back the system was in jeopardy; it did not appear to be able to survive as a self-funding system. It will continue to be funded, which is an excellent step forward.

I turn now to road safety, and it is one area that is a bugbear to me. I support the bill as it stands, but I believe it should go further by making third-party insurance compulsory as it is in other countries so that people can claim on it. It is about personal injury, and again we have come a long way. When I first started to drive there was no insurance cover for the driver of a vehicle. Changes were then made which ensured the driver was covered by insurance, and that improved the position. It was a ludicrous situation where you paid for motor accident insurance which covered your passengers, but as the driver you were not covered. Further changes were made which limited the liability of drivers who were convicted of drink or drug-driving offences.

All in all the amendments before us today are a step in the right direction; we are further improving the system from what it was when it was established. As case history builds up as a result of court cases and rulings in the future, there will be a need for further amendments and changes to the legislation, but the two pieces of legislation are very important for the wellbeing of people.

At the time I was elected to Parliament, when it came to WorkCover, people were able to receive sickness benefits if they were lucky; if they were self-employed usually they had no proper records to show how much money they were earning to enable them to claim sickness benefits from Centrelink, and families were in dire straits all the time. It took a long time to get a case heard and accepted in the courts. The processes have been streamlined over time and this bill aims to further streamline the red tape, cut it out where possible, ensure

claims are processed more quickly and give people some satisfaction. The pre-injury earnings, not at the time of the accident but at the time a decision is made, will not stay at the same level. Instead they will be continually reviewed to take into account CPI (consumer price index) increases in particular, which is an interesting aspect that is mentioned in the bill.

With those few words, as I understand a few other members would like to speak I wish the bill a speedy passage through the house.

**The ACTING SPEAKER (Mr K. Smith)** — Order! That is a very nice gesture.

**Mr CRISP (Mildura)** — I rise to make a contribution to debate on the Transport Accident and Accident Compensation Legislation Amendment Bill 2010. The Nationals in coalition are supporting the comments of the member for Scoresby, particularly around branding and sharefarming. However, in this house we will not be opposing the bill.

The purpose of the bill is to amend the Transport Accident Act 1986 to improve its efficient operation, to make further amendments to the Accident Compensation Act 1985 and the Accident Compensation (WorkCover Insurance) Act 1993 to provide for further improvements in the operations of those acts. The main provisions of this bill are that if a person is injured in a transport accident and convicted of a drug-driving offence, their compensation will be cut by one-third — a measure which I think will be widely welcomed in my electorate, as drug driving is a major concern and will be a feature in other bills before the house during this sitting.

The bill further provides that if the Transport Accident Commission (TAC) fails to determine the degree of impairment suffered by a transport accident victim within six years of the accident, the impairment is deemed to be zero; that claimants entitled to compensation as a result of accidents before 16 December 2004 have an option to buy out their weekly annuity entitlements as a lump sum; and that domestic partners of pregnant women who are injured as a result of a transport accident have the same equivalent entitlement to child care as their injured partner would have.

Additional provisions are that a child who is injured as a result of a transport accident and who did not make a claim or who has not had a claim made on their behalf within the required time frame have three years after attaining the age of 18 to make a claim; that only a natural person who has a serious injury or dies as a

result of a transport accident can claim damages under the TAC scheme; and that no compensation is payable in respect of an accident, other than for medical and like services, to the driver of a motor vehicle who has been convicted of dangerous driving or causing an accident, death or serious injury.

In relation to WorkCover, the bill updates the definition of pre-injury average weekly income; it changes the name of the body from the Victorian WorkCover Authority to WorkSafe Victoria; it simplifies and streamlines the tests to determine whether a contractor is deemed to be an employer for WorkCover purposes, removes the requirement for a premium to be paid by both the principal and incorporated contractor in respect of contract workers, and makes a number of technical corrections arising from the Accident Compensation Amendment Act 2010.

There are a couple of things about this measure that I think are relevant. The government has failed to deliver on the first recommendation of the Hanks review of the Accident Compensation Act for a simplified plain language rewrite of the WorkCover legislation. It is difficult for many people to understand, and it remains difficult. The bill has also failed to update the contractor deeming provisions with respect to sharefarmers. They are deemed to be employers if they are entitled to receive less than one-third of income derived from share farming, and the sharefarmer issue is the one I want to concentrate on in the time available.

Concern has been expressed over that one-third issue. It is referred to in new section 11(1)(i) inserted by clause 28 of the bill, which sets out when you are deemed to be an employer and when you are deemed to be a sharefarmer. If you are getting less than 33⅓, the owner pays the full amount. We have an issue of net versus gross income: if the sharefarmer is injured, compensation is only paid on the net income, yet the premium is being paid on the gross income.

The VFF (Victorian Farmers Federation) made a submission to the Hanks inquiry on this issue. It expected to hear from the minister before the bill entered Parliament. My understanding is that has not happened. I am very concerned about when the minister will respond to the VFF. It is too late to address these issues once the legislation has been passed by Parliament. When better than now to correct a longstanding issue? Otherwise this will be an opportunity lost. As I understand it this legislation was last looked at quite some time ago, in 1993.

Are we going to correct this longstanding issue now, or is this just another symptom of a tired government that

cannot communicate with the farming sector? Farming practices have changed since 1993 when the legislation was last reviewed. The member for Rodney went into a detailed explanation and gave examples of how this impacts on farmers in his area. Sharefarming is a prominent practice in my electorate, particularly in the grains industry. Sharefarming is also a pathway to ownership and succession planning. If we want younger people to be in farming, we have to allow sharefarming to work. It is an issue we feel very strongly about, and hopefully it will be fixed in the upper house. It is important to current farmers, the farmers of the future and the food supply of the future that this issue is addressed and clarified.

**Ms CAMPBELL (Pascoe Vale)** — It is with pleasure that I speak on this bill, which is of essential vibrancy in relation to a Labor government. This is Labor public policy that looks after workers and ensures that businesses that do the right thing by their workers are protected by having a workers compensation bill that reflects the good practices in their workplace. It ensures that people who are hurt at work receive adequate compensation.

I look back on comments that have been made here today and reflect on my experience in opposition. Members who are currently in opposition say this legislation needs to correct longstanding problems. The fact is that the Hanks review addressed longstanding practices that required rectification. This is the final plank of good Labor legislation to ensure that workers are protected and receive adequate compensation when they are hurt at work. It also addresses a number of important matters in relation to the Transport Accident Commission.

What we did when we first came to government was ensure that the common-law rights of injured workers were reinstated. I remember one memorable day in opposition when a person standing approximately in my place spoke about how he was grateful to receive workers compensation when he worked in the motor industry. I am sure the member for Bundoora will know the gentleman concerned. He talked about how he was looked after and how his family was protected. He then sat down and he voted down the important right of every injured worker to have their common-law rights protected. It was one of the most embarrassing days I ever had in opposition. In contrast I stand here today, a proud member of the Labor government that is putting into place good protection for our workers.

I have been asked to keep my contribution brief, and I will respect that request.

**An honourable member** interjected.

**Ms CAMPBELL** — I have now been given permission to speak a bit longer; thank you. I want to highlight a couple of points that need the attention of this house. Those on our side are well aware of the importance of adequate protection for workers and their families, and for those on the other side who might need some reminders I am happy to highlight those now.

A number of people have been to my electorate office and, I am sure, to the electorate offices of other members of the house in relation to accident compensation. They have been concerned about some companies that claim exorbitant legal costs. Whilst those who have been injured need every available dollar to support themselves and their families and to continue their rehabilitation, legal costs can eat into that.

Clause 99 of the bill provides for legal costs orders. The purpose of these reforms is to amend the Accident Compensation Act to clarify and expand the effective legal costs orders in the context of serious injury and common-law applications, claims and proceedings. Currently the Accident Compensation Act empowers the Governor in Council to make orders which govern the amount of costs a legal practitioner acting on behalf of a worker is entitled to be paid in the prelitigation phases of serious injury and common-law applications. That is in proposed section 134. The policy intent of this amendment is to expand the scope of such legal costs orders to enable the Governor in Council to also make legal costs orders about the prelitigation phases of serious injury and common-law proceedings. This is good policy, and I congratulate those involved in it.

The other point I wish to briefly refer to is in relation to the Transport Accident Commission. I want to applaud those who have been involved in the work that we now have before us, which says the TAC will offer claimants \$250 for independent legal advice or financial advice if they require assistance to make decisions in relation to their payouts. All too often we hear the effects of people making poor financial decisions after receiving what many of us would consider quite adequate payouts. Financial sharks prey on them and they may blow their money inappropriately in poor investment decisions. This recommendation and section of the legislation will ensure that those who receive compensation will be guided in wise decision making.

I applaud those who have been involved in the work on drug-driving offences and I also make a strong plea for

advertising the effect on payouts for people who are caught drink driving or driving while drug-affected. All too often people know they are breaking the law in relation to .05 blood alcohol content readings. They break the law on taking drugs and driving, but they are unaware of the huge implications of financial payments if they are injured. It will be a strong incentive for people to abide by the law not only because it is the right thing to do but also because if they are injured their payout will be considerably negatively impacted upon.

Finally, I look forward to the day when we have before us transport accident legislation that acknowledges that when a mother who is expecting a child loses her child as a result of an accident it is the loss of a life and has serious implications for the mother, the family and the community. We are not quite there yet, but I hope that one day in the not-too-distant future, hopefully in the next Parliament, that will be addressed.

**Mr DELAHUNTY (Lowan)** — I welcome the opportunity to make a presentation on behalf of the electorate of Lowan on this important Transport Accident and Accident Compensation Legislation Amendment Bill 2010. I have heard contributions today from members across the chamber. Like the members on this side who have spoken, I will not be opposing the proposals in the bill. The bill covers two things: changes to the Transport Accident Commission scheme and the WorkCover scheme.

I want to touch briefly on the changes to the TAC because many provisions of this bill are implicated by those changes. One is that if a person is convicted of drug-driving offences their compensation will be reduced by one-third. As well as that, the penalties are equivalent to those imposed on people convicted for driving under the influence of alcohol.

The key thing I want to talk about relates to a child who is injured as a result of a transport accident and who does not make a claim or have a claim made on their behalf within the required three-year time frame. They will be now be able to make a claim after attaining the age of 18. The reason I want to speak about this is because late last year a matter was brought to my attention by Mrs Carolyn Atkinson, who lives in the Edenhope area right on the South Australian border in my electorate. Her husband, Kyle Jon Atkinson, died as the result of a motor accident in August 2005. He was buried in South Australia by funeral directors who did not let Carolyn Atkinson know that there was a possibility she could have got support for the burial costs and also compensation in relation to the accident. Mrs Atkinson took the matter up with the TAC but

unfortunately, because it was more than three years since the date of the accident, she was unable to get any compensation. More importantly there was nothing for the two young members of the family.

I took up this matter with the Minister for Finance, WorkCover and the Transport Accident Commission and got a very reasonable response. The minister said in a letter that, through no fault of her own, because Mrs Atkinson was unaware of the TAC there was no help available through him, or no assistance he could provide. He said:

After reading the correspondence you enclosed with your letter and speaking to the TAC, I know that the TAC has advised Ms Atkinson of other potential avenues to pursue compensation in relation to this matter under common law and under the Transport Accident Act 1986.

Ms Atkinson has taken up this matter with VCAT (Victorian Civil and Administrative Tribunal), but I am not sure what the outcome has been. It was a tragic circumstance that through a lack of information she was unable to provide some support for the young members of her family, so I am pleased to see that there are some changes in the bill.

I want to make a couple of quick comments on the WorkCover scheme. I get very disappointed when I hear that members on this side of the house are not concerned about workers. Workers are the most valuable people in any organisation. Whether it be our own staff in the parliamentary offices who do an enormous amount of work for us, people in the manufacturing sector or on the farm, it is all about looking after your staff. We also have to make sure we do not demonise employers. They have to be able to make money to provide wages and premiums and to pay compensation or other forms of assistance to injured workers. The greatest thing we can give to any worker is the assurance that they have a job. Let us not demonise employers and let us look after our staff.

I strongly support some of the changes included in this bill. There are some concerns about the change of name of the Victorian WorkCover Authority to WorkSafe Victoria. You have to worry about the education programs and also the other work they need to do, but overall, in the few minutes I have left, I again say that I will not oppose this legislation.

**Debate adjourned on motion of Mr BROOKS (Bundoora).**

**Debate adjourned until later this day.**

## ROAD LEGISLATION MISCELLANEOUS AMENDMENTS BILL

*Second reading*

### Debate resumed from 12 August; motion of Mr PALLAS (Minister for Roads and Ports).

**Mr MULDER** (Polwarth) — I rise to make a contribution to the Road Legislation Miscellaneous Amendments Bill. In opening I will address a couple of clauses in the bill. Clause 14 introduces mandatory licence cancellations of at least three months for a first drug-driving offence and six months for subsequent offences, with no set maximum disqualification, compared with the current option that a court may impose licence cancellations of up to six months and 12 months respectively. Clause 15 introduces automatic, immediate, on-the-spot licence suspension for refusing to provide an oral fluid sample in a roadside drug-driving test.

I am sure all members would support me in my saying that in this Parliament, and especially in the parliamentary Road Safety Committee, there has been strong bipartisan support for coming down heavily on those people in our community who decide they will take recreational drugs — illicit drugs — and then get behind the wheel of a vehicle and go out on the road and mix it with the families of Victoria. Can I say on behalf of people who live in rural and regional areas that often we do not have the luxury of divided freeways.

A family could be driving in the country for a recreational day and enjoying themselves, and it is frightening to think that one of these people could be driving a car down the road head-on towards them, loaded up with speed, cannabis and alcohol, with absolutely no thought for the harm they could cause to other people out there on the road. We do not want them on the road; we want to get them off the road as quickly as we possibly can by introducing these provisions and by coming down hard on these people. I think that as we go forward in this Parliament we will continue to strengthen these laws to make sure we do not have this type of behaviour out there in our community.

I have noted a couple of articles that have been written on this issue. I refer to an article written by Jessica Craven published in the *Geelong Advertiser* of 16 July. It says:

One in 61 drivers tested for drugs have returned a positive result in the five and a half years since Victoria Police's random drug testing program started.

One in 61 is an extraordinarily high ratio of people who are out there driving around with illicit drugs in their system. We have to throw every single law enforcement tool we have in our hands at these people to make sure we get them off the road. Otherwise there will be more carnage on the road. Unless they get a clear message from the penalties that they will face, these people will continue down the same pathway and continue this type of behaviour. As I say, there is strong support for this type of legislation. We will see more of these laws and more of these people will be detected, and we must ensure that we have the right resources and tools and that we have done the right research to support the members of Victoria Police out there who are doing the job. Given that ratio of 1 in 61, if there are additional resources that can be provided to Victoria Police, we should support their provision. We want to make sure that that ratio improves dramatically over the next few years. Each and every one of those drivers represents death on wheels in terms of the carnage they could cause — they could wipe out a family in the stroke of a second — simply because they are driving under the influence of drugs.

I turn to clause 24 of the bill. I want to make some brief comments on the second-reading speech that have led me to this clause. The second-reading speech states:

The bill will make a technical amendment to the Transport (Compliance and Miscellaneous) Act 1983 to ensure that the evidential provisions relating to computer-derived evidence set out in that act adequately support prosecutions involving ticket-related offences under the new smartcard ticketing system.

Clause 24 amends the Transport (Compliance and Miscellaneous) Act 1983 to ensure that the Governor in Council can make regulations regarding processes involving myki and the resultant computer-derived evidence regarding ticketing offences connected with myki. This is of grave concern. What this says to me is that that ticketing system has now been operating on our train network for about nine months, and what this points to is that the information contained on the Transport Ticketing Authority's computer database currently does not support the mechanisms or devices that authorised officers carry with them to check myki cards. That could explain what is going on out there today, and it could explain the so-called period of grace, as the Premier calls it, that has been provided to people who are out there using myki smartcards.

This period of 'grace', if you want to call it that, has now been going on for nearly nine months, because it was prior to Christmas that the Premier switched on the myki ticketing system on Victoria's trains. As to saying it could go on for a few more weeks, it would appear

that that period of grace could be anywhere up to 10 months or more for people out there who have a myki card and who have been travelling free of charge on our train network. Now the same situation applies in relation to trams and buses. But I will have more to say on that as I continue my contribution.

I point to the Transport (Compliance and Miscellaneous) Act of 1983 and what it actually covers. The provision in this bill before the house replaces the provision in the original act. The original act says at section 230AH(1)(b):

the processes for loading information onto a prescribed device, copying or transferring information between prescribed devices, storing of information by a prescribed device and producing a printed record of information stored by a prescribed device ...

That is a device covered under the act, which says 'We can issue an infringement notice using this particular device'. That is covered under the Transport (Compliance and Miscellaneous) Act 1983. That is what has been out there and operating up to this point in time.

