PARLIAMENT OF VICTORIA

PARLIAMENTARY DEBATES (HANSARD)

LEGISLATIVE ASSEMBLY

FIFTY-SIXTH PARLIAMENT

FIRST SESSION

Thursday, 24 June 2010

(Extract from book 9)

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By authority of the Victorian Government Printer

The Governor

Professor DAVID de KRETSER, AC

The Lieutenant-Governor

The Honourable Justice MARILYN WARREN, AC

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Minister for Planning and Minister for the Respect Agenda	The Hon. J. M. Madden, MLC
Minister for Sport, Recreation and Youth Affairs, and Minister Assisting the Premier on Multicultural Affairs	The Hon. J. A. Merlino, MP
Minister for Children and Early Childhood Development and Minister for Women's Affairs	The Hon. M. V. Morand, MP
Minister for Mental Health, Minister for Community Services and Minister for Senior Victorians	The Hon. L. M. Neville, MP
Minister for Public Transport and Minister for Industrial Relations	The Hon. M. P. Pakula, MLC
Minister for Roads and Ports, and Minister for Major Projects	The Hon. T. H. Pallas, MP
Minister for Education and Minister for Skills and Workforce Participation	The Hon. B. J. Pike, MP
Minister for Gaming, Minister for Consumer Affairs and Minister Assisting the Premier on Veterans' Affairs	The Hon. A. G. Robinson, MP
Minister for Housing, Minister for Local Government and Minister for Aboriginal Affairs	The Hon. R. W. Wynne, MP
Cabinet Secretary	Mr A. G. Lupton, MP

Legislative Assembly committees

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

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

Joint committees

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Heads of parliamentary departments

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

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

Parliamentary Services — Secretary: Mr P. Lochert

MEMBERS OF THE LEGISLATIVE ASSEMBLY

FIFTY-SIXTH PARLIAMENT — FIRST SESSION

Speaker: The Hon. JENNY LINDELL

Deputy Speaker: Ms A. P. BARKER

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

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

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

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

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

Leader of The Nationals:
Mr P. J. RYAN

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

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

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

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THURSDAY, 24 JUNE 2010

CONTENTS

Thursday, 24 June 2010

The SPEAKER (Hon. Jenny Lindell) took the chair at 9.34 a.m. and read the prayer.

BUSINESS OF THE HOUSE

Notices of motion: removal

The SPEAKER — Order! Notices of motion 57 to 60, 118 to 120, 191 to 195 and 216 to 223 will be removed from the notice paper unless members wishing their notice to remain advise the Clerk in writing before 2.00 p.m. today.

NOTICES OF MOTION

Notices of motion given.

Dr SYKES having given notice of motion:

The SPEAKER — Order! I rule that that notice of motion is frivolous, and I warn the member for Benalla.

Further notices of motion given.

Ms CAMPBELL having given notice of motion:

The SPEAKER — Order! The member has failed to give the notice of motion in writing to the clerks; thus it is out of order.

Further notices of motion given.

Mr BLACKWOOD having given notice of motions:

The SPEAKER — Order! The clerks will review the two notices of motion to ensure that they can be debated separately.

Further notices of motion given.

Mr BLACKWOOD having given notice of motions:

The SPEAKER — Order! Once again I find it difficult to imagine that that notice of motion could be debated separately from the two notices of motion prior to it, and it will be reviewed by the clerks.

PETITIONS

Following petitions presented to house:

Graham Street, Wonthaggi: traffic management

To the Legislative Assembly of Victoria:

Graham Street, Wonthaggi, is a main street and is used by drivers to access roads to Melbourne, Inverloch, Cape Paterson and South Dudley, and for people to visit shops. Including regular traffic, many heavy vehicles access Graham Street and this is creating safety issues for pedestrians trying to cross the road, and also for vehicles reversing out of car parks. It has been observed that the construction of the desalination plant at Wonthaggi and the increasing number of tourists and shoppers to the Bass Coast region have significantly increased the flow of vehicular traffic along Graham Street.

We, the undersigned concerned citizens of Victoria, ask the Victorian Parliament and the Minister for Roads and Ports to support our petition and act immediately to install a suitable pedestrian crossing at Graham Street, Wonthaggi, and to consider allocating an alternative route for heavy vehicles.