The bill before the house today, the Road Legislation Miscellaneous Amendments Bill, replaces that provision. Clause 24(3) substitutes section 230AH(1)(b) with the following:

the processes for loading information onto a prescribed device or a prescribed computer system, copying or transferring information between prescribed devices or between a prescribed device and a prescribed computer system, storing of information by a prescribed device or prescribed computer system and producing a printed record of information stored by a prescribed device or prescribed computer system ...

As I have pointed out, that says to me that the current act does not cover the information that is stored at the Transport Ticketing Authority's computer system that actually provides and stores the information contained on the hand-held devices that authorised officers carry around. In terms of being able to get a successful prosecution, in the current situation it would appear that the act would not allow that to occur. We hear the Premier talk about a period of grace and getting used to the system, but quite obviously the bill before the house casts enormous doubt over whether, if authorised officers did start to issue them, infringement notices would stack up in any way, shape or form. It is of grave concern to the community. We are losing a huge amount of money as a result of that particular arrangement. It is hurting.

At the bill briefing I asked in relation to this matter whether it covered the computer system of the Transport Ticketing Authority (TTA) and whether it

was something like a speed camera in that it needs some sort of calibration, verification, check, inspection or whatever if it is going to be used to provide support for a prosecution. The information I got back from the department states:

The Transport Ticketing Authority's smartcard central computer system —

and that is the one I am talking about —

... which is the system intended to be prescribed, is subject to verification procedures, but these are not the same as ... used for devices such as speed cameras. Devices such as speed cameras are single-purpose measuring devices that have to be calibrated ... monitored and maintained to ensure ongoing accurate measurement.

The smartcard central computer system is not comparable with those devices and is not primarily an enforcement tool. Rather, it constitutes the main business systems for the whole smartcard ticketing operation. Crucially, it includes the financial management system for that operation.

I will have a bit more to say about that as I go through:

To meet those business system requirements, the central computer system has internal data verification processes and other checks and balances designed to ensure the accuracy and integrity of the data collected, processed and stored in that system.

In this context, the TTA is subject to both the Financial Management Act 1994 and the Audit Act 1994 and is further subject to specific contractual system audit requirements.

The information I have received from the department in relation to this matter clearly says the central computer system that contains much of the financial data is a support mechanism in that it is able to issue an infringement notice and initiate the pathway of a successful prosecution if someone is travelling without a valid myki, without money on their myki or without validating their myki. That is the backing up that this computer system provides in relation to enforcement.

This brings me to the next point, which is something that has cropped up on a regular basis. My office has received numerous emails and telephone calls complaining about myki validators not working, money disappearing from myki accounts, money appearing in accounts that the cardholder did not put there and myki being too slow — a host of problems. One of the bus operators has reported that students have worked it all out in terms of getting onto a bus with a myki. They have recorded on their phones the little beep, beep you hear when you validate your myki, and when they walk past the validator away from the bus driver they wave their card across the validator and push a button on their phone — beep, beep — and on they go. They think it is one hell of a joke, but it is not a joke when you look at

what it is costing Victorian taxpayers. I will go into this further.

In relation to the central computer system of the TTA, a case was brought to my attention this week in which a myki card holder noticed that their myki card balance was getting low, so they went to a myki card vending machine and topped up their account with a \$50 note. A few days later when they went to check the balance on their myki card the credit did not show up, so they went to the internet to check their account. They found they had been credited with \$100 — somehow or another it had been double counted — but the credit had not been transferred onto their card. The run-around started, and it went on for day after day. They went through the call-centre run-around. Days later they were still trying to get answers, and the matter was still not resolved. This is the computer system that this bill seeks to provide as a prescribed computer system backing up the hand-held devices for enforcement. Given the examples that have been pointed out to me, any attempt under the current scenario to try to get a conviction — someone taken to court, fined or going to court to fight — would not stand up when you have this type of activity taking place and these faults with the system.

It is worse than that. Imagine someone putting \$50 on their myki card and getting on a train, tram or bus surrounded by workmates or other people they know believing that they have \$50 of credit when up comes an authorised officer who checks their myki card and says, 'Here is an infringement notice. You are travelling without a valid myki'. Imagine the absolute embarrassment of experiencing that in front of other people because of a system failure. It is simply not good enough. This is particularly so when you look at the amount of money that this government has invested in this system. The myki ticketing system is nowhere near as reliable as the Metcard system that it is supposed to be replacing.

When it was first mooted that we would get a smartcard ticketing system with all the bells and whistles it was supposed to cost Victorian taxpayers in the order of \$300 million. But we wanted to be smarter than everyone else; we did not want to buy an off-the-shelf system that was working perfectly overseas. No, the Brumby government said, 'We will do it differently. We will build our own, and we will start from scratch'. That is exactly what happened, and that is exactly what we have today, a reinvention of the wheel — and the whole thing is completely, totally and utterly flawed.

We thought we had seen the worst of this when the bill for this project — a ticketing system which nobody wanted and nobody asked for but which we got —

climbed to \$1.35 billion. Members would not have thought it could get any worse, but it has. We were told time and again until myki was launched in Victoria that we had a problem regarding fare evasion. What were we told by this government? We were told, 'It is getting better, we are getting on top of it, Yarra Trams is going to put more inspectors on trams, it is going to improve and fare evasion will go down'. This is what the government has been telling us all along.

It was reported in April of this year, and recently, that fare evasion in Victoria is now up to around about \$120 million a year. That is not going backwards; that is heading upwards. Victorian taxpayers are paying for it. Irrespective of what members say about this issue, it has to be considered as a cost against the myki ticketing system. It is another \$70 million. We are now looking at around \$1.4 billion for a ticketing system that nobody wanted and nobody asked for. It is not as reliable as the system it is replacing. This is an absolute, utter disgrace. It is just another big fat white elephant that this Labor government has forced onto the Victorian public. It is an absolute, utter disgrace, and the government stands condemned for it.

The Premier of the day was the Treasurer when the myki ticketing system was signed off. He would have headed up the expenditure review committee that gave it the tick. He has his fingerprints all over this myki ticketing system, because as the Premier he was the one who decided to throw another \$350 million at this ticketing system when we knew there were problems with it. We are going to get a period of grace, all right. We will get a period of grace, but I bet no-one is going to start issuing infringement notices off the back of this system prior to the election. Why? It is because it could not possibly stand up when you look at the problems that are occurring in the Transport Ticketing Authority.

There have been three CEOs at the TTA, and now an army of consultants from Ernst and Young is being paid millions of dollars to try to sort out what is an absolute and utter disgrace. It is a disgrace for Victoria when we have states like Western Australia that can implement a smartcard ticketing system just like that. We have overseas countries that can put these systems in place and get them to work just like that. What do we do here? We have now had three public transport ministers and three CEOs at the TTA. We have seen \$1.4 billion spent — and the figure is climbing — and everybody is out there travelling free. If you want to travel around Melbourne, do not go and buy a Metcard. People should go and buy themselves a smartcard — they would be smart! Do members know why that is the case? It is because people do not have to pay if they have a smartcard!

I have been travelling on the network, and I have seen authorised officers. They come up and say, 'Can I have a look at your ticket?'. Someone pulls out a ticket and they say, 'Can we have a look at yours?'. A young fellow pulls out his myki smartcard and they say, 'Mmm', and they keep walking. They are a free ticket to ride. That is what this government has created. That is why fare evasion at the moment is over \$120 million and going through the roof.

This bill might go somewhere towards at least putting in place a legislative framework to make sure prosecutions can take place, but because of the computer system itself, the data that is contained thereon, the problems that exist with the call centre at the TTA and the problems that are occurring on a day-to-day basis, I cannot see how anybody could possibly expect it to stand up in court.

This is an absolute and utter rip-off. There is no other way you can put it. From Morwell to Mordialloc and from Gippsland and to the Wimmera, every Victorian, including country Victorians and metropolitan Victorians, is paying for this with their hard-earned taxes. V/Line does not even have the myki system turned on; it is not operating on V/Line trains yet. Yet every person in country Victoria is expected to start paying the bill for what is nothing more than a great white elephant.

We keep being asked the question: what are you going to do about it if you win the election later this year? It is just one of those problems we face, along with the metropolitan rail network, smart meters, the police LEAP (law enforcement assistance program) database and myki — the list goes on and on.

**Mr Robinson** interjected.

**Mr MULDER** — I could talk about your auction of poker machines if you like. But I would not do that — —

**The ACTING SPEAKER (Ms Munt)** — Order! The member is reminded to speak through the Chair.

**Mr Robinson** interjected.

**The ACTING SPEAKER (Ms Munt)** — Order! The Minister for Gaming!

**Mr MULDER** — I say to the minister: do not get a job in real estate when you leave this place. The minister should not get a job auctioning anything, because he has cost us about \$1.5 billion with that auction and he knows it. People would run a mile if they saw the minister running a real estate business. He

should go into rentals, but he should not go into auctions, whatever he does.

The situation we face is very sad for the state of Victoria. We keep being asked a question about what we would do with it. We have said as a basic principle that the Victorian public would not expect us to continue to pay for something that does not work. We do not know what the government has done with the contract. We do not know what deals have been negotiated behind closed doors. We do not know where we are going to stand legally when we take over. But I assure members of one thing: there will be no soft approaches from us when dealing with the situation.

That money could have gone to school teachers, and it could have gone to police protective service officers on railway stations. It could have gone into a whole host of infrastructure projects around the state. What happened? We are stuck with a massive white elephant, which is one of many as I pointed out before. We have the minister for smart meters and the minister for poker machine auctions and the LEAP database right through the Labor government. Nearly everything this government has put its fingers on that has anything to do with IT has turned out to be an absolute and utter disaster. It simply cannot manage money.

There is not enough commercial negotiation experience on that side of the chamber. There never has been. The government does not realise: it cannot smell a rat in its dealings. It gets creamed every time it sits down to negotiate with the private sector. It gets rolled into contracts that it does not understand; it cannot think the way people on the other side of the table think. The fact of the matter is: the government has the money, the government wants it, and it wins every time. The ministers on that side of the table involved in these negotiations simply do not have the experience that is needed.

I recall when all this unfolded under a former Minister for Transport, a former union official. He was Leader of the House, Minister for Major Projects and Minister for Transport, including roads and ports. He did not have a clue about what was going on across any of those portfolios. He skimmed across the top of everything and ran into enormous trouble everywhere he went. The former union official sat up there with billions of dollars to deal out and said, 'This looks like a good contract. That looks like a good contract. Tick this off, tick that off; I will be able to get a photo opportunity here with this. I will go down to Southern Cross station and bring along Thomas the Tank Engine and cut a ribbon; I will look fantastic'. That is what drove the decision making of this government. It has never been

about basic infrastructure; it has never been about basic services; it has never been about systems that work. It has always been about government members; it has always been about image; it has always been about photo opportunities; it has always been about spending public money on advertising and self-promotion. That is something that we will turn around quickly after 27 November if we are elected to government.

The public is absolutely sick of these rotten deals, these poor outcomes. The prioritisation of spending is shocking; it does not deliver what the community is asking for. People say, 'Give us a good basic public transport system; make sure our stations are safe at night; make sure I get to work on time; make sure I get home in time at night; make sure I am there to pick up the children from child care; make sure I do not have to get out of bed early to catch an early train in case my train does not turn up on time'. The public is not looking for bells and whistles: people simply want a back-to-basics public transport system that functions correctly.

This bill sets bells ringing and raises some concerns. It tells me the story of what is going on out there today. This period of grace has more to do with the fact that the government knows it has a problem in terms of issuing infringement notices and getting them to stick than with anything else.

On that note I conclude my contribution. The way this myki ticketing system is working out is of grave concern; that money should have gone into basic services in Victoria. This government has wasted yet another opportunity to produce a great outcome for this state.

**Mr NARDELLA** (Melton) — We have just spent around 27 minutes listening to a shadow minister who has in the past put himself out there as an alternative leader — someone with ideas, someone who can take it up to this government — and that is what he is trying to do with this bill before the house. He talks about the myths that he is creating.

**Ms Beattie** — And he has the numbers!

**Mr NARDELLA** — The numbers — that's right, as the honourable member for Yuroke says — that he splashes around. This bloke makes the federal shadow Treasurer, Joe Hockey, look good. Despite the numbers that went missing under Hockey during the federal election campaign, this bloke makes Joe Hockey look like an absolute genius in his own mind — —

**Ms Beattie** — In his guts!

**Mr NARDELLA** — In his guts, that's right. Here we have the shadow Minister for Transport on the one hand saying, 'We are losing all this money, \$120 million, from not collecting the fares' and then he complains that somebody had to put in a credit; he said they were taken to court because their myki card did not have a credit. Which one is it? Do you do the right thing and have a transition period with the myki card or do you go the full hog and beat people around the head? Do you make sure they do not want to use the myki card? Because that is the option that the shadow minister is putting before the house — that is, you have to beat commuters, the people who are using the trams, trains and buses, into oblivion because of this myth that we are losing money.

The honourable member talked about a number of myths. Let me go through them. Not only does he not believe Elvis is dead and that there is no man-made climate change, he also believes that people who have not validated their myki card tickets are being let off until this legislation is passed. That is just not true. The transition period is important for this government; it is about how you bed in the system, how you bring people on board with the ticketing system in the Melbourne metropolitan area. It is not about beating people over the head, as the Liberals do time and again.

The shadow minister did not come in here with many solutions: he did not put one solution to the house. He talked about how the Liberals were going to review the contract and make it harsher. The Liberals were the geniuses who flogged off the railway system back in 1999. They flogged off the tracks that we had to buy back for \$148 million after negotiating it through a number of years later. These geniuses who say they are going to be tough in negotiating with the Transport Ticketing Authority and the contracts for myki are the same ones who flogged off the railway services in 1999 just before the election. These geniuses in contract negotiations did such a botched-up job of it that they were about to force those companies to leave the system and Victoria out in the cold without any transport system. We had to go in there and provide \$1 billion worth of subsidies. That is the genius of this shadow minister, who has come in here and placed before the house and the people of Victoria a vacuous policy that shows he does not understand the portfolio he has been responsible for over a long period of time.

He has come in here and talked about how we should have just picked a ticketing system off the shelf, like the one in Singapore. Singapore is a small and defined area of about 50 square kilometres, so the system is extremely simple. He talked about Perth. There are four lines in Perth. It is a simple system in Perth: you go up

the line, you go down the line; they have just extended it to Mandurah. I have been on the system there, up through Joondalup. It is fantastic, but it is not a complicated system; it has four lines. How does that compare to Victoria? When the Liberals were in government they wanted to bring the system back down to four lines in Victoria: that is why they closed the country rail lines to Bairnsdale, Mildura, Ararat and Maryborough. They wanted to make it four lines to make it easier for people to use the ticketing system, but the evidence is that these things take time.

The Oyster system that the shadow minister placed before the house took seven years to bed down in England; it was not instantaneous, as he said, because he has no idea; he has not got a clue how the system operates. He does not have a policy; he has no understanding of what the system requires. This genius of a shadow minister does not understand, and I remind him that it took seven years to bed down the Oyster system in England, which is now working well. It would have had a transition period when people would not have been beaten around the head for using public transport. The shadow minister does not recognise this.

The shadow minister said, 'We just want a basic system; we just want the system to run'. There is no acknowledgement that recently we put a 10-minute service on the Frankston line, and we have increased the number of train units and carriages; we are building 38 new units, we have something in the vicinity of 6 new train units in the system at the moment and there will be more to come over the next few weeks. There is no acknowledgement that on the V/Line services there are the V/Locity train sets and the new carriages.

The shadow Minister for Public Transport wants a basic system. He should go back to his Meccano set, or to Thomas the Tank Engine, where there are wooden lines. Most people who have kids know that you can put those sets together and you can go around the track by hand. The shadow minister has no understanding of the regional rail express and what that brings to both my electorate's line and the regional V/Line service and the electrification that that will give us in Melton and Bacchus March after 2016.

He makes no acknowledgement of the fact that we have had to open up the rail lines to Bairnsdale, Ararat and Maryborough because those opposite closed six rail lines. He has no understanding of the changes made with the replacement of concrete sleepers and overhead lines, or of the infrastructure that we have been putting together over the past 11 years. These basic services include the increase in the timetabling for V/Line and the Metro system have been achieved because we have

invested in basic services. I remind honourable members that the last time those opposite ran the public transport system — during the seven long, dark years of the Kennett government — they put a summer timetable in place in the Melbourne metropolitan system. That summer timetable, which was put in place in January 1993, remained in place until October 1999 — when we came into office. That is how they ran the system over the seven long, dark years of the Kennett government. Yet the shadow minister comes in here without any plans because he comes in here without any understanding of what it means to provide a public transport system for people here in Victoria.

Just this weekend we had the situation where most of the difficulties at a number of key stations occurred during daytime. What is his solution to address those difficulties of violence and other incidents that occurred during daytime? His solution is to put PSOs (private security officers) on the stations in the evening, when those things do not happen, when the violence does not occur! He wants to put them there from 6 o'clock until the last train so that they can sit on the station and smoke their cigarettes but not cover the violence that occurs during the day. That is the type of solution that this shadow minister has!

This is very good legislation. It is about safety and implementing a better system for our roads and public transport in Victoria. I support the bill before the house.

**Mr WELLER (Rodney)** — It gives me great pleasure to rise this evening to speak on the Road Legislation Miscellaneous Amendments Bill 2010. As always, it is interesting to follow the member for Melton. He has had a go at the member for Polwarth and has made some outlandish comments. The member for Polwarth quite rightly criticised the myki card and expressed some frustration that it is not working and that people are now travelling free on the rail system because penalties for not using their myki card are not being enforced.

The member for Melton has come to his senses and now is calling us on this side of the Parliament geniuses. We take that as a compliment; he has at long last understood. He has at long last understood that this side of the house is where the intellect is, as opposed to the other side of the house.

The member for Melton made some comments about country lines and all that sort of stuff. I was thinking of interjecting because he was straying from the bill but I thought that it would give me a little bit of room to move as well. In relation to country lines, in 1999, on behalf of the government, Steve Bracks, the then

Premier — and I note that the current Premier was probably the Treasurer back then — made the commitment that the government would return passenger rail services to Mildura. That was in 1999, yet here we are in 2010 and there is no passenger rail service to Mildura. What has this government done other than break another promise, another commitment?

The member for Melton then went on to talk about the Oyster card that took seven years to bed down in England. That is all well and good but all the wrinkles and problems with it have been ironed out. Why did we not just go and buy a system that worked off the shelf? We would have had a working system and it probably would have been cheaper. That is why the member for Melton is referring to us on this side as geniuses.

He also talked about the rural lines and said that they have been replacing sleepers. Well, let us look at the rail to Wodonga. What happened when they replaced the sleepers there? They did not do the job properly and they sank a foot — and then it was back to buses for Wodonga. What we have to remember is that the member for Melton ought to be very careful when he comes in here and has a really red hot go at the member for Polwarth, who made a lot of sense.

I might now run through some of the issues in the bill. Part 2 amends the EastLink Project Act 2004 to clarify that an offence of driving an unregistered vehicle in a toll zone applies to vehicles covered by a tollway billing arrangement that has been suspended. What we also have to remember is that it is no wonder that we have this amendment bill before the house. Once again, the government said that there would be no tolls on the Eastern Freeway. That was one of its election promises — another promise broken by the government. They come in here and talk about their plans but they just overlook all their broken promises. The EastLink project was to be free for people to travel on. They went to an election on that and said, 'There will be no tolls on the Eastern Freeway'. However, as soon as they were elected, in it came: tolls on the freeway.

The next dot point goes on to say:

... the defence ... of reasonable belief that a vehicle was covered by a tollway billing arrangement is not available where the driver cannot prove that he or she believed on reasonable grounds that the billing arrangement had not been suspended.

What a solicitors and lawyers field day. The minister is sitting at the table here. If ever something goes on there will be plenty of work for lawyers to represent people.

All this does is create a minefield that will be an opening for people to challenge. We will be tied up in the courts; the courts will be establishing whether there are reasonable grounds or not. I think that that is a very interesting way of saying it.

There are some productive parts of this bill that I thought were improvements, particularly part 5. It states:

... extend and strengthen the operation of provisions under which a licence may be suspended for certain drug-driving offences ...

We need to be tough on drugs and drivers — I am very supportive of that. It is our side of the Parliament that has a background in making the roads safer. When Henry Bolte was Premier of Victoria he brought in the mandatory use of seat belts in 1970.

I am a member of the Road Safety Committee. I note that the chairman of the committee has just ducked out — and he is back again. The Road Safety Committee is a very effective committee, as its chairman would agree. We work in a bipartisan manner. However, it was the Bolte government that brought in the compulsory wearing of seat belts, which had a major impact on reducing the road toll in Victoria. We have continued to bring in recommendations for compulsory side curtain airbags and electronic stability control (ESC) in cars.

**Ms Beattie** — What does it mean?

**Mr WELLER** — It means that if you get into a slide, the electronic stability control will put the brakes on and bring you back into a straight line; it overrides the driver. By having ESC on all cars in Victoria you would reduce the road toll by one-third. That would take it down from its current level of around 300 to about 200. That is why the Road Safety Committee recommended that ESC be brought in. Part 5 also goes on to say:

... provide for minimum licence and permit cancellation and disqualification periods when a person is found guilty by a court of certain drug-driving offences ...

Once again the government is probably playing a bit of catch-up. We need to make sure that the penalties for drug driving are a deterrent and that people understand that if you take drugs and then get behind the wheel it is not going to be tolerated, because you are not only putting yourself at risk, you are putting many other people who share the road at risk. That needs to be remembered. The next dot point says:

... provide for an extension of time to nominate another driver in the circumstances where a person has been issued

with a traffic infringement notice in respect of an excessive speed infringement but is unaware that the notice has been issued ...

Where a reading has been taken by a camera or by an officer in a stationary police car but the person has not been caught at that time, some flexibility with regard to time must be provided.

The next dot point says:

... extend the range of information that the corporation may disclose and the circumstances under which that information may be disclosed.

That will make sure that we get the person who was actually driving the car at the time.

If we go back to what the member for Polwarth was saying about the myki situation, a clause in this bill deals with how computers on the myki system can be used. What we have to remember is that the people of Victoria have little faith in the myki system. The government can say, 'It is being approved, and we have people who say that it is good', but the fact is that it is still not working. That is why the government has said that it is going to have a grace period where people will not be charged with infringements. That is an admission that myki is not working. It is also an admission that the cost of the myki card continues to grow.

The cost has grown to \$1.35 billion, and it is still growing. The estimate now is that it will cost \$1.4 billion. The myki card has been one of this government's greatest failures. It has been overbudget, over time and poorly managed. This is typical of this tired, old, arrogant government which will not listen to advice that it is out of touch and that the myki card is not working. We will not oppose this bill, but the government needs to make sure it is honest.

**Ms BEATTIE** (Yuroke) — I shall begin my contribution with a firm commitment, Acting Speaker, to you, the clerks and Hansard that I will lower the decibel level in the house so that your ears can have a bit of respite before the dinner break.

We have heard from other speakers who have concentrated mainly on myki. In my contribution I would like to talk about the legislation pertaining to roads. Before I do, I cannot let this chance go by to point out to the opposition — which says it is the great driver of change in this place — that it was the Brumby government that extended the rail line to Craigieburn, Roxburgh Park and Coolaroo. It is the Brumby Labor government that is extending the electrification to Sunbury. In that area it is the Liberals who have been whipping up an anti-electrification scheme. I can tell

you from my experience that having the electrification to Craigieburn has made a difference to thousands and thousands of lives. It now means teenagers can get on the system, take a train to places a couple of stops away and get a job. It means commuters can get on the electrified system, go straight into the city and use the same service that others have used. Do not let the other side of the house say they are the great innovators in public transport, because clearly they are not. It is also the Brumby Labor government that has introduced SmartBuses that now run on several routes around the city every 15 minutes or so, and those are being used.

When the shadow spokesperson for public transport says he wants to go back to basics, what does that mean? Back to a horse and cart? Back to taking a donkey to the market? I do not know what 'back to basics' means, and I would think neither does the opposition's shadow spokesperson for public transport.

I am very perplexed to hear the member for Rodney say it is that side of the house that has always been the champion of road safety, because both parties have always had a bipartisan approach to road safety. Each and every one of us in this house knows that we have to stop young people, particularly young men, from being dangerous on the roads. We know it is working because in 2009 Victoria recorded its lowest road toll since comprehensive records began. But what do opposition members constantly say? They say these road safety measures are about revenue raising, which clearly they are not. They are lifesaving measures.

I have to say there are times — and just recently there must have been a blitz on Pascoe Vale Road — where people have come into my office. One woman came in and said, 'I was only doing 140 kilometres an hour in an 80-kilometre-an-hour zone, but I was very safe. Can you get me out of this ticket?'. She got pretty short shrift from me.

The 2009 toll of 290 was 13 fewer than in 2008, but 290 is still too many people, too many lives lost and too many families suffering. We have to do whatever we can to bring down that road toll, and we have certainly done that under a Labor government by initiating the Arrive Alive program, which aims to reduce deaths and serious injuries by another 30 per cent by the end of 2017.

It is not only deaths on the road that are disturbing; it is the terrible injuries that affect people's lives forever. That is why I am very much in favour of those hard-hitting ads which show what can happen if you are drunk driving, drug driving or speeding. I am very

much in favour of those ads because, as I said, there are just too many lives lost.

I hope the Labor government gets continued support from the other side. I hope the other side of the house is not going to go out and beat the drum again about this being revenue raising, which they are very inclined to do, and I hope they support us in tackling drink driving, tackling drugs and enforcing the speed limit.

Those are not the only things we have done. We have increased on-road safety treatments, and we have targeted run-off road and intersection crashes. I only have to look at the experience in my area with the Tullamarine Freeway, now known as CityLink, where the intersection around Bulla Road has been greatly improved and the flow-through of traffic on the way to the airport has been greatly improved.

That was opposed by the Liberal Party. I could go on and on about things the Liberal Party and The Nationals have opposed, but time does not permit me to do that. I ask members of the opposition to get behind the government and take the bipartisan view that has always been taken so we can save even more lives and prevent more families from experiencing tragedy. With those remarks I conclude my contribution.

#### **Sitting suspended 6.30 p.m. until 8.03 p.m.**

**Mr BURGESS** (Hastings) — It is a great pleasure to rise to speak on the Road Legislation Miscellaneous Amendments Bill 2010. It is an omnibus bill to ensure automatic suspension of drug-affected drivers and minimum licence and permit cancellation and disqualification periods if a person is subsequently found guilty by a court. The bill clarifies the powers of VicRoads to remove abandoned vehicles and impose fees for their return, and amends the Melbourne City Link Act and EastLink Project Act to clarify that a suspended tollway billing account is no defence to an alleged offence of driving an unregistered vehicle on these tollways. I will deal with a couple of these clauses in greater detail.

Clause 15 introduces automatic immediate on-the-spot licence suspension for refusing to provide an oral fluid sample in a roadside drug-driving test. Clauses 3 and 7 amend the EastLink Project Act 2004 and the Melbourne City Link Act 1995 respectively to require a driver charged with driving an unregistered vehicle in a toll zone and relying on a defence that the vehicle was covered by a tollway billing arrangement to prove that he or she had a reasonable belief that the billing arrangement was not suspended at the time of the alleged offence. Clause 11 amends the schedule to the

Road Management Act 2004, clarifying the powers of VicRoads in relation to seizing vehicles causing obstruction or danger on the roads, and gives the authority the power to sell, destroy or give away such a vehicle if the relevant retrieval fees are not paid within 60 days.

Clause 22 allows VicRoads to pass on personal information about the registered operator of a vehicle or trailer to a vehicle dealer. Clause 24 amends the Transport (Compliance and Miscellaneous) Act 1983 to ensure that the Governor in Council can make regulations regarding processes involving myki and the resultant computer-derived evidence regarding ticketing offences connected with myki.

Clause 14 is a clause of great interest to me. It introduces mandatory licence cancellations of at least 3 months for a first drug driving offence and 6 months for subsequent offences with no set maximum disqualification, compared with the current option for a court that may impose licence cancellations of up to 6 months and 12 months respectively. It is a minor word change, but it is a significant change to the law and certainly has strong implications.

Jessica Craven, a journalist with the *Geelong Advertiser*, wrote an article about random drug testing on Friday, 16 July 2010, in which she quoted Inspector Martin Boorman of Victoria Police as having said:

Victoria Police traffic drug and alcohol inspector Martin Boorman said drug driving could be just as deadly as speeding or drink driving.

‘Drivers who have recently consumed cannabis or an amphetamine-based substance are at the same risk ... having a crash as a driver with a blood alcohol concentration level above .05’, Inspector Boorman said.

Coincidentally, on the same day the *Herald Sun* published an editorial headed ‘Drugs a driving hazard’, which states:

Of the 295 people who died on the state’s roads in 2009, more were affected by drugs than by alcohol.

...

Last year, 30 per cent of drivers or motorcycle riders killed on the road were drug-affected, compared with 25 per cent involving alcohol —

This was another quote from Inspector Martin Boorman.

On the Victorian government’s ‘Arrive Alive’ website there is a statement that:

Drug driving is a major contributor to road fatalities in Victoria. In 2003, a total of 31 per cent of drivers killed in Victoria tested positive to drugs other than alcohol.

In summary, as I said, these are fairly minor word changes. In fact the existing legislation says 'may' and the new legislation will say 'must', but the change that this will bring about is a mandatory licence cancellation of at least three months for first drug-driving offences and six months for subsequent offences. Having gone through the facts and figures behind drug driving compared with drink driving I think this is a very worthwhile piece of legislation — or certainly a very worthwhile clause within this legislation — and is something that should make a considerable difference in dealing with the great difficulty we have on the roads: people who use drugs and then drive and put all our families' lives at risk.

**Mr EREN** (Lara) — I know that there are time constraints and I will be brief with my contribution, but I rise to speak in support of the Road Legislation Miscellaneous Amendments Bill 2010. This bill seeks to amend the four main acts and makes small amendments to other acts for other purposes. The bill will amend the EastLink Project Act 2004, the Melbourne City Link Act 1995, the Road Management Act 2004 and the Road Safety Act 1986. The amendments proposed to the Road Safety Act 1986 are of particular importance to me as the current chair of the Road Safety Committee, and I take this opportunity to express the importance of these amendments.

We know that road trauma has an enormous emotional, physical and financial impact on the lives of the individuals involved, their families and their communities. The government's Arrive Alive road safety strategy aims to reduce deaths and serious injury by 30 per cent over the 2008–17 period.

I would like to congratulate the minister at the table, the Minister for Roads and Ports. The Minister for Finance, WorkCover and the Transport Accident Commission is also in the chamber. Both of those ministers have worked very hard towards saving people's lives on the roads, particularly with the introduction of legislation that provides that by 2012 every new car registered in Victoria will have electronic stability control and side curtain airbags.

Throughout our travels, not only nationally but internationally, we found that Victoria in particular is recognised for its road safety achievements. For example, when we were in the UK we were told they had particular problems in trying to tackle the driver behaviour side of the problem. They have restrictions there in relation to pulling someone over and randomly

breath-testing them. They were trying to manoeuvre around the difficult politics of overcoming the problems that they have. In Victoria if there is no breath-testing facility or people have not been breath-tested for a while, they ask the question, 'How come we're not being breath-tested? Someone's not doing their job'. Overseas they are having great difficulty, but we have come a long way in changing the behaviour of drivers.

That is why this bill is very important. The fact is that driving while affected by illicit drugs is an increasingly worrying problem. It is a practice that is dangerous and potentially deadly. Drug driving is a serious road safety issue, with approximately 32 per cent of all drivers and motorcyclists killed in 2008 being found to have drugs present in their system. Research has shown that illicit drugs can affect your driving ability by causing impaired coordination, muscle weakness, impaired reaction time, poor vision, an inability to judge distance and speed, and distortions of time, place and space. Sleeplessness can obviously be added to that. If one does not sleep for 24 hours, then one's impairment is the equivalent of having a blood alcohol content of 0.7. That is certainly a recipe for a disaster.

The very first action plan of the 2008–10 Arrive Alive strategy included a commitment to review penalties for drink-driving and drug-driving offenders to more appropriately reflect the risk these offences pose to the community. The review determined that penalties for drug-driving are currently inadequate and should be increased to bring them into line with the penalties that apply to drink drivers.

Having said all that, I commend the bill before the house. I particularly congratulate the ministers on the fine work they have done through this legislation. I wish it a speedy passage.

**Dr SYKES** (Benalla) — I rise to contribute to the Road Legislation Miscellaneous Amendments Bill 2010. I wish to indicate that I, along with my coalition colleagues, will not be opposing this bill. I would like to concentrate my commentary on two clauses — that is, clauses 14 and 24. Clause 14 introduces mandatory licence cancellation for at least three months for a first drug-driving offence and six months for subsequent offences, with no set maximum disqualification period. That is compared with the current option for a court to impose a licence cancellation of up to 6 and 12 months respectively. This clause is very important, because at long last the penalties are being brought into line with community expectations in relation to drug driving and drink driving. The community in my area and throughout Victoria has had a gutful of irresponsible people driving under the influence of drugs and/or

alcohol and putting other people's lives at risk as well as their own. Equally they have had a gutful of people — often the same people — driving whilst their licences have been suspended.

The basis of the community concern in relation to the effects of alcohol and drugs whilst driving is the role that they play in accidents. Other speakers have mentioned that a very high proportion of people involved in motor vehicle incidents are affected by either drugs or alcohol. There is a particular subset of the population — that is, young males aged between 18 and 24 — that makes up a disproportionate percentage of the fatalities and injuries in motor vehicle accidents. Therefore penalties need to be toughened, and that is why we welcome these penalties.