By Mr K. SMITH (Bass) (42 signatures).

Police: numbers

To the Legislative Assembly of Victoria:

The petition of the residents of Victoria draws to the attention of the house the lack of police resources in the fight against street crime.

The petitioners therefore request that the Legislative Assembly of Victoria allocate the necessary funding to provide for the urgent recruitment of 3000 additional police officers necessary to secure the safety of the Victorian community.

By Mr RYAN (Gippsland South) (67 104 signatures).

Equal opportunity: legislation

To the Legislative Assembly of Victoria:

The petition of the undersigned residents of Victoria draws to the attention of the house our grave concern about many of the proposals contained in the 'Exceptions and Exemptions to the Equal Opportunity Act 1995 Options Paper' published by the Scrutiny of Acts and Regulations Committee in May 2009.

The petitioners therefore request that the Legislative Assembly of Victoria ensures that Victorians in future will continue to enjoy the freedom of choice that the current exemptions and exceptions provide for us in the exercise of our faith and values. In particular the freedom to educate our children in accordance with our faith and values. Removal or limiting of the provisions that allow freedom of choice in regards to faith-based schools in particular must be avoided.

By Ms D'AMBROSIO (Mill Park) (26 signatures).

Insurance: fire services levy

To the Legislative Assembly of Victoria:

The petition of residents of Victoria draws to the attention of the house the inequitable nature of the current fire services levy (FSL) on house, property and business insurance and points out to the house that everyone who benefits from fire services should contribute to its funding not just those who take out insurance, whose premiums are effectively doubled by the fire services levy and associated taxes.

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

By Mr JASPER (Murray Valley) (19 signatures).

Electricity: smart meters

To the Legislative Assembly of Victoria:

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

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

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

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

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

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

By Mr JASPER (Murray Valley) (52 signatures) and Mr THOMPSON (Sandringham) (29 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 alternate routes impede the city-bound traffic flow.

Prayer

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) (2 signatures).

Tabled.

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

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

Ordered that petition presented by honourable member for Gippsland South be considered next day on motion of Mr INGRAM (Gippsland East).

HEALTH PRACTITIONER REGULATION NATIONAL LAW

Regulation 42/2010

Mr BATCHELOR (Minister for Energy and Resources), by leave, presented regulation.

Tabled.

ELECTORAL MATTERS COMMITTEE

Functions and administration of voting centres

Mr SCOTT (Preston) presented report, together with appendices and transcripts of evidence.

Tabled.

Ordered that report and appendices be printed.

DOCUMENTS

Tabled by Clerk:

Freedom of Information Act 1982 — Statement of reasons for seeking leave to appeal under s 65AB

Multicultural Victoria Act 2004 — Victorian Government Achievements in Multicultural Affairs Report 2008–09

Parliamentary Committees Act 2003 — Government response to the Electoral Matters Committee's Report on the Inquiry into Voter Participation and Informal Voting

Planning and Environment Act 1987 — Notice of approval of an amendment to the Victoria Planning Provisions — VC62

Police Integrity, Office of — Update on conditions in Victoria Police cells — Ordered to be printed

Statutory Rules under the following Acts:

Livestock Disease Control Act 1994 — SR 39

Motor Car Traders Act 1986 — SR 40

Transport Act 1983 — SR 41

Subordinate Legislation Act 1994 — Ministers' exemption certificates in relation to Statutory Rules 39, 40.

BUSINESS OF THE HOUSE

Adjournment

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

That the house, at its rising, adjourn until Tuesday, 27 July 2010.

Motion agreed to.

MEMBERS STATEMENTS

Aboriginals: racist comments

Mr WYNNE (Minister for Aboriginal Affairs) — I rise in my capacity as Minister for Aboriginal Affairs in response to recent media stories which have drawn attention to the issue of racism and racist comments aimed towards Aboriginal Australians. I refer to the spate of media stories in the past fortnight which have highlighted the inexcusable and unacceptable behaviour of past sporting personalities within the football codes of the Australian Football League and the National Rugby League when they made inappropriate racist remarks towards prominent indigenous sporting people. Whether the remarks were said or intended to be delivered in jest, they are nevertheless inexcusable. The making of generally derogatory remarks about a group of people based on their race can only be described as racism. Racist comments like these cause hurt and great distress to Aboriginal people.