Equally we need to continue with the education programs that have been put in place over many years. Part of that is to highlight the horrific impact of motor vehicle accidents. Locally we have had a wonderful initiative by the Benalla College students over the last few years whereby year 11 students have been conducting 'surviving driving' forums. This year the forum was organised for all the year 11 and 12 students by Hayley Brock, Stacey Dennis and Scarlett Spencer. The speakers included State Emergency Service members, who told of their horrific experiences of going along to accidents often caused by people affected by drugs and alcohol, and a pedestrian who had been knocked over by a car. She suffered acquired brain injury. The thing that really hit home to the students was that this victim of the motor vehicle accident appeared quite normal when she first got up to speak, but as she told her story it was evident that she had serious brain injuries that were a consequence of having been hit by someone driving irresponsibly and, as I recall, affected by alcohol.

To put this into context, the other issue is that, regrettably, road toll fatalities in country Victoria have remained unacceptably high. Whilst there has been a reduction in the overall road toll in Victoria over a number of years, the road toll in country Victoria has not reflected the decrease in deaths that has generally been seen in Melbourne. I think it came down last year, but it is rising again this year, as I recall. Factors contributing to that include the influence of drugs and alcohol with or without associated fatigue.

There are other issues — I note that the Minister for Roads and Ports is in the chamber — in relation to the standard of roads. It has taken 10 years to toughen up in this area, yet we are still having requests for upgrades knocked back because there has been no fatality on a particular section of road. When we have a fatality or a

serious accident, or a couple of them, then it meets the criteria for funding. This happened recently on the Midland Highway between Benalla and Mansfield, on which one of my staff, Rowena Sladdin, drives every day. There is movement to upgrade that road, but it has taken one fatal accident and another serious one to make it a priority. We need more money spent on roads as well as on addressing the issue of drugged and drunk driving.

**Mr Weller** — You can fix country roads.

**Dr SYKES** — If we fixed country roads, we would save country lives. Thank you, the member for Rodney.

The other clause I would like to touch on is clause 24, which relates to the myki ticketing system — or non-system. The member for Polwarth gave a very detailed exposé of the failings of the myki system. It continues to amaze many people that even as this legislation is put before the house today the question is: why has it needed to get to this point when the system has been going through this prolonged and difficult gestation over a number of years? It has had a much longer gestation than an elephant, and it is turning out to be a monster. It is still not working properly, and, as mentioned by the member for Polwarth, we have had a significant cost blow-out.

One of the frustrations for country people, the people I represent, is that not only does the myki system not work on V/Line trains but in north-eastern Victoria we do not even have V/Line trains because we have had another botched project mismanaged by the Brumby government. The \$500 million north-eastern rail corridor upgrade is not functioning because there are numerous mud holes along the railway line which have meant it is unsafe for trains to travel there. Not only do we not have V/Line trains and not have the myki system on our V/Line trains but even the XPT train service has not been travelling that line because of delays of up to two hours. The XPT business operators believed that was not an appropriate penalty to inflict on their customers. We hope this legislation, which is looking to put another piece of the jigsaw in place to try to ensure that the myki system will become functional, helps the puzzle come together.

This legislation has a number of good parts, particularly clause 14. Until the rest of the management components, highlighted by failings in the management of the myki system, come up to scratch, we will continue to have inadequacies in our public transport system and unsafe roads.

In this legislation before the Parliament we see another symptom of a tired, out-of-touch, arrogant Brumby government that in 11 years of government has never been able to manage money or projects, resulting in a massive waste of money, as was highlighted by the member for Polwarth, in the myki cost blow-out, which went from \$330 million to \$1.1 billion to \$1.4 billion. It is a government that is soft on crime. It has taken 11 years to toughen up on drugged and drunk drivers, in spite of the community clamouring for a toughening up for many years. The people in my electorate will be pleased this legislation has come before the Parliament, but they ask the question: why has it taken so long, and can the Brumby government assure the people of Victoria that with these measures in place we will have a functional myki system and safer roads? The coalition will not be opposing this bill.

**Mr LANGUILLER** (Derrimut) — It gives me pleasure to support the Road Legislation Miscellaneous Amendments Bill 2010. The bill does a number of things. It amends the EastLink Project Act 2004 to clarify that:

the offence of driving an unregistered vehicle in a toll zone applies to vehicles covered by a tollway billing arrangement that has been suspended ...

It also amends the Melbourne City Link Act 1995, the Road Management Act 2004 and the Road Safety Act 1986, to which I wish to refer very briefly. What the bill does, particularly the section in relation to the Road Safety Act 1986, is extend the operation of the immediate licence suspension system to the offence of failing to provide a sample of oral fluid. It provides a minimum three-month licence cancellation period for a first offence and a minimum six-month cancellation period for a subsequent offence where a person is convicted or found by a court of failing a drug-driving test.

We are very passionate about this bill, and it gives me, as I am sure it does every other member in this house, enormous pleasure to put on the record that this is good legislation aimed at preventing death and serious injury on our roads. It is legislation that is very strongly supported by the opposition. It is important that we say that, because this government, and indeed the opposition in this case, is determined to ensure that people drive safely and that every precaution is taken in relation to preventing serious injury and death on our roads.

The bill removes the maximum licence cancellation and disqualification periods for failing a drug-driving test, which were 6 months for a first offence and 12 months for a subsequent offence. Finally, the bill allows

VicRoads to confirm whether or not a person or body is the registered operator of a vehicle or trailer in response to a request by a vehicle or trailer dealer.

I commend the bill to the house. It is important to all of us. It is important to the community. It represents community standards and community expectations of our government, and it is another step in the right direction to preventing serious injury and death on our roads. I wish this bill a speedy passage.

**Mr WAKELING** (Ferntree Gully) — It gives me pleasure to rise to contribute to the debate on the Road Legislation Miscellaneous Amendments Bill 2010. This is an omnibus bill which seeks to ensure automatic suspension of licence for drug-affected drivers and provide for minimum licence and permit cancellation and disqualification periods if a person is subsequently found guilty by a court. It also clarifies the powers of VicRoads to remove abandoned vehicles and impose fees for their return, and amends the Melbourne City Link Act and the EastLink Project Act to clarify that a suspended tollway billing account is no defence to an alleged offence of driving an unregistered vehicle on these tollways.

As has been mentioned by the member for Polwarth and others before me, this bill is a demonstration of the way this government has over 11 years — a long, dark period of time — been dragged kicking and screaming to improve law and order in this state. Members of the opposition and people in our community have been crying out for this government to be stronger on crime and the area of law and order. One only needs to look at a number of provisions in this bill to see that improvements will be made to the system that is in operation today, but one has to ask the question: why has it taken this government 11 years to implement some of these changes?

The wording of the provision for requiring a licence cancellation of at least three months for a first drug-driving offence is being changed from saying it 'may' occur to making it 'mandatory'. I strongly support that provision because there is great concern among residents not only in my electorate but across Melbourne and broader Victoria about the way there appears to be a soft-on-crime approach under the watch of this government. It is pleasing that finally we are starting to see some action that tells people in this state: if you are caught taking drugs and driving a vehicle, then you will face a licence cancellation — not that you may face a licence cancellation, but that you will face a licence cancellation.

Like many Victorians, I know of the impact of serious accidents. Like some in this house, I was involved in a very serious car accident. The accident also involved my now wife. Fortunately we both survived the incident. I understand how in a split second you can go from driving a vehicle on a major road to being involved in a major collision. I have heard the personal tales of my father-in-law, who was a life member of the Country Fire Authority (CFA), about the number of fatalities that he has witnessed involving people who were affected not only by alcohol but also by drugs.

As the *Age* reported on 16 July this year, one in 61 drivers tested on Victorian roads are drug affected, and more than three-quarters of those caught were using speed. This is a major concern for Victorians. Clearly the opposition is pleased to see that the government is doing something to fix this situation, but the question needs to be asked: why has it taken this tired government 11 years to try to do something about this important issue? The government has had 11 years to fix this issue. Clearly it is an issue where it has been dragged kicking and screaming in order to provide some improvement.

I would like to draw attention to clause 24 of the bill, which seeks to involve myki. Further information is needed because it is unclear whether this seeks to capture the Transport Ticketing Authority's central computer system that has interaction with private contractor Kamco's computer system. How timely is the debate about the operation of myki and the capture of information? One only needs to have seen the news tonight or to read our local newspapers to see the concern that Victorians have about the way this government is dealing with fare evasion on the myki system.

It raises the question: how much control does this government have over the handling of the rollout of the myki system? An amount of \$1.35 billion has been spent on a ticketing system which nobody asked for, and the question has to be asked: has that figure now blown out even more? Has it blown out even more because of the fact that this government is not cracking down on fare evasion under the system? One can only draw the conclusion that the government has been too hastily rolling out this system in order to declare to Victorians that the system is rolled out in time for the 2010 state election. Victorians are awake to this government. Victorians are not going to listen to the spin, the rhetoric, of those in power in this state. Victorians know that the government is spending over \$1.3 billion of their hard-earned money on this new ticketing system when that money could have gone to improving the existing public transport infrastructure,

to building new rail infrastructure or to providing new tram infrastructure — to fixing the ballast and doing the essentials to maintain the system we have. Heaven forbid, we may have actually used that money on education. Heaven forbid, we may have used that money on the health system. Heaven forbid, we may have handled the rollout of the smart meters in a better way. That is a debacle in itself. Myki has been symbolic of this government's handling of the Victorian economy and the way it treats Victorians with contempt. An amount of \$1.3 billion has been spent on this system.

As I have indicated, the opposition is pleased to see that the government is acting on these issues, but more needs to be done. This government has had 11 years to fix the current system, but clearly it is not up to fixing it. The opposition will welcome the opportunity after the November election to implement its own policies.

**Debate adjourned on motion of Mr FOLEY (Albert Park).**

**Debate adjourned until later this day.**

## FAIR TRADING AMENDMENT (AUSTRALIAN CONSUMER LAW) BILL

*Second reading*

**Debate resumed from 12 August; motion of Mr ROBINSON (Minister for Consumer Affairs).**

**Government amendments circulated by Mr PALLAS (Minister for Roads and Ports) pursuant to standing orders.**

**Mr O'BRIEN (Malvern)** — It is a pleasure to speak on the Fair Trading Amendment (Australian Consumer Law) Bill 2010. I flag at the outset that the opposition will not be opposing this bill.

The background to this bill is that in December 2006 the federal government charged the Productivity Commission with the responsibility of conducting an inquiry into Australia's consumer policy framework. I have a copy of the press release issued by the federal Treasurer of the day, the Honourable Peter Costello, who was one of Australia's best Treasurers, and who certainly had some of Australia's best advisers working for him, although not at that time. This was a mark of the sort of reform that went on in the competition and consumer law area under the former coalition government.

The Treasurer then charged the Productivity Commission with reviewing Australia's consumer policy framework. It was asked to report on ways to improve the framework to assist consumers to meet current and future challenges. It was also to report on ways to improve the harmonisation and coordination of consumer policy and its development and administration across jurisdictions in Australia, as well as on ways to avoid regulatory duplication and inconsistency.

Those are the sorts of guiding principles that members on both sides of the house could embrace. It is very important not only that our consumer and competition laws effectively promote competition to benefit consumers and provide effective enforcement mechanisms for when those laws are transgressed but also that they do so in as efficient a way as possible so that consumers and ultimately the community do not pay an unfairly heavy price for overregulation.

The inquiry commenced in December 2006, and in May 2008 the government of the day released the Productivity Commission's report. In that report the commission stated:

The current division of responsibility for the —  
consumer policy —

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 commission also stated:

There are gaps and inconsistencies in the policy enforcement tool kit and weaknesses in redress mechanisms for consumers.

It went on to note:

These problems will make it increasingly difficult to respond to rapidly changing consumer markets, meaning that the associated costs for consumers in the community will continue to grow.

Having completed a comprehensive study of Australia's consumer protection laws, the commission was clearly flagging that it could be done better and that consumers and the broader community would benefit from it being done better than had been the case.

The Productivity Commission also said:

The first step in this process should be the introduction of a single generic consumer law applying across Australia, based on the consumer provisions in the Trade Practices Act ... modified to address gaps in its coverage and scope.

This describes the genesis of the bill that is before the Parliament today.

In July 2009 the various jurisdictions across Australia, having considered the Productivity Commission's report and essentially embraced it, the intergovernmental agreement for the Australian Consumer Law (ACL) was brought into existence. The commonwealth Parliament then passed the relevant legislation in 2010. Again, I note that that was done with bipartisan support.

The ultimate situation we have today is that the Australian Consumer Law is scheduled to commence on 1 January 2011. It is interesting that the Minister for Roads and Ports, who is at the table, circulated amendments to the bill before the house. One of the main substantive aspects of these amendments provides for a potential delay in the commencement of the law in Victoria. The bill currently states that the Australian Consumer Law will take effect on 1 January 2011, but these amendments provide that the words '1 January 2011' are to be omitted and in their place are to be inserted the words, 'a day or days to be proclaimed'. Having discussed the matter with the minister, I understand that the Victorian government is of the view that there is concern that the new federal government, the Gillard Labor-Greens government, may not get the regulations that are necessary to give full effect to the Australian Consumer Law into place by 1 January 2011.

It would be an absolute indictment of the new federal government if one of the key things that this government is supposed to be doing to try to protect consumers were delayed from coming into existence because it could not get the regulations in place in time for the scheduled commencement on 1 January next year. The federal government has five sitting weeks, or more than three months, to get these regulations promulgated and into operation by 1 January 2011. Given that the gestation period for the Australian Consumer Law commenced in 2006, as I said before, I do not see why nearly four years later the federal government is unable to get its act together.

It may be that the amendments that have been put before the house will prove unnecessary — it may be that the federal government is able to get those regulations in place, up and running and operational by 1 January — but the very fact that the state Labor government has so little faith, so little confidence, in the ability of the Gillard government to do what it needs to do to give effect to this law speaks volumes about the competence of those who currently occupy the Treasury benches in Canberra.

Turning to the bill before the house, the Australian Consumer Law is contained in schedule 2 to the federal Competition and Consumer Act 2010 and the regulations made under section 139G of that act. I have just discussed the fact that the potential delay in making those regulations is the reason the government has now circulated amendments potentially delaying the date at which the ACL will take effect here in Victoria.

What are the elements of the Australian Consumer Law? It does not seek to prescriptively cover all aspects of competition law — many aspects of competition law remain within the federal Trade Practices Act and many aspects of competition and consumer law remain solely within Victoria's Fair Trading Act — but consistent with the Productivity Commission's recommendations that the Australian Consumer Law be based on the consumer protection provisions that were largely contained in the Trade Practices Act, this is what we have in the new ACL.

There is rather an exhaustive list. An example of some of the measures that are contained in the Australian Consumer Law are those relating to misleading or deceptive conduct; unconscionable conduct; unfair contract terms; unfair practices, such as false or misleading representations; unsolicited suppliers; pyramid schemes; unfair pricing and other unfair practices. The Australian Consumer Law also deals with consumer transactions, including consumer guarantees such as guarantees relating to the supply of goods and the supply of services, and says that guarantees are not to be excluded by contract. The Australian Consumer Law also deals with unsolicited consumer agreements and negotiating unsolicited consumer agreements.

That brings me to the issue of door-to-door marketing. This is an issue that can be a bit of a bugbear for many consumers. I have had the experience of working very late one night and then the next night finally having the chance to catch up on some of the sleep I had lost only to have my doorbell rung by someone at my doorstep wanting to sell me a different electricity provider's service or a different gas provider's service. I understand that is something that many people regard as intrusive; against that, if we want to have competitive markets, there need to be ways for companies to tell consumers about the products they offer.

I am speaking on this bill as the shadow Minister for Consumer Affairs, but one of the other portfolios I deal with involves energy and resources. Victoria has the most competitive retail market in electricity and gas not just in Australia but, by many measures, in the world.

We have an extremely competitive retail segment. That high level of fiercely fought competition assists consumers by bringing on price pressures which cause retailers to try to keep their margins down, which ultimately benefits consumers. That is not to say utility bills are not high — and far too high — for many consumers; that is not to say the government has not exacerbated the price that people are paying for electricity through things like the smart meter debacle, where the budget blow-out has directly added to the bottom line of electricity prices. But having a competitive retail market in electricity and gas benefits consumers.

One of the ways you can have a competitive market is by having various competing companies being able to inform consumers about the products they offer and the prices they charge. Door-to-door marketing is a crucial part of maintaining a competitive retail market. We need to make sure we get the balance right; we need to get the correct balance between protecting the legitimate rights of consumers not to be bothered by door-to-door marketers at particular times and the benefit all consumers share from having a competitive market in areas like electricity and gas.

This bill implements the Australian Consumer Law provisions in relation to door-to-door sales and marketing. These differ to some extent from what has applied in Victoria under our Fair Trading Act. There are some similarities — for example, Sunday door-to-door marketing is banned under both the Fair Trading Act and the proposed Australian Consumer Law. On Saturday door-to-door marketing is limited to the hours of 9.00 a.m. and 5.00 p.m. under both the Fair Trading Act and the proposed Australian Consumer Law. However, there is a difference in relation to Monday to Friday — that is, under the Fair Trading Act provisions door-to-door marketers can operate between 9.00 a.m. and 8.00 p.m. whereas under the Australian Consumer Law the hours are limited to between 9.00 a.m. and 6.00 p.m. That means there are 2 fewer hours per day for door-to-door marketers to operate. That is something which most consumers would support.

Many consumers would regard 6.00 p.m. as a fair time for a line to be drawn; after that door-to-door marketers cannot knock at their door. I am also conscious of the fact that for many families, particularly those families with younger children — being in that category, I have a lot of empathy — 6.00 p.m. is often dinnertime. It is quite probable that the last thing you want to be disturbed by is somebody knocking on the door or ringing your doorbell trying to sell you gas or electricity at 6 o'clock or 7 o'clock at night when you are trying to

wrangle the family members around the dinner table and trying to have children eat their meals. I think Victorian consumers will welcome the tightening up of the regulations on door-to-door marketing in terms of the hours of operation from Monday to Friday that are provided in Australian Consumer Law.

In the bill there is also the capacity for regulations to be made in Victoria that could, for example, extend the permissible door-to-door marketing hours. It is not my understanding that the government proposes to use that regulation-making power to extend the permissible hours for door-to-door marketing. It is not the opposition's intention either.

I have had it put to me by the Consumer Action Law Centre (CALC) that it is concerned about that regulation-making power. But given what I understand to be the government's position and what I have stated to be the opposition's position, I do not think the fact that a regulation-making power exists is a reason to seek an amendment to the bill, which has been suggested as an idea by the Consumer Action Law Centre.

There are a number of other aspects of the bill which many consumers would be interested in. This is mainly because there are so many aspects of commerce that affect consumers where the die seems to be loaded against consumers. Often consumers do not have the same time to read through the fine print of contracts that the company which is selling goods or services might have in creating the contracts in the first place.

It is important that there be laws that require conscionable conduct, and we think the model which has been adopted by the federal Parliament and which we are embracing here in Victoria through this bill is an appropriate one. Obviously the proof will ultimately be in the pudding, and we will need to see how the laws and regulations operate in practice before we pass any final judgement. But certainly the notion of a unified consumer law has the opposition's support.

I should also note one key clause of the bill, which is clause 10, which deals with future modifications of the Australian Consumer Law text. I raise this issue in the context of the fact that more often than not when I get up in here to debate a consumer affairs bill it seems to be a case of Victoria handing over legislative powers to the commonwealth. I understand there are many in our community who are concerned that the centralisation of power is not necessarily to the benefit of people within a particular state. What I would say is that clause 10 of this bill provides that if the commonwealth modifies the Australian Consumer Law in the future, the Victorian

government will have the ability to have that modification not apply. For Victoria to do that the Governor in Council must make an order to that effect within two months of the ACL having been modified. There is a two-month window in which the Victorian government can decide that it does not wish to accept a modification to the Australian Consumer Law made by the federal government through regulation or through an act of the federal Parliament. At least that is my understanding of how the bill will operate. That safeguard is an important one because it will mean that should a current or future federal government come up with a proposal which is clearly antithetical to the interests of Victorians, the Victorian government will have the ability to opt out of that change. That is an important safeguard in all of these cooperative federalist legislative schemes.

There is another concern that has been raised with me by the Consumer Action Law Centre which I would like to turn to briefly. Clause 20 of the bill establishes the Victorian Consumer Law Fund. The fund will be able to receive money from a number of different sources. It will be able to receive any pecuniary penalties that are ordered by a court under section 224 of the Australian Consumer Law to be paid to the state; it will be able to receive any amount ordered by a court under section 239(1) to be paid into the fund; it will be able to receive moneys appropriated by the Parliament for the purposes of the fund; and it will be able to receive interest on money invested in the fund.

There has been some interest in terms of where that money will go. Certainly some money can be used for payments to non-party consumers. For example, if a company is found to have misled a great number of consumers and a court feels that an appropriate order is for a pecuniary penalty to apply to that company, it may order that a certain sum be paid into the fund. It may not be possible to identify each individual consumer who has suffered detriment as a result of the actions of the company. In these circumstances the bill provides for non-party consumers to be able to receive payments subject to some specified criteria. Given the nature of modern commerce, where many consumers may be affected to a greater or lesser extent by a company's actions, it is appropriate that there be those sorts of measures.

Section 102D provides that the minister may on the recommendation of the director make payments out of the fund for the purposes of improving consumer wellbeing, consumer protection or fair trading or for any other purpose consistent with the objects of the Australian Consumer Law. Subsection 2 states that a payment under subsection 1 may be made to the

director of Consumer Affairs Victoria or to a non-profit organisation. That has raised the concern of the Consumer Action Law Centre. The CALC is worried that, given that the minister can order that payments from the fund be made to the director of Consumer Affairs Victoria, the minister may be tempted to use moneys in the fund to provide funding to CAV for its core business. The funding of Consumer Affairs Victoria is the responsibility of government. There should be adequate appropriations made in the budget to ensure that CAV can go about its work in protecting and educating consumers and informing the marketplace. The Victorian Consumer Law Fund should not be used to supplement any shortfalls in the day-to-day operating costs of CAV. There is the potential for that to happen in the way the fund has been set up.

The CALC has said that unlike the existing Consumer Credit Fund, which has an independent body that makes recommendations, in this instance the director can make recommendations. In fact new section 102D provides that:

- (1) The Minister may, on the recommendation of the Director, make payments out of the Fund ...

Reading that you would think that at the very least the minister must consider the recommendations, and arguably the minister may only make the payment if it is consistent with the recommendations of the director. So you could have the director of Consumer Affairs Victoria making a recommendation to the minister that the director receive a lot of money. You can understand why consumer advocates may be concerned that this could be a conflict of interest. You could have a director of Consumer Affairs Victoria who has been starved of funds by the government saying to the minister, 'Look, there is all this money sitting here in the Victorian Consumer Law Fund; I don't have enough staff to go about my daily business. Can you please give me a special grant? In fact I am recommending that you give me a special grant so I can go about funding my staff to discharge my statutory functions'. I understand the concerns of the Consumer Action Law Centre in this regard.

Before deciding ultimately in the other place whether or not these governance arrangements are appropriate, I would be interested to hear the views of government members as to why the governance arrangements for the Victorian Consumer Law Fund are different to those which apply to the Consumer Credit Fund. Why has the government decided to go down the path of not having an independent board making recommendations as to disbursements of those moneys? Why has the

government said that the director of Consumer Affairs Victoria, who is subject to the funding decisions of the government, is the appropriate person to be making the directions? I do not want to make any final judgements or otherwise as to these governance arrangements, but CALC has put some reasonable concerns on the table, and I am putting them on the record tonight. I ask the government to respond properly to those concerns. If the government is unable to give the opposition assurances in these matters, then it may be that we have to look at potential amendments to governance arrangements when this bill reaches the other place.

There is one thing which the Consumer Action Law Centre did not raise, and I make that point to indicate that this is my personal concern rather than that of the CALC. I do not understand why the special purpose grants under new section 102D may be made to only the director or a non-profit organisation. Given that the grants can be made for the purposes of improving consumer wellbeing, consumer protection, fair trading or for any other purpose consistent with the objects of the Australian Consumer Law, why would you preclude businesses from being eligible to receive grants? There may be a business that can provide education for consumers that will help increase their understanding of their rights and better protect them in the marketplace. There may be businesses that can provide better education to businesses in terms of their rights and responsibilities under the Australian Consumer Law.

We want to have well-educated, well-informed consumers. We want to have well-educated, well-informed businesses. That is how we get efficient and fair marketplaces. But this bill precludes anyone other than the director of Consumer Affairs Victoria or a non-profit organisation from being eligible to receive a special purpose grant. There is no rationale contained in the second-reading speech or anywhere else for why that limitation has been put into place. In a genuine spirit — where this bill still has to go through the other place, and the government would be aware that it does not have an absolute majority in the other place — I ask the government to look at that issue seriously and explain to the opposition why it is that businesses have been excluded. Because it seems on the face of it to be a discrimination that does not have any merit, and in fact could be counterproductive to the interests of consumers if it means that if those organisations that might be best placed to provide services to consumers to improve their position in the marketplace happened to be for-profit businesses, then they are excluded from the operation of this provision.

As I have flagged, while the opposition is not opposing this bill, there are a number of issues relating to the governance of the Victorian Consumer Law Fund, and I think the government has not been clear about why it has gone down the path that it has. I urge the government to take these issues seriously. The last time we had a consumer affairs bill before this house I was being taunted by one of the members on the other side saying, 'Well, you are flagging concerns, but what are you going to do about it?' As members opposite may be aware, we actually amended that bill in the other place — we knocked off the government's proposal to increase the maximum deposit for off-the-plan properties from 10 per cent to 20 per cent because this government treated us and the community with arrogance and disdain. It failed to consult. It failed to explain with any proper rationale why it was doing what it was doing, and because we were not convinced by the government's policy basis for that move, we were able to knock it off in the other place. I flag that because this bill could potentially be in a similar position, and I urge the government to take these concerns seriously and respond to them seriously and appropriately so that the bill might have a smoother passage through the other place than it otherwise would.

This is a measure that has been a long time gestating; it is another legacy of the Howard-Costello federal coalition government to improve competition in Australia and to improve consumer protection in Australia. It is good to see that even though Labor governments may not necessarily have the wit to initiate these ideas, they at least have the wit to identify that a good idea has been thought of by somebody else, and they are prepared to go through with it and see it implemented. Of course we on this side of the house have seen members opposite do that about 70-odd times over the last 18 months. They have identified good policy ideas that members of the opposition have come up with and tried to grab them as their own. We acknowledge that we have another of those examples here today, but it is a measure which on the whole we think will strengthen consumer protection, will reduce unnecessary costs and will benefit Australian consumers, Australian businesses and the Australian community.

**Mr SCOTT** (Preston) — It gives me great pleasure to rise to support the Fair Trading Amendment (Australian Consumer Law) Bill 2010. I am personally deeply committed to consumer affairs law for a simple reason: I think in Australian politics there has traditionally been a focus on the productive process. That is reflected in the great political traditions in Australia of Labor and Liberal, with Liberal being

aligned with business and Labor being aligned with the trade union movement, yet the production of any good or service is literally only half the story. The sale and exchange of goods and services is the process by which wealth is often created and distributed within society and is an equally important aspect of a market society.

I am a strong supporter because there are circumstances under which consumers need protection, and I note that this legislation provides a national regulatory framework — it implements a national regulatory framework for consumer protection. As has been said earlier, it has a genesis in a lengthy process including the Productivity Commission's report into an Australian consumer policy framework, which identified the need to harmonise consumer laws across Australia. That process led to a Ministerial Council on Consumer Affairs deciding to have a single national consumer law informed by both the Trade Practices Act and the best acts of various states. I think the Victorian government has a strong tradition in consumer affairs law, and obviously I have a great interest, as members may be aware, in residential tenancies law, but there is an equally strong tradition in consumer affairs law.

I note the contributions of former and current ministers for consumer affairs including the member for Footscray, the member for Mulgrave and the current minister, the member for Mitcham. This focus has been on ensuring that consumers receive the benefit of transactions. As people would be aware, in a market economy transactions are supposed to be mutually beneficial for both the buyer and seller whereby there is an exchange — obviously usually a monetary exchange — to purchase a good or service which provides a benefit to the seller which otherwise would not accrue. This lies at the heart of market economies, and I am a strong supporter of a mixed market economy.

However, as we would all be aware, while most people are honest a large number of persons — sadly too large an element within our community — seek to take advantage of customers who are either ill informed or who make contracts which are harmful to them. I am quite interested in behavioural economics. Members may be familiar with concepts such as asymmetrical access to information or hyperbolic discounting, which sadly often lead consumers to enter into contracts which are not in their own interests. It is an important area of law and one in which there is a proud tradition. I will speak briefly, as I know a large number of members wish to speak on this bill in the debate tonight. The bill draws upon both the Trade Practices Act and some of the better aspects of state laws.

It is my understanding that some of those aspects come from the Victorian law and the tradition of this government's commitment to reform. These include a prohibition on false or misleading testimonials, provisions clarifying that a consumer is not liable to pay for unsolicited services, requirements for specified consumer agreements to be transparent, the statutory right to an itemised bill or receipt of goods or services supplied above a certain value, clarification of laws related to pyramid selling and, most importantly, protection against unfair contract terms which has been included in the Victorian Fair Trading Act prior to this development of the Australian Consumer Law.

I think all of us believe that protection from unfair contract terms is an advance. In the guide to the Australian Consumer Law provided by the Australian government the term 'unfair' is defined as:

... when: it causes a significant imbalance in the parties' rights and obligations arising under the contract; it is not reasonably necessary to protect the legitimate interests of the supplier; and it would cause financial or non-financial detriment to a party.

I hope all members of this place believe unfair contract terms should be explicitly prohibited by law. I would like any person who thinks they would not suffer from unfair contract terms to consider the last time they bought software online or signed a credit card contract having actually read all the terms of the contract. We are all often at the mercy of people with whom we enter into contracts. The sorts of protections against unfair contract terms that are being included in Victorian legislation have now been extended to the federal regulatory framework, and that, frankly, reflects well on the Victorian Parliament's work in this area. I commend the bill to the house. I think it will make a great contribution to consumer rights in Australia and Victoria.

**Dr SYKES (Benalla)** — I rise to contribute to debate on the Fair Trading Amendment (Australian Consumer Law) Bill 2010, and along with the member for Malvern, I indicate that we will not be opposing the bill. We see merit in nationwide fair trading laws.

The purpose of this bill is to apply the Australian Consumer Law as a law of Victoria by inserting the relevant application provisions into the Fair Trading Act 1999, repealing provisions of the Fair Trading Act 1999 that are superseded by that law and making consequential and other amendments to the Fair Trading Act 1999 and other acts.

The Australian Consumer Law includes provisions regulating misleading and deceptive conduct,

unconscionable conduct, unfair contract terms, unfair practices, consumer guarantees and unsolicited consumer agreements. It sets out new enforcement provisions, redresses powers and establishes a new national product safety regime.

The Australian Consumer Law provides five categories of offences with increasing penalties for the increasing seriousness of offence. One part of the law that is of particular interest to me is that relating to door-to-door salespersons. The bill before the house seeks to prevent door-to-door salespeople from contacting households after 6.00 p.m. It further requires that door-to-door salespeople must leave premises on request and disclose information about the purpose and the identity of the supplier. They must inform consumers of their right to terminate the agreement.

This is one of the issues that is raised quite often in my office, often by the frail elderly. These are the people — a growing proportion of our population — who are endeavouring and being encouraged to live independently as long as they possibly can, but the thing that unnerves them the most is having a stranger knock on their door late in the afternoon or in the evening, sometimes being quite pushy in attempting to sell something to them.

I have frail elderly people such as Betty Wright, who is a lady in her 90s with an indomitable spirit and a walking stick that she would very happily whack someone with if they stepped out of line. Yet even Betty feels apprehensive about people calling late to her place. The moving forward of the restriction on door-to-door salespeople contacting people from 8.00 p.m., as it stands at present, to 6.00 p.m. is certainly a step in the right direction. However, in winter 6.00 p.m. is after dark, so there is still going to be this opportunity for the frail elderly and others who are living alone to remain concerned when people call on them uninvited.

The other aspect that is often brought to my attention is unsolicited contact, particularly by electricity salespeople. The main issue there is the great difficulty that my constituents have in identifying what the package being offered to them contains. It is very difficult to compare packages that an individual company might be offering with those being offered by other companies. It is very important that information be made available to the constituents so they that have a clear understanding of what is being offered to them.

Another example of high-pressure salesmanship with untoward consequences occurred about six to eight months ago. People in Benalla and other country towns

contacted my office concerned about phone calls they were receiving from someone believed to be in Melbourne who they felt was forcing them to agree to appointments for someone to come and install the so-called 'pink batt' insulation.

A number of people contacted my office asking for my guidance. My guidance was that if they had made the commitment to meet the pink batts installers, they should honour that commitment but make sure that they had another person there with them to provide them with confidence and not let the door-to-door person inside the house until they had satisfied themselves that everything was above board.

These insulation people ended up working towns street by street organising for pink batts to be installed. As history has revealed, it has been a monumental disaster in terms of the failure of the product to deliver what it claimed to deliver. We have seen many examples of shoddy workmanship and outright dangerous outcomes, with many house fires and, regrettably, some deaths.

Another aspect of the bill that would be of interest to the minister at the table relates to the requirement for itemised bills. This is a major issue. Again, as with the electricity companies, I would have to say that even when I look at the bills I receive I have difficulty understanding what is supposed to be a clear and detailed presentation of information.