On a visit to south-west Victoria last Friday I saw firsthand the impact of these comments upon Aboriginal people; in this case it was members of the Gunditj Mirring traditional owners group, a representative Aboriginal party. These comments are deeply hurtful, and I am sure I speak for both sides of Parliament when I say that as a Parliament it is important that we repudiate these racist, ignorant and ill-informed comments.

Water: charges

Ms ASHER (Brighton) — In the statement of government intentions for both 2008 and 2009 the government flagged a water reform bill which would make Melbourne water retailers statutory authorities. Even if the government wants to argue that the statement of government intentions is an indicative document, in its response to the Victorian Competition and Efficiency Commission's waterways inquiry into reform of the metropolitan retail water sector the government said it would do that within 12 months of the response, which was given in July 2008.

The Auditor-General's report has also recorded that the legislation was planned to be effective from 1 July 2010. I point this out simply as yet another example of Labor's failure to deliver on something it said it would deliver, and I make two observations. First of all, with a majority of Labor members, the Public Accounts and Estimates Committee in its review of the findings and recommendations of the Auditor-General's reports 2008 said this matter was one of urgency and it should be finalised. The second point I make is that on 14 August 2007, when the Premier announced this review of the water authorities, he said there should be equity of pricing across Melbourne. There is still differential water pricing across the Melbourne water authorities.

My point in raising this is that we should never believe what the Brumby government says. Even its own Labor members on the Public Accounts and Estimates Committee are now calling on the government to achieve this water pricing equity as a matter of urgency.

National Celtic Festival, Portarlington

Ms NEVILLE (Minister for Community Services) — It was a great pleasure, once again, to participate as a volunteer at the National Celtic Festival in Portarlington over the Queen's Birthday holiday weekend. The festival continues to attract an increasing number of performers and audiences, both nationally and internationally. It is one of Australia's largest and most diverse celebrations of Celtic music and culture.

This year the ticket sales were up by 25 per cent, with calls for tickets for next year's festival already being made. The vision of the festival is to promote and celebrate Celtic culture through a vibrant and

progressive festival that features dance, music, literature and the arts. At the heart of the festival is community; it brings people together to showcase the best of the Celtic traditions.

The festival has certainly become an important event on the Bellarine calendar and a great tourist attraction. It relies on sponsors, some of whom have been supportive from the beginning, including the Victorian government, the City of Greater Geelong and Bellarine community businesses.

Congratulations go particularly to the festival director, Una McAlinden, and her dedicated executive committee, the general committee and the support team who work throughout the year to plan and bring together the performers and the program.

Congratulations also go to the enthusiastic volunteers — there were over 180 volunteers this year — for their hard work and commitment to the smooth running of the festival. Many of these volunteers are local residents who have really embraced this festival.

The 2010 festival has been another very successful event. We look forward to the 2011 National Celtic Festival.

Public transport: Lowan electorate

Mr DELAHUNTY (Lowan) — The Lowan electorate is the largest in this state, and transport is a major challenge. We have very limited public and private transport options to access services and activities. People are extremely concerned that the Transport Connections phase 3 policy framework and implementation plan over the next three years will disadvantage country areas in Victoria.

Wimmera Volunteers Inc. received support under the first two stages of Transport Connections and has been responsible for the implementation of new public transport services such as the one which not only services vocational education and training students on Wednesdays but also provides transport for many people without transport from across the shires of West Wimmera, Hindmarsh, Horsham and Buloke.

Wimmera Volunteers has been involved in major developments in the community transport area, such as the intertown transport service where volunteer drivers provide transport for people to go shopping and attend health services, and the provision of new vehicles to the Hindmarsh and West Wimmera shires to help their seniors and small groups to travel when there are no viable hire cars or taxi services in their towns.

Wimmera Volunteers has also been involved in education programs, providing such things as transport directories. Community transport can be extremely effective in an area experiencing a declining and ageing population where there are considerable distances between towns.

If the development of and support for community transport is not considered in phase 3, the Wimmera region will experience a decline in services and an increase in transport disadvantage. The Minister for Community Services must ensure that country areas of Victoria do not miss out in phase 3 of the Transport Connections project.

Monbulk electorate: Queen's Birthday honours

Mr MERLINO (Minister for Sport, Recreation and Youth Affairs) — I rise to congratulate three outstanding members of my local community who received thoroughly well-deserved Queen's Birthday honours. Christine Doran of Olinda was made an Officer of the Order of Australia for her tireless work over many years helping sufferers of cystic fibrosis. Christine became involved with Cystic Fibrosis Victoria almost 20 years ago, and in that time has raised more than $75 000 through an annual fundraising luncheon. Christine has shown extraordinary dedication to sufferers and their families.

President of volunteer group Friends of the Helmeted Honeyeater, Bob Anderson, was awarded the Order of Australia for his 20 years of service protecting our state faunal emblem. Bob is the pioneer of the helmeted honeyeater project which sees the breeding and releasing of the protected birds in the Yellingbo Reserve. Under Bob's continued leadership, the group also revegetates the forest, runs community education programs and operates its own nursery.

Upwey RSL member Rob Ferguson was awarded the Order of Australia for a lifetime of service helping the community, including many years of work with disadvantaged young people and our war veterans. Rob has held many positions with the RSL, all of them focused on helping others. He has been Upwey branch president as well as the welfare officer at the state branch where he worked with veterans and war widows. Much of Rob's work has revolved around addressing the financial needs of members, ensuring they have full access to both entitlements and available support. He is a true community hero.

Congratulations also to the chair of the Victorian Multicultural Commission, George Lekakis, for being made an Officer of the Order of Australia. George was

appointed chair of the VMC in 2001 and has brought an unprecedented level of compassion and fairness to that role. I am proud to know and work with Mr Lekakis and offer my warmest congratulations to him on receiving this well-deserved recognition of his tireless service to our diverse communities.

Employment: manufacturing industry

Mr R. SMITH (Warrandyte) — A recent *Small Areas Labour Markets Australia* report released by the federal government shows an alarming rise in job losses in many of Victoria's areas, particularly in those areas which have a traditional manufacturing base. Just a few weeks after the Minister for Industry and Trade came into this place congratulating herself on the so-called success of the Brumby government in creating jobs we find that many people across Victoria are still experiencing the stress of unemployment. In addition to these figures, the Australian Bureau of Statistics released figures showing that manufacturing is in freefall under the Brumby government. The figures show that manufacturing jobs in Victoria have fallen from 310 200 jobs in the February 2010 quarter to 290 000 in May 2010. With the total number of manufacturing jobs lost in Australia at 30 200, Victoria's job losses in this sector contribute to 67 per cent of the national decline.

The Premier has previously stated that reviving Victoria's manufacturing sector should not be the top task for his industry minister. These figures show those working in manufacturing that his industry minister has taken him at his word and effectively ignored the sector. In final confirmation that the Premier is not serious about jobs, once again unemployment has skyrocketed in his electorate of Broadmeadows. It has risen to the highest level in Victoria at a whopping 14.9 per cent. The Premier has shown in his reluctance to appoint a dedicated minister for manufacturing, in his failure to actively assist the manufacturing industry and in his indifference to the high levels of joblessness in his electorate that he cannot be trusted to support Victorian jobs.

Casey Life Church

Ms GRALEY (Narre Warren South) — It was a joy to attend the national day of thanksgiving at Casey Life Church in Hampton Park on the last Sunday in May. Senior pastors Graham and Julie Shand are passionate about reaching out to the community, and under their leadership the church welcomes everyone with open arms. I admire Graham and Julie's commitment to sharing their love of God. People in my community are fortunate to have such generous-hearted people serving them.

With its strong sense of compassion, Casey Life has also led missions to Sri Lanka, India, Fiji and the Philippines. It is very ably supported by pastors Joseph De Souza, Phil Olsen and Emmanuel Chembiah, and there is the very talented pastor, Charmaine Sime, who performs like a rock star and inspires young people to live a life with purpose and fun and to be extraordinary.