An example that upset a lot of people in our area in recent times was when Goulburn-Murray Water sent out its bills this year. There was a substantially increased overall cost in the water bills that was linked to that. The irrigators and the water users found it extremely difficult to understand the nature of the various components of the bill. The outrage by consumers necessitated Goulburn-Murray Water, to their credit, to hold community meetings and attempt to explain the details of the bills, which they had failed to do in the first instance with their documentation. The other thing to come out of that was that Goulburn-Murray Water's record keeping was revealed to be inadequate, and quite a number of people had been wrongly charged increased fees.

It is important that the provisions of the bill appropriately address these sorts of issues and protect the consumer against unscrupulous door-to-door salespeople in some cases and incompetent salespeople or organisations in other cases. Whilst I have named a couple of examples, I indicate that there are others offending in this way.

The other aspect which was touched on by the member for Malvern is the issue of doing door-to-door selling in the evening. I had a brief experience when I was a university student where I took on a vacation job of selling encyclopedias. We got schooled up in the virtues of encyclopedias, and we were dropped off in a location and told to go forth and make many sales. After knocking on the door of two or three houses and being greeted by a grumpy dad who had just come home from work and looked stressed to the eyeballs or perhaps a mum with a couple of little kiddies hanging onto her apron strings as it was feeding time at the zoo, I realised that door-to-door selling of encyclopaedias was not for me. I have always questioned the wisdom of going into that intrepid area at that time of the day.

In terms of the bill before the house the coalition sees merit in a coordinated national approach to consumer law. We think the content of the bill makes sense, and I have provided some examples of where there have been failings under the current arrangements. I would hope, therefore, that this bill is passed by the Parliament and also implemented sooner rather than later so that the consumers we represent can have an additional level of protection against unscrupulous and inappropriate selling techniques.

**Mr BROOKS** (Bundoora) — At the outset, in talking about the Fair Trading Amendment (Australian Consumer Law) Bill, I thank the staff of Consumer Affairs Victoria for the information they have provided — not just to me but also to other members through briefings and other material.

This bill applies the Australia Consumer Law, a federal law, as a law of Victoria. By way of background — and I think this has been covered by some of the previous speakers — the origins of this bill are contained in a Productivity Commission review of Australia's consumer protection framework. There was a Council of Australian Governments agreement in July 2008 to implement a national product safety regulatory system, and then in October 2008 COAG agreed to a new national consumer policy framework. An intergovernmental agreement was developed and signed off on 2 July last year, with all jurisdictions in Australia agreeing to apply this Australian Consumer Law by the beginning of 2011.

The Australian Consumer Law — this federal law — is the key plank of the new consumer policy in Australia. It will be based on consumer protection provisions contained in the Trade Practices Act, the federal act, but it also draws out some of the best practice provisions from different state and territory consumer law legislation. It is interesting to note that, as the minister

made note of in his second-reading speech, of the 14 best practice provisions that were adopted in the Australian Consumer Law, 11 originated from the Victorian Fair Trading Act, and I think that indicates quite clearly that in the area of consumer law Victoria was again leading the country in its legislative program.

The bill before us implements our obligations under the intergovernmental agreement I mentioned before by applying the Australian Consumer Law as a law of Victoria. It also repeals provisions of the Victorian Fair Trading Act 1999 that have been overtaken or superseded by the new federal law. It applies the Fair Trading Act enforcement and administrative powers to the Australian Consumer Law where there is no equivalent, and it makes a number of other consequential changes to Victorian acts.

I will note some of the key features in the limited time that I have. This bill will institute penalties of up to \$220 000 for individuals and up to \$1.1 million for companies where they are found to have broken consumer protection provisions. These include both criminal and civil penalties.

As has been mentioned by previous speakers, one of the major changes in adopting the Australian Consumer Law will be that door-to-door sales, or unsolicited sales, will be limited to 6.00 p.m., whereas currently one is effectively allowed to undertake that practice until 8.00 p.m. As the lead speaker for the opposition mentioned, that will be something consumers roundly applaud. Most people would like to enjoy quiet family time after 6.00 p.m. and not be disturbed by door-to-door marketers. I know there would be debate around that issue, but overall most consumers would see it as a great thing. This of course builds on the success of the Do Not Call Register.

Just very quickly, it is important to note that while we are adopting a federal law as a law of Victoria we are cognisant of protecting Victoria's legislative powers. In considering this bill we are advised that if there are future amendments to the Australian Consumer Law — the federal law enacted by the commonwealth Parliament — these would come into effect automatically as a law of Victoria. There are protective mechanisms there allowing any jurisdiction to first of all propose changes to the ACL and for a mandatory consultation process to take place with all the other jurisdictions. There is also a provision which enables the Governor in Council here in Victoria to exclude the operation of any amendment that is made in the future to the ACL in Victoria, and that is an important protection to ensure that the best interests of Victorian consumers are always considered into the future.

In conclusion, this bill will bring benefits through harmonisation across all the states. It maintains and in some cases enhances consumer protection. It is a significant reform in consumer law in Victoria and Australia, and I commend it to the house.

**Mr MORRIS** (Mornington) — Essentially what we are being asked to accept with this bill and to effectively incorporate into the statutes of Victoria is schedule 2 of the commonwealth Competition and Consumer Act 2010. That legislation was the result of an agreement between all jurisdictions to apply uniform consumer protection laws across the nation. I think it is a worthwhile ambition to have consistent laws in almost any form but particularly in areas of commerce, where most of the participants or many of the larger — —

*Honourable members interjecting.*

**The ACTING SPEAKER (Dr Sykes)** — Order! I ask the Leader of the House and the member for Murray Valley to extend due courtesy to the member for Mornington.

**Mr MORRIS** — You need consistency in a commercial field, so I think uniform laws are certainly desirable but, as I always say, desirable to the maximum practical extent, because in a nation like Australia it is simply not appropriate to have uniform laws across the states.

The bill as it stands is entirely reasonable to the extent that it is known to me. I say 'to the extent that it is known to me' because schedule 2 of the commonwealth Trade Practices Amendment (Australian Consumer Law) Act (No. 2) was not circulated this evening when we started the debate. It is a document of some 280 pages, and I do not think the details of the legislation, except in the most general terms, have been the subject of any discussion in this Parliament at all; we have talked about the generalities but not the detail.

The act covers a lot of ground: misleading or deceptive conduct; unconscionable conduct; unfair contract terms; unfair practices; false or misleading representations; unsolicited supplies; pyramid schemes; pricing; consumer transactions; guarantees on the supply of goods and the supply of services; guarantees that cannot be excluded by contract; negotiating unsolicited consumer agreements; the requirements for unsolicited consumer agreements; termination of those agreements; lay-by agreements; safety of consumer goods and product-related services; bans on consumer goods and product-related services; interim bans, permanent bans

and compliance with those bans; temporary exemption from mutual recognition principles — and so on it goes through to offences, defences and all the other minutiae of this sort of legislation.

It is a document of 280 pages, not one of which has been considered by this Parliament in any way at all, yet we are being asked to swallow it whole. As I say, I have no objection to the principle of national laws but I think there are certainly some issues in the fact that we are dealing with this one in this manner. Similarly, as a result of those new provisions which will eventually find their way to the Victorian statute book, we are repealing part 2, part 2B, part 4, part 5 and a substantial slab of part 12 of the Fair Trading Act.

While the law, assuming that this bill passes in all jurisdictions, will be the same across the nation, the supporting framework, including the regulatory framework that will result from this legislation, is in fact incredibly complex. The fact that the minister's statement on the application of the Charter of Human Rights and Responsibilities to the bill runs to some 25 pages is probably an indication of that, as is the fact that we have also had a further 2 pages of amendments tabled this evening. Obviously there were some issues there. I know the member for Malvern has touched on the issues of timing, and we now have a substantially different make-up in the commonwealth Parliament to the make-up of the houses that passed the original act. Certainly those things need to be taken into account, but they simply underline the complexity of the structure.

Even in the second-reading speech the minister described it as one law with multiple regulators, which is obviously necessary. We have a situation where the director of Consumer Affairs Victoria for the purposes of this act, a commonwealth act, becomes a regulator under a commonwealth act. As I said, I support the idea in principle, but in terms of the implementation I think we are taking far more steps backwards than we are forwards.

The intergovernmental agreement which has been referred to in the debate, signed in July last year, describes this as a national partnership agreement to deliver a seamless national economy. That might have been the intention, that might be the rhetoric, but clearly that is not going to be the case. Hopefully with a bit of practice we can make it work.

I want to touch on another issue which is of greater concern to me, and that is the effect of the modification provisions in clause 10 of this bill. Clause 10(1), the paragraph that starts at the bottom of page 7 of the bill, refers to the ability of the Governor in Council to

exclude from operation in Victoria a particular section which we as a state may find objectionable. The Governor has two months after the date of the modification by the federal Parliament to deal with that matter. I understand from discussions with my colleagues that not only does that apply to substantive changes to the commonwealth act but it also applies to subordinate legislation. With the passage of the bill what that effectively will mean is that we as a Parliament will be delegating our legislative authority to the Crown. We will be giving the Crown, in the personage of the Governor in Council, the ability to legislate on our behalf.

Quite a few hundred years ago a pretty bloody war was fought in order to take away from the Crown powers that the people felt should not be there. If we as a Parliament are proposing to hand back to the Crown our ability either to legislate amendments to this act or to control subordinate legislation, it is a far greater step than simply saying, 'We are not going to allow one house or the other to disallow regulation. We are simply not allowing the Parliament of Victoria to consider any further legislative amendments'. I certainly have some difficulty with that.

Looking to the future, that is an issue we have to deal with. It is not the issue of the Crown but the issue of how we manage these things. The Scrutiny of Acts and Regulations Committee has addressed this bill in its normal efficient way. It has addressed the issues that it needed to address, but it has not been able to address the principles, and it has not been able to address the impacts. I do not know whether we can deal with this by referral to a parliamentary committee, because essentially this has had no parliamentary scrutiny at all except the pro forma process tonight. It is executive driven; it is driven by the executive of various jurisdictions. It comes through the cabinet, it has come into the house and it will go out the other side essentially without parliamentary scrutiny at all. Harmonisation is essential, but we need to work out how to do it in a far more effective way.

**The ACTING SPEAKER (Dr Sykes)** — Order! Before I call the member for Narre Warren North, can I ask that members hold their conversations in a much lower tone. If they cannot do that, I ask that they go outside so that I can hear the member because I am sure it will be a fantastic contribution.

**Mr DONNELLAN** (Narre Warren North) — Being a fellow good Fitzroy supporter, I take that compliment as it should be taken. The Acting Speaker is a Fitzroy supporter and a grand one at that — and a player, too.

It is an honour to talk about the Fair Trading Amendment (Australian Consumer Law) Bill 2010. The bill gives effect to Victoria's obligations under the Council of Australian Governments national partnership agreement to deliver a seamless national economy and the intergovernmental agreement on the Australian Consumer Law. These agreements commit all Australian governments to enact legislation by the end of 2010 to apply uniform national consumer law, known as the Australian Consumer Law.

One of the most popular things in my area, which the Acting Speaker made mention of, will be the restriction on doorknocking after 6.00 p.m. Recently we did a promotion of do-not-knock stickers. An enormous number of people rang the office requesting do-not-knock stickers, because they are keen to keep people from their front door and do not want unsolicited salesmen. It highlights the fact that people are saying, 'Please leave us alone at home'. We also added the Do Not Call Register, which is a federal initiative. That was incredibly popular as well. People are really saying they would like to have the dignity, sanctity and privacy in their own homes of not having door-to-door salesmen call or being rung up and asked to buy something over the phone.

Funnily enough, like the Acting Speaker, I tried phone-to-phone sales once. I think I tried it for about half an hour, and I failed so miserably I did not go back even to ask whether I should be paid for my less-than-good effort.

This bill is streamlining consumer law across Australia. I think that is a great initiative. It will improve productivity in the business community. I think the bill really sets this up. It is not particularly exciting. It is not going to end up on the front page of the *Herald Sun*, but at the end of the day it is an initiative that slowly but surely improves the capacity of business and consumers to exercise their rights and also means that business do not have different obligations in every state. I very much commend the bill to the house.

**Mr K. SMITH** (Bass) — It is good to have the opportunity to talk about the Fair Trading Amendment (Australian Consumer Law) Bill 2010. What concerns me a little is that this bill was previously part of the Trade Practices Act 1974, which is a commonwealth Parliament act. There were some agreements that were reached at the Council of Australian Governments meeting, where we had the federal government and a number of state governments — all Labor Party-controlled governments. This government jumped into bed with this type of legislation, as I am sure Premier Brumby would have done.

What concerns me with regard to this is that we are now in a position where we have a federal government that is controlled by a Prime Minister who was in fact a member of the Communist Party of Australia. She has tried to walk away from that and say, 'Oh, no, that was not me', but here she is. She was a member of the Communist Party of Australia. Except in Western Australia, where we have a very good Liberal government, in every one of our state parliaments we have these communist governments set up around Australia — New South Wales communist government, Queensland communist government, South Australian communist government, Victorian communist government. If you do not want to call them communist, let us call them socialists, because they are socialists. You just have to accept the fact that this is the way that this country operates.

Have a look at the way this whole society has been manipulated, particularly by the Attorney-General in the state of Victoria. Look at the way he has filled up the legal system with all of his left-wing Labor mates — all of the left-wing Labor lawyers that we have here in Victoria. He has filled the benches from the Supreme Court right through to the Victorian Civil and Administrative Tribunal. Every one of them has been filled up by Rob Hulls, the Attorney-General of Victoria. We know they have been manipulated to produce a legal system here in the state of Victoria that has allowed some of the absolutely appalling legal sentences that have been given to people. We have another appalling minister — —

**Mr Holding** — On a point of order, Acting Speaker, the standing orders and *May* are very clear that reflections on the judiciary, another sphere of government under the separation of powers, are completely unacceptable. We have just had a very serious reflection on the independence and competence of the judiciary, and I believe it is out of order.

**Mr K. SMITH** — On the point of order, Acting Speaker, I was reflecting on the legal system here in Victoria. There was no specific mention of any lawyer or judge we have in our system. What the minister is saying is incorrect.

**The ACTING SPEAKER (Dr Sykes)** — Order! Acting on guidance from the Clerk, I understand the message is that members should not reflect on the judiciary. I ask the member for Bass to continue to speak to the bill.

**Mr K. SMITH** — All right, we will not reflect any further on the judiciary. Let us reflect a little bit on the minister at the table, the Minister for Water, who has

come down with his communist or socialist government mates to run a water system in the state of Victoria. He will not admit that God sends rain from the sky, which solved his water problems in the state of Victoria after he forced a desalination plant on the people of Wonthaggi — and he seems to love it!

**Mr Holding** — On a point of order, Acting Speaker, the member for Bass has to have a fair crack at the bill in order to be relevant, and having had a look at the bill I cannot see how this is vaguely relevant to the bill.

**The ACTING SPEAKER (Dr Sykes)** — Order! I thank the minister. I ask the member for Bass to now return to the bill.

**Mr K. SMITH** — I have! Let us think about trade practices. The people down in Wonthaggi had no say and no opportunity to have any say in regard to the desalination plant that was forced on them by this minister. As the local member of Parliament down there, I have been banned by the minister from going to the desalination plant. I have no rights under the Trade Practices Act and no rights under this consumer law protection bill to go to that site because the minister has seen fit to ban me and say I am not allowed on site. I would like to think that if I could return to the bill —

**The ACTING SPEAKER (Dr Sykes)** — Order! I thank the member for Bass for taking the words out of my mouth.

**Mr K. SMITH** — I thought you were going to say something like that, Acting Speaker! Let me say something about the door-to-door salesman pitch in this particular piece of legislation. I have taken a great interest in door-to-door salesmen who come around. I have been extremely proactive in the seat of Bass, and the people down there have been very excited about putting do-not-knock signs on their doors —

**Mr Holding** interjected.

**Mr K. SMITH** — Hang on, Minister! You banned me from the site —

**The ACTING SPEAKER (Dr Sykes)** — Order! I thank the minister, but we will play to the one set of rules.

**Mr K. SMITH** — The minister did not put a do-not-knock sign on the desalination plant, and at some stage in the future I am going to go down there and you are not going to like it!

**The ACTING SPEAKER (Dr Sykes)** — Order! The member for Bass will speak through the Chair and return to the bill.

**Mr K. SMITH** — I am! I am going to be there for the opening of the desalination plant and he is not, and that is the thing I am going to enjoy. Anyhow, I will have a do-not-knock sign on the desal plant when we get into power on 28 November, because on 27 November we will still be doing the count.

I have openly promoted do-not-knock signs for people to put on their doors, which is saying to door-to-door salesmen that they are not welcome and are trespassing on people's property. Therefore people have a legal right to say, 'Get off the site. You are not welcome to come here and pester us at 6 o'clock or 7 o'clock or 8 o'clock at night and on weekends'. Salesmen are walking onto people's property trying to sell them some sort of phoney telephone scheme or cheap electricity scheme that is not going to be good enough. I am very disappointed to see that this sort of activity is not going to be covered in this fair trading legislation.