The old, the young, men and women, and people from many different countries and backgrounds are all important and can find a place at Casey Life. The church's mission is building bridges, changing lives, and it certainly is. For thanksgiving day church members said a big thank you to all the local small business people who provide services, goods and, when asked, donations to the Hampton Park community. I thought the small business people really appreciated the acknowledgement and appreciation. I know that the church will continue to grow and do good things for others. There is a sign in the church that says 'Greater things are yet to come; greater things are still to be done'.

I look forward to enjoying many more great times with the folk from Casey Life. The service finished fittingly with uplifting singing led by Maryann De Costa, backed up by Julie Shand, Isadora Zhimomi, Tanya James and Ilo Zhimomi, with band members Jared Shand, Caleb Shand, Jonathon De Souza and Malcolm Anderson. They sang *How Great is Our God* with a great deal of passion.

Doncaster electorate: retirement village pedestrian crossings

Ms WOOLDRIDGE (Doncaster) — I rise to seek the support of the Minister for Roads and Ports for the installation of pedestrian crossings outside a number of retirement villages in my electorate of Doncaster. Earlier this week I presented a petition from 179 residents and family members from Domaine Retirement Village on busy Victoria Street, Doncaster. They are concerned for their safety when entering or exiting the village as elderly and sometimes frail pedestrians are forced to mix with heavy traffic.

This is not a new issue. In December 2008, after a long campaign, Donvale Retirement Village residents celebrated the installation of pedestrian-operated lights on Springvale Road, fulfilling one of my 2006 election commitments.

Last year I presented in Parliament a petition from residents of the Roseville Retirement Village in King Street seeking a similar crossing. Recently another elderly resident, aged 88, wrote to me seeking my support for another crossing outside Applewood village on Tram Road before she or someone else is skittled. This government wants Doncaster residents to travel more by bus, but for many potential users there needs to be easy access to bus stops. A crossing outside these villages would enhance road safety and encourage residents to use the public transport available outside their door.

Children: protection

Ms WOOLDRIDGE — I condemn the Minister for Community Services for failing to table the Victorian Child Death Review Committee report. This report is now well overdue, having been tabled in May in 2007 and 2008 and in June in 2009. Clearly the Brumby government continues to try to cover up its many failings in child protection and for abused children in this state.

Cancer: men's services

Dr HARKNESS (Frankston) — Cancer will affect one in three Victorian men, with nearly half of those affected before the age of 75. There is a lot of information available about common forms of cancer, such as prostate and bowel cancer. However, many men whom I have talked to do not know about, or are reluctant to take action to prevent, the effects of these diseases. Often it can be as simple as having a regular check-up with a local doctor. Life expectancy in Australia continues to rise and with it the incidence of cancer as well. The Brumby Labor government is investing in innovative prevention and treatment programs through its cancer action plan, but there are many things that individuals can do to reduce their risk of cancer and to find out about how they can ensure its early detection and treatment. As I said, the easiest and most effective way is to contact a doctor and get a check-up.

With the assistance of the member for Williamstown I recently hosted a men's health forum in Frankston to discuss men's health with younger men in my electorate. I know the Minister for Health places a high degree of importance on addressing men's health issues. I certainly hope this discussion, which we had locally in Frankston, will lead to better outcomes for men's health and wellbeing.

Frankston electorate: colouring-in competition

Dr HARKNESS — I extend my congratulations to the 35 local primary school students selected as winners in my 2010 colouring-in competition. Seven hundred and forty-eight entries were received, and the theme of Frankston's fabulous foreshore generated absolutely terrific efforts from all of these children. It was a great pleasure selecting the winners from all of the fantastic entries. I thank the Minister for Public Transport as well for coming to the celebration last Thursday and making it such a great success.

Parks Victoria: Tulloch Ard Gorge lookout

Mr INGRAM (Gippsland East) — I rise today to congratulate Parks Victoria and its Gippsland staff, particularly the contractor who is employed by Parks Victoria, for their efforts in developing quality tourism infrastructure in my region. Next week we will see a significant milestone in what is a flagship piece of walking infrastructure in the Snowy River National Park with the construction of the Tulloch Ard Gorge walk lookout. Next week the lookout will be airlifted in by helicopter to a site overlooking the Snowy River near the Tulloch Ard Gorge. I would like to congratulate Paul Sykes from Karoonda Park at Gelantipy. It was his original idea to put this major piece of tourism infrastructure in there. The Snowy River is a rugged piece of country. It is difficult to access, and having quality walking infrastructure so people can experience and see the spectacular natural landscape that exists in that area will be a great boon for tourism in my region.