I conclude by saying that I am looking forward to the speech to be made later tonight by the member for Murray Valley, who is going to retire at the next election and who has made a wonderful contribution over more than 30 years in the Parliament of Victoria.

**Mr INGRAM** (Gippsland East) — It is always a pleasure to follow the member for Bass. I rise to speak on the Fair Trading Amendment (Australian Consumer Law Bill) 2010 and to make a brief contribution to the debate. This is a type of legislation that we are seeing more and more often in the state Parliament, and from the outset I cannot support the principle of the Victorian Parliament abrogating its rights to refer legislation and basically adopt laws that are passed by other parliaments. We have seen a number of these types of bills pass through this Parliament. I agree in principle with the concept of trying to have uniform laws across jurisdictions; I do not have a problem with that. The explanatory memorandum of this bill states:

The object of this bill is to apply, as a law of Victoria, the Australian Consumer Law comprising of schedule 2 to the Competition and Consumer Act 2010 of the commonwealth as in force from time to time ...

That is the rub. Basically what we are doing is saying, 'We in this Parliament are effectively enacting law that may be changed by another Parliament, and, as elected members of Parliament, we have no ability to change or ensure that the consumer rights of our constituents are protected', and because of that I have a problem with this bill.

I have had the discussion in this place previously about electricity regulation and the fact that in Victoria we had a system of regulation of electricity — even though I disagree with how the privatisation of electricity was done — that discriminated against regional consumers of electricity. Yet we passed legislation through this place which effectively adopted a schedule of legislation which was passed in the South Australian Parliament, which we as a Parliament could not amend in any shape or form. We had to accept the agreement that had taken place between ministers and bureaucracies in each jurisdiction. All we had to debate were a couple of pages of legislation which said, ‘From this day we accept the new laws which were adopted by South Australia’.

A similar situation exists with consumer law. One of the most important things parliaments do is try to protect consumers when they are being ripped off, when they are being misused and where charlatans go about the business of trying to take advantage of people who do not necessarily have sufficient negotiating skills or power. We try to pass legislation, and this is what this legislation is about. Unfortunately all we are doing is rubber-stamping something. It may be perfectly good and may be fine; but we do not know what is going to happen in the future, and we cannot really debate the spirit or the guts of the full act.

With those words, I state that I object to the principle of this legislation. As elected members of Parliament it is our job to make sure that the legislation we pass in this place meets the needs of our constituents. It is impossible to do that when we are passing a law which may be changed by another Parliament. I will oppose the legislation.

**Mr JASPER** (Murray Valley) — In joining the debate on the bill before the Parliament I want to acknowledge the comments made by the colourful member for Bass, and thank him for his comments about my entering my 35th year in the Parliament. It has been an interesting 35 years. I listened also to the comments of the member for Gippsland East. Whilst I acknowledge his concerns about seeking to get uniformity of legislation throughout Australia, I also refer to his comments about protecting the rights of the Victorian government and the Victorian Parliament. I also indicate to the house my strong support for the three tiers of government we have in Australia: federal government, state government and local government. We need to continue with that situation.

I also say to the house that I am a strong supporter of achieving uniformity of legislation and trying to overcome the border anomalies which face us. Those of

us with electorates on the border of Victoria and New South Wales face huge issues when looking at legislation that comes before the house as we are also trying to get uniformity of legislation throughout Australia. This legislation is a move in that direction.

I also refer to the Occupational Licensing National Law Bill, which we debated in the last sitting week. That was a move in the right direction of getting uniformity of legislation throughout Australia. When I spoke on that bill I delved into history and talked about the development of the Border Anomalies Committee back in 1979 and the changes which have taken place over the years. I referred to the support that was provided by the changes we had in 2004 and 2005, and then with the new forum that was developed at Echuca in 2006. It went to Albury, to Mildura the following year, back to Albury and then to Swan Hill a couple of weeks ago. The forum has looked at addressing border anomalies and trying to get uniformity of legislation across Australia. This legislation is a move in the right direction in looking at how we perform.

I read some of the background information to the Australian Consumer Law bill. The second-reading speech states:

The Productivity Commission’s review of Australia’s consumer policy framework in April 2008 identified a need to harmonise consumer laws across Australia, removing regulatory duplication and inconsistency, and improving the coordination of consumer policy development.

Following the Productivity Commission’s review, the Ministerial Council on Consumer Affairs developed proposals for a single national consumer law ...

Over the years we have debated a range of consumer affairs legislation, and we have moved a long way in looking after consumers and protecting not only consumers but also people who operate in business in Victoria.

The Scrutiny of Acts and Regulations Committee reviews legislation. In fact, if we look at the information provided when the bill was presented to the house, we see there were 25 pages of comments on the statement of compatibility with the Charter of Human Rights and Responsibilities and that the second-reading speech took up only about eight pages explaining the legislation before the house. I am a member of the Scrutiny of Acts and Regulations Committee. The committee looks at legislation as it comes before the house and provides a review of the legislation to Parliament. What is causing difficulties for the state of Victoria is having to seek to meet the Charter of Human Rights and Responsibilities. The minister at the table would understand the difficulties we have as a

committee in looking at all legislation as it comes before the house and assessing whether it meets the criteria for compatibility with the Charter of Human Rights and Responsibilities, but then also looking at regulations which come after that legislation proceeds through the house and being able to comment on that.

I refer the house to the report from the Scrutiny of Acts and Regulations Committee on the legislation that we are debating. The committee looked at how the legislation meets the provisions. I can see a problem for the state of Victoria and indeed the federal Parliament when looking at legislation where Victoria is the only state that has a Charter of Human Rights and Responsibilities and being able to meet the demands of the charter. The Scrutiny of Acts and Regulations Committee reviews the legislation, tables a report before Parliament and looks at the regulations. I refer members to the report the committee prepared on this bill. If they read it they will see it indicates that here we have legislation coming before the Parliament which looks at rights and freedoms, a presumption of innocence and a reverse evidentiary onus of responsibility.

This is an issue which needs to be developed and assessed by the Parliament looking at legislation to decide how it affects us as individuals but also how it meets our requirements. What we will see is other states and the federal government looking at having a charter of human rights and responsibilities but being able to meet the criteria that are set down in the regulations.

I indicate clearly that as far as I am concerned when legislation comes before Parliament, we need to get uniformity and look at how we can implement that uniformity. This bill goes some way to looking at fair trading across Australia and trying to get some form of uniformity. What we should clearly understand with this legislation, and with the legislation I referred to which we debated in the last session of Parliament, is that we are trying to get uniformity. How we go down that track of obtaining uniformity and reviewing and eliminating the anomalies between the two states, and indeed across Australia, is by keeping the balance and maintaining the three tiers of government, whereby the federal, state and local levels of government have their separate responsibilities. The legislation before the Parliament is a result of actions that have been taken by the Council of Australian Governments in looking at how to get uniformity.

I support the view that we need to look at various departments meeting together — whether it be the Department of Transport, the Department of Justice or

other departments — to look at getting some form of uniform consumer affairs legislation across Australia. As the member for Gippsland East quite rightly pointed out, we need to see that there is protection for the states in what they do and how they operate.

As far as I am concerned the legislation before the house needs to be supported. However, we need also to protect the rights of the states to protect themselves. Much of the legislation that comes before the house provides for states to be able to object to legislation and to look at that legislation to make sure there is protection for people living in the state of Victoria. I indicate clearly that as far as I am concerned we need to be mindful of the difficulties for those living along the Victoria-New South Wales border. We are looking at trying to get uniformity and looking at reciprocal rights. Legislation which is currently before the Parliament is looking at trying to get that uniformity. I think we need to be mindful of this.

I remind the house of the issues that developed with the original Border Anomalies Committee, of the difficulties experienced by that committee through the 1990s and of the fact that a former Premier of Victoria reintroduced a forum for regular meetings between the two states to look at uniformity. We trust that we can continue down that track to achieve uniformity and protect citizens of Australia by preventing problems for those living on the borders as they move between the states. As we go forward we can look at making sure there is uniformity, reciprocal rights legislation and the protection of the rights of people living in Victoria as against those living in New South Wales and other states of Australia. I will continue to work to assist people who live right across Australia to live together in harmony, making sure state rights are protected but looking to ensure uniformity where it can be successfully implemented between states and across Australia.

**Mr PERERA** (Cranbourne) — I rise to speak in favour of the Fair Trading Amendment (Australian Consumer Law) Bill. The Australian Consumer Law (ACL) is an application law which will be enacted and enforced as a law of each jurisdiction.

In the national partnership agreement to deliver a seamless national economy the Australian state and territory governments agreed to complete the legislation process to implement the ACL by 31 December 2010. This bill applies the new Australian Consumer Law as a law of Victoria. Thanks to the Brumby Labor government Victoria has been the first of the pack of states and territories to introduce a bill to apply the ACL. I also support the proposed house amendments

designed to address the technical issues in clauses 2, 40, 47 and 49 of the bill. Clause 2 is amended so that the bill commences on a day or days to be proclaimed to ensure that the bill can commence contemporaneously with national laws establishing the Australian Consumer Law. This is a sensible measure to play it safe in case the commonwealth has issues in enacting the legislation on time. The bill will amend 26 acts of the Victorian Parliament which set up the legislative framework for almost all consumer activities of Victorians from cradle to grave.

The Australian Consumer Law gives all Australian consumers the same protections wherever they be. The ACL is enhanced by adopting 14 best practice provisions — —

**Business interrupted pursuant to standing orders.**

## ADJOURNMENT

**The DEPUTY SPEAKER** — Order! The question is:

That the house do now adjourn.

### **Buses: Ringwood interchange**

**Mr R. SMITH** (Warrandyte) — I raise an urgent matter for the Minister for Public Transport. I ask the minister to halt the tendering process for the bus interchange proposed for the front of Ringwood railway station pending a thorough consultation process with all affected stakeholders with a view to incorporating the bus interchange within the entire redevelopment of the Ringwood railway station precinct.

Two years ago the Premier came to Ringwood to announce funding for the bus interchange. The announcement came as a surprise to the community. The redevelopment of the railway station was a project for which the community had been agitating for some time, but no-one had at any stage asked for work on the bus interchange to be done. Commencing this project without incorporating the redevelopment of the station would incur a substantial additional cost and was an economic decision that appeared to make no sense. In typical fashion this announcement was made by the Premier with great fanfare, very little detail and no consultation with the local community.

It was some time later that it was revealed that the work on the bus interchange included a road that would go through the park where the Ringwood memorial clock tower stands. This clock tower is dedicated to those who served and gave their lives for Australia in so many of the world's conflicts. The park is the meeting

place where a great many members of the community gather on Anzac Day and Remembrance Day to honour the brave soldiers who fought for our country. That this project intends to make dramatic changes to this sacred site has caused a great deal of concern to the Ringwood RSL club, the Ringwood Chamber of Commerce and Industry, the Yarra Valley group of Melbourne Legacy, the outer eastern Melbourne sub-branch of the Vietnam Veterans Association of Australia and the community at large. Together these organisations have written to the minister highlighting their concerns and asking for some opportunity to have an alternative plan put forward.

I understand that these organisations are meeting with a government member later this month to discuss the situation, and I know that opportunity is appreciated. However, it is an indictment of the Brumby government that these discussions are only happening now, some two years after the Premier initially announced the project. You would think that the consultation process would come first, not as an afterthought.

With tenders having not yet been decided on there is still time, in consultation with the community, to consider alternatives to the current plans and to ensure that the fallen soldiers I have referred to can be honoured at a place that befits their memory. I urge the minister to listen closely to the community on this issue and to seriously consider the ramifications of putting political expediency ahead of our traditions and memories.

### **Shirley Burke Theatre, Parkdale: funding**

**Ms MUNT** (Mordialloc) — The matter I raise this evening is for the attention of the Minister for the Arts. I call on the minister to support a recent grant application by Kingston City Council to Arts Victoria under the Arts in the Suburbs program for a grant to renovate the Shirley Burke Theatre in Parkdale.

The Shirley Burke Theatre is the largest council-run theatre facility in my electorate. With a seating capacity of 164, it has played host to local theatre companies and community productions for many years. Although the theatre has served our community well for many years, it is in need of upgrading to provide an ever better place for local and professional theatre companies to perform their works. For instance, it has been brought to my attention by local residents that the facade of the theatre is run down and tired, the backstage facilities such as the toilets and dressing rooms are outdated and inadequate and — from the perspective of patrons — there is currently no box office and there are no bar or

cafe facilities on site. There are also concerns about the safety of many of the theatre seats, which are broken and present a potential hazard, as well as the old theatre lamps, which are long overdue to be replaced. That is why I am extremely happy to support the application from Kingston City Council and why I urge the minister to do the same.

The proposed redevelopment would provide for the creation of a box office in the theatre foyer; the reconfiguration and fitting out of the existing kitchen to operate as a cafe and drinks bar; exterior works to improve the facade and identity of the building; upgrades to the bathroom facilities; auditorium improvements, including the installation of heating and cooling appropriate for the size of the theatre; the refurbishment of the dressing rooms; the purchase and rigging of new theatre lamps; and the replacement of auditorium seats. In my opinion these planned improvements will provide our local theatre groups, as well as professional groups, with a top-quality facility in our local area in which to perform their works. Members of the local community who attend the theatre to view these productions will also be able to do so safely and in comfort.

According to Kingston City Council's application the estimated cost of these works is in the region of \$955 600, with the council committing to invest \$560 000 towards the project if its application to Arts Victoria is successful. I believe the council application for an investment in upgrading the Shirley Burke Theatre is one of merit. Council has made a case for why this redevelopment should be funded. Our local community has enjoyed theatre productions at this hall for many decades. If this plan put forward by council receives the support of the state government it will ensure that the theatre continues to serve the community for many more decades. Therefore I call on the Minister for the Arts to support this meritorious application by Kingston City Council.

### **Mildura Base Hospital: funding**

**Mr CRISP** (Mildura) — I raise a matter for the Minister for Health. The action I seek is for the Brumby government to match the coalition's commitment to Mildura Base Hospital. Mildura has outgrown its hospital. This is something I have drawn attention to in this house on many occasions. The areas of most concern are the accident and emergency department, maternity and mental health. I understand on Saturday of last week there were seven births in a facility that has three birthing suites. On Tuesday morning, when I visited the hospital, ambulance ramping was apparent at the accident and emergency department, and the

surgery list had been affected by accident and emergency department overflow into the recovery ward. A hospital manager pointed out that the nearest hospital for bypass for Mildura is 400 kilometres away.

All these issues are not new. A Victorian Liberal-Nationals coalition government will invest \$5 million in capital works to significantly expand the capacity of and increase services at Mildura Base Hospital. The funding injection will secure urgently needed upgrades. The upgrade of the accident and emergency department will include a short stay unit to accommodate patients awaiting discharge or admission. That will free up accident and emergency cubicles. An additional birthing suite in the maternity unit as well as improved lounge and waiting facilities to better accommodate patients in early labour will allow the Mildura Base Hospital to manage Mildura's growing birth rate. The mental health unit is stretched to the limit in the provision of outpatient and inpatient services. The coalition will fund an appropriate office, training, education and administrative space to ensure that the department can function appropriately with increased demand.

The Mildura Base Hospital is a very important community asset, and health is one of the community's main priorities. We need to get this project moving right away. I challenge the minister to match our commitment of a \$5 million investment so that local residents will not have to wait until the election to get their project under way. Let us get on with the job of building a bigger and better local hospital in Mildura.

### **Alamein: men's shed**

**Mr STENSHOLT** (Burwood) — My adjournment matter is directed to the Minister for Community Services. The action I seek from the minister is to support a proposal by the Alamein neighbourhood and learning centre to refurbish and equip the Alamein railway station as a men's shed. The current — —

**Ms Munt** interjected.

**Mr STENSHOLT** — It is a terrific idea. The current Ashburton men's shed, which was recently visited by the Governor, who is the patron of the Victorian Men's Shed Association, is located at the back of a garage next to the Craig Family Centre, which runs a children's centre. The shed can cater for only 8 men, but 25 men are enrolled to use it. There are no toilets. There is a tap at the back, and that is about it. We are looking to get \$50 000 to put towards the cost of the project. It is not a lot of money, I know, but it is

very important for the men and for other people in my community.

When putting together this application there was a great example of cooperation between local organisations and the community. The neighbourhood renewal committee organised six meetings to draw up the application. Students from the Craig Family Centre helped to write the application, and Camcare and Inner and Eastern Health Care provided support. The Boroondara City Council officers provided some planning advice as well as canvassing possible sites. I also joined this effort to give them my advice and to help out. The auspicing organisation was the Alamein neighbourhood and learning centre.

I am happy to say that I was able to suggest to the people at the Alamein centre the local railway station as a site. They ran into a sort of brick wall in terms of ideas. I said I had talked to Metro in Melbourne, and I arranged access to the station. We inspected it and received the support of Metro for a part of the station to be leased to the centre for this particular shed.

The \$75 000 project will relocate and expand the current men's shed program, which targets special groups such as unemployed men in Ashburton and surrounding suburbs, disadvantaged public tenants and men recovering from mental illness or drug abuse. Men's sheds are great places because men can get together and work together on practical activities. They also provide health and skills programs to improve men's wellbeing.

Funding has been provided. Boroondara Gardiners Creek Lions Club is going to pitch in \$500 and some practical support to equip it. The council is putting \$15 000 towards the project, and there is in-kind support from other organisations. This is a great project. I urge the minister to support it and provide the funding so that this project can help the men in our local community.

### **Rail: Malvern station**

**Mr O'BRIEN** (Malvern) — I raise a matter for the Minister for Public Transport. The action I seek is for the safety at Malvern railway station to be improved by upgrading it to premium status so that the station is staffed seven days a week from the first train until the last.

As members would be aware, Malvern station was the site of a horrific attack on the evening of Thursday, 2 September. A passenger on a Frankston-bound train dared to glare at a pair of youths who were smoking on

the train. When the passenger left the train at Malvern station at around 9.40 p.m. the two youths called four others to join them, and they set about bashing this 38-year-old victim on the station platform. He was dragged to the ground by this gang and viciously assaulted — he was kicked and punched and suffered swelling, bruising and cuts. These thugs were so brazen that they did not even bother to disguise their identities as they made their escape.

The *Herald Sun* of 3 September quoted acting superintendent Nigel Howard, a 34-year police veteran, as saying:

'It is not something that we should have happen in society ...

'When you see fights where people are putting the boots in, particularly around the head region, the injuries it could cause are life-threatening.'

This assault highlights that security on our public transport system is desperately inadequate. Malvern station is staffed only from 6.30 a.m. until 9.00 a.m. from Monday to Friday, which means packs of young thugs are able to move in at other times with no deterrent in the shape of uniformed officers.

Train operator Metro Trains Melbourne's CEO, Andrew Lezala, was quoted in the *Herald Sun*. It reports:

Mr Lezala said he would welcome more unarmed authorised officers on the network ...

'I personally would like to see a number of hundreds more if possible', he said.

The state government's policy and Metro's policy is to have bureaucrats with bios handing out tickets. They do not want to see cops with cuffs and the power of arrest or the power to be able to protect people who ride the transport system. That is why in the interim I am calling for an upgrade of Malvern station to premium status so that it is staffed from the first train to the last. I really want to see the coalition's policy implemented. I want to see two Victoria Police protective services officers on every single metropolitan train station from nightfall until the last train, seven days a week. If those people had been there on 2 September, that poor man would not have gone through what he went through. For the government to say that the transport system is safe and that our policy is wrong and for Andrew Lezala to make that same claim shows how out of touch this long-term, tired and arrogant government is.

People are getting bashed and beaten on our public transport system. We have a policy that will restore safety and security back to the system. Before

27 November comes the minister should upgrade Malvern station to premium status.

### **VicRoads: Healesville freeway reservation**

**Ms MARSHALL** (Forest Hill) — I raise a matter for the Minister for Roads and Ports. The action I seek is for the minister to allow Whitehorse City Council to take a lead role in preparing the structure plan for the Healesville freeway reservation between Springvale Road and Boronia Road and to support adequate consultation with the community to ensure that the community activities the parkland currently supports can continue.

Late last year VicRoads completed a strategic study of the Maroondah corridor which resulted in the decision that VicRoads would no longer continue to protect the Healesville freeway reservation as it was. I understand that this land may be sold at market value.

This scenario is concerning not only to me but also to the constituents I represent and the City of Whitehorse as the land currently supports a range of community activities and provides parklands and native vegetation areas, including the Davy Lane Reserve, which is used by Parkmore Primary School and Vermont Cricket Club; the east-west shared trail link, which is used by cyclist and walkers; Bellbird Dell Reserve, with its beautiful native vegetation; the 18th hole of Morack Golf Course, one of Melbourne's most popular public golf courses; and the Davy Lane, Terrara Road and Boronia Road vegetation areas, which contain wonderful vegetation.

To help demonstrate the extent to which the area of land is important to my constituents of Forest Hill, I started a petition to express the community's support for keeping the reservation for the ongoing use of the people of the Forest Hill electorate and surrounds. At this stage over 5000 signatures have appeared on the petition, and there has been a flood of emails in support of keeping the land for community use. I was particularly touched by an email I received from the 12-year-old daughter of a constituent regarding the land. She said:

My name is Stephanie Coates, and I am 12.

I just wanted you to know that I've got a petition going around trying to stop people from building houses in and around the freeway land corridor.

I've got a dog and the park that I take him to is part of the corridor, so me and the people at the park would be so angry if those people took it away!

Everyone wants to know what they can do to help, so if there is anything we can do ... please try and stop this!

Stephanie's feelings echo those of my constituents surrounding the Healesville freeway reservation. In a developed electorate such Forest Hill, which was a growth corridor more than 50 years ago, these open spaces are valuable and vital to the way of life and the amenities that make this area so great. This lifestyle needs to be maintained.

It is for this reason that I ask the minister to allow Whitehorse City Council to take an active role in preparing the structure plan for the Healesville freeway reservation and to support adequate consultation with the community to ensure the community activities in the parkland that exist currently can continue.

### **West Gippsland Hospital: redevelopment**

**Mr BLACKWOOD** (Narracan) — I wish to raise a matter for the Minister for Health, and the action that I seek is for him to provide funding for a feasibility study into the options for the future redevelopment of the West Gippsland Hospital.

The West Gippsland Healthcare Group board of management has purchased a greenfield site to the west of Warragul as an option for the future upgrade and expansion of the health service. This opportunity was made possible by a generous bequest from a local family. This type of generosity and support for the hospital has become a very common feature of our community. For the health-care group to plan for the future a feasibility study needs to be undertaken that will review the options of redeveloping on the current site or alternatively relocating to the new greenfield site. It is critically important that the confidence of the community in the long-term future of the hospital is reinforced by the Brumby government. This must happen so that the ongoing generosity of the community is encouraged and it continues to provide donations and bequests such as those that have played such a significant role in the funding of major upgrades at the hospital since the late 1990s.

The board of management submitted an application for funding in December last year to the Department of Health. This application was accompanied by preliminary plans and costings to extend the current emergency department. I received a letter from the CEO of the hospital, also in December 2009, requesting my support for its funding application to the Department of Health. There were two parts to its request. The West Gippsland Healthcare Group had written to the Department of Health requesting, firstly, that approval be given to proceed to a feasibility study to determine the best option for the redevelopment of West Gippsland Hospital, and secondly, that funding be

made available for interim works to extend the existing emergency department.

I wrote to the Minister for Health in January this year asking him to give the West Gippsland Hospital emergency department and the feasibility study his urgent attention. I received a very unsatisfactory and disappointing response from the minister in March. In response to my request for the minister to meet with representatives of the West Gippsland Healthcare Group board of management the minister just fobbed us all off by referring them to Department of Health officers.

The future of the West Gippsland Hospital must be locked in by the Brumby government. The future can be secured by a clear and concise direction being mapped out through a feasibility study that will reveal the most appropriate option for future growth.

I call on the Minister for Health to immediately approve and fund the feasibility study as a sign of the Brumby government's commitment to the long-term future of the West Gippsland Hospital.

### **Real estate agents: contracts of sale**

**Mr SCOTT** (Preston) — The matter I raise tonight is for the attention of the Minister for Consumer Affairs. It concerns the validity or otherwise of contracts of sale of real estate in cases where the contract has been altered and photocopied and the copy re-signed. The action I seek is that the minister ask his department to clarify under what circumstances an original contract of sale that has been altered and re-signed constitutes a valid contract that would prevail over the original contract and that the minister warn consumers about any risks of relying on altered or copied contracts.

My electorate office sees a steady stream of people wanting to have copies of their contracts of sale certified by a member of Parliament or justice of the peace. Recently my office has seen several contracts where a photocopy of the original has been extensively modified, re-signed, then modified and signed again, and then presented as an original contract. Quite apart from my concerns about what is meant by an 'original document' for the purposes of making a certified copy in such cases, I wonder about the legality of such an amended contract.

When my staff raised the issue with one purchaser — a recent migrant from a non-English-speaking country — she said that she had voiced her concerns about the legality of amending a photocopy of an original

contract with the real estate agent but had been coerced into agreeing to accept the amended contract. An inquiry by a member of my staff to the agent concerned resulted in an indignant but essentially unhelpful response.

A contract of sale of real estate can be the most important purchase an individual will make in their life, and certainty around the legality of such amended contracts can be of assistance, particularly for people from non-English-speaking backgrounds. I urge the minister to clarify this situation and take action to warn consumers.

### **Floods: Walwa**

**Mr TILLEY** (Benambra) — I have a matter for the attention of the Treasurer in his capacity as chair of the flood recovery ministerial task force. The matter I wish to raise with the Treasurer is in relation to the flooding events which have occurred in north-eastern Victoria. The action I seek from the Treasurer is to ensure that the community of Walwa is not forgotten by the ministerial task force, as it is one of very few Victorian towns which have suffered damage from the heavy rains of the last fortnight but one which has received little attention to date. Further, I ask the Treasurer to direct appropriate assistance to the Walwa community as a priority.

Walwa is situated east of the Hume Dam on the Murray River. My office has been inundated with calls from Walwa residents who were amazed that, despite the many media events called by government ministers and the coverage of possible flooding events around the state, there were no warnings on the radio, television or internet of the possibility of their town flooding.

Early on Sunday, 5 September, residents were awoken by rising waters and were forced to make hurried evacuation plans and property defence work under the cover of darkness as water was lapping over their feet. This situation is simply not acceptable. Walwa may be a small town on the border in north-eastern Victoria, but it is no less important than any other town in Victoria. An investigation into why there were no warnings specific to Walwa is perhaps warranted to ensure that this situation is not repeated during future significant rain events.

I support and reiterate the Leader of the Opposition's comments that it is vital that local government be given the support it needs in the short and medium term to prepare and upgrade infrastructure, strengthen flood defence and ensure that any damage caused by the floods is addressed. I would also like to take the

opportunity to commend the tremendous efforts of the Victoria Police, the CFA (Country Fire Authority) and State Emergency Service volunteers. The police, CFA and SES workers have trained and prepared for a flood crisis and, together with the local community, worked around the clock to protect people from the brunt of the flood damage not only in my electorate but around the state. I again call on the Treasurer to ensure that the people of Walwa are not forgotten and that the appropriate assistance is provided to this community.

### **Respite care: Whittlesea facility**

**Ms GREEN** (Yan Yean) — I wish to raise a matter for the attention of the Minister for Community Services. The action I seek is for her to ensure that the soon-to-be built \$1.5 million, five-bed respite facility for Whittlesea is targeted to the area of greatest respite need, being children from 6 to 18 years of age. On behalf of the minister I was absolutely delighted recently to make this great announcement that Whittlesea would, for the first time, get its own purpose-built facility. Congratulations came in from many local organisations, including Plenty Valley Community Health and the Respite Alliance Whittlesea; I was delighted to receive Trevor Carroll's phone call to the office. A long-term campaigner, Alex Fabris, and representatives of the Diamond Valley Special Developmental School said it would make a great difference to the families of these students.

Further, since this announcement I have had representations from local parents, the Plenty Valley community health service and others stressing that the area of greatest need for respite care in the Whittlesea community is parents of young people in this age group. I urge the minister to ensure that this much-needed facility that she has agreed to fund is funded, after the announcement that was made in the budget and the review that she conducted, which identified the fact that our growing communities — particularly those in the Whittlesea area — need additional facilities.

My community has told me that this greatest area of need for respite care based locally is for young people. I want to thank the council and many other community organisations that have lobbied long and hard for this facility, I also thank local developers for the interest they have shown. We are very fortunate in the growing suburbs that our developers are very socially aware and think about those who are less fortunate. There has been a priority in terms of their ideas in building such facilities, but in the end it is down to the minister and her department to determine who has the greatest need for respite facilities. I urge her to ensure that priority is

given to 6–18-year-old children to ease the burden on caring parents in the Whittlesea region.

### **Responses**

**Mr BATCHELOR** (Minister for the Arts) — I thank the member for Mordialloc for raising this important initiative and for her ongoing support for a community venue in her electorate that is central to the delivery of arts and cultural programs in this part of Melbourne. The application has been put forward by the Kingston City Council, and it is an impressive one, as outlined by the member for Mordialloc today. Her strong support and backing for this vital project for the Parkdale community and the wider southern region and southern parts of Melbourne is most impressive. The proposal aims to significantly improve the facilities of the Shirley Burke Theatre, and this will allow for the presentation of professional touring works and increase the purchase options available to the Kingston City Council. The proposed redevelopment would also provide a much more user-friendly and welcoming venue for the local community for its groups and other organisations.

The member for Mordialloc outlined those in relation to a box office facility in the theatre foyer — I think she mentioned the need to reconfigure the kitchen and offer a cafe and drinks bar, the idea being to improve the facade and, through that, the identity of the building, and also to make improvements to the auditorium and dressing room facilities. This is truly a comprehensive request that the member for Mordialloc is supporting.

The member for Mordialloc also informed me that the proposed redevelopment is strongly supported by the whole of the community, and that is understandable given the integrity of the proposals that are being put forward here. The Brumby Labor government is proud to be supporting local councils and arts organisations throughout Victoria. This is another example of the sorts of things we like to support because we want to build and improve cultural infrastructure through our Arts in the Suburbs capital grants program. This program aims to deliver very high-quality cultural programs for local communities, increase access to the arts by providing new opportunities close to where people live, encourage local engagement and participation in the arts and nurture local talent. The proposals that have been put forward by the Kingston City Council and supported enthusiastically by the member for Mordialloc are reflective of that aim of this Arts in the Suburbs grant program.

We all know that Parkdale is a growing community. There is the strong emergence of the cafe and beach

culture along the Kingston coastline. All of this is close to trains, shopping centres and schools; it is a really vibrant community. That means the facility is well positioned to contribute to the many emerging cultural offerings in the area. It increases business locally — it is creating and supporting local jobs for local families whilst providing a first-class facility close to home for the whole community.

The Brumby Labor government understands the importance of arts to all Victorians, not just those in Parkdale, and that is why we are committed to building first-class infrastructure while supporting arts programs in communities right across the state.

We have committed funding, for example, to upgrade or rebuild venues, such as the refurbishment of the Hut Gallery at Ferntree Gully, the redevelopment of the Eltham Little Theatre, the redevelopment of the former Northcote police station as an arts facility and improvements out at Wyndham to its cultural centre, to name just a few.

As a government we are immensely proud of the strength, diversity and accessibility of the arts in our state here in Victoria, and we are proud of our track record of investment in this area.

I thank the member for Mordialloc for her advocacy of and support for this proposal by Kingston City Council. Her views and support will certainly be acknowledged when the proposal is considered by the government.

**Mr HELPER** (Minister for Agriculture) — The member for Warrandyte raised a matter for the attention of the Minister for Public Transport, and it concerned the plans for a bus exchange and the interface of that interchange as it interacts with the memorial at Ringwood railway station.

The member for Mildura raised a matter for the Minister for Health, and I would have thought he might have liked to have preceded that matter by apologising for the coalition's privatisation of the Mildura hospital. Nevertheless I shall refer the concerns raised by the member for Mildura to the Minister for Health.

The member for Burwood raised a matter for the Minister for Community Services regarding turning the Alamein railway station into a men's shed and seeking support for a funding application by the Alamein neighbourhood and learning centre to do so.

The member for Malvern raised a matter for the attention of the Minister for Public Transport regarding safety at Malvern railway station, making direct

reference to an incident which occurred in September this year.

The member for Forest Hill raised a matter for the Minister for Roads and Ports in which she sought the support of the minister in making sure that Whitehorse City Council has an appropriate role to play in the development of a structure plan for the Healesville freeway reservation to ensure that ongoing community use of the land.

The member for Narracan raised a matter for the Minister for Health regarding West Gippsland Hospital seeking support for a feasibility study to support an upgrade of that facility.

The member for Preston raised a matter for the Minister for Consumer Affairs regarding a practice that appears somewhat common — that some people in the real estate industry are altering contracts of sale. The member was seeking that the Minister for Consumer Affairs issue a warning to consumers about such matters.

The member for Benambra raised a matter for the attention of the Treasurer regarding the Walwa community and the impact of recent floods. He sought an assurance that the Treasurer will not forget the Walwa community. As a member of that task force I can assure the member for Benambra that no community is forgotten in the process as it works through flood-affected communities in Victoria. However, I will bring the matter to the attention of the Treasurer.

The member for Yan Yean raised a matter for the Minister for Community Services regarding the recently funded Whittlesea respite centre seeking the minister's action to ensure that the centre is appropriately targeted at young people who live in the young and growing communities in her electorate.

I shall draw the ministers' attention to these matters.

**The DEPUTY SPEAKER** — Order! The house is now adjourned.

**House adjourned 10.34 p.m.**