Vines Road Community Centre and Western Heights Secondary College: facilities

Mr TREZISE (Geelong) — On Monday, 21 June, together with members of the Vines Road Community Centre and the Western Heights Secondary College, I had the pleasure of visiting their new school and centre which are currently under construction. For the information of the house, this is a $33 million project funded by the Brumby Labor government, which highlights our commitment to education and communities in regional Victoria.

Vines Road Community Centre is a great organisation that incorporates numerous local groups, such as the Vines Road Senior Citizens Club, the Vines Road walking group, the Solace Support Group, the Geelong Machine Embroidery Club, the pulmonary support exercise group, the Probus Club of Highton, Neighbourhood Watch, the mental health support group, the Ex-Royal Naval Association, the Geelong

Model Engineers Club — and I can assure you, Speaker, the list does go on. One can see that the Vines Road Community Centre is catering for a wide variety of local organisations. The centre is very much looking forward to moving out of the old centre and into the new one, which will be completed in mid-October. Our inspection on Monday revealed what will be a first-class facility that will provide both the school and the Vines Road Community Centre with a modern, well-designed facility, some of which they will share, such as the library and the cafe. I take this opportunity to congratulate all involved. Like them, I look forward to the opening of the facilities in October.

Local government: public sector standards review

Mrs POWELL (Shepparton) — A review of Victoria's integrity and anticorruption system was recently undertaken by the public sector standards commissioner, Peter Allen, and special commissioner Elizabeth Proust. One of the integrity bodies investigated was the local government investigations and compliance inspectorate (LGICI), which is an administrative office of the Department of Planning and Community Development, with the chief municipal inspector appointed by the Premier. The review concluded that the impact of the LGICI would be enhanced by reconstituting it independently from executive government. It identified concerns the coalition has long raised, such as the fact that standards of conduct set out in the Local Government Act are complex and must be made clearer and that conflict of interest provisions are complex, and many councils and local government professionals struggle to understand and apply them. This is a concern the coalition has raised continually with the Minister for Local Government.

The review suggested establishing mechanisms for investigating failure to meet local governance standards and found the Local Government Act prohibits a range of behaviours, but does not establish penalties for all breaches. During the debate on legislation increasing penalties in the act the coalition alerted the government to a lack of penalty for breaches of section 55D of the Local Government Act. This was at the same time as the Latrobe City Council was found to be in breach of this section. No penalty was applied because there was no penalty for this offence in the act, and there still is no penalty. The Brumby government must stop protecting Labor councils that break the law and immediately put in place the recommendations of the public sector standards review.

Sean Tyssen

Ms MUNT (Mordialloc) — Last week it was my pleasure to have Sean Tyssen, a student from St Bede's College in Mentone, in my office for work experience. This is what he would like to say to the Parliament of Victoria:

> My name is Sean Tyssen, and I am currently attending St Bede's College, studying year 10. I recently had the pleasure of completing a week of work experience with Janice Munt, an experience that taught me a lot of useful things and gave me an insight into the work of a politician. As part of my work experience I was able to sit in on a few of Ms Munt's meetings with several constituents, people who had many problems in their lives that they needed help to solve. I saw many people gain positive advice … and most seemed very happy to know that there was someone in their local area who cared about them; who listened to them and was in a position to do something to help them.
>
> I feel that there is so much to be gained from speaking to a local MP, yet there is a relatively small number of people who understand that it is easy to schedule a meeting, that their problems do matter to people, and that they can get results. I think that if the government were to advertise their local MPs in a way that showed them as normal, approachable people, many people would be able to get their problems resolved, and this would also increase public appreciation for their members.
>
> I saw so much good done for people in one week, and look forward to all the help that will go out for those in need in the future.

All the best to Sean for his future and for his studies this year and in the future. Thank you, Sean.

Electricity: smart meters

Mr O'BRIEN (Malvern) — The government's rollout of smart meters has been an absolute debacle. That is why smart meters are known as the myki of metering. We have seen massive budget blow-outs — from $800 million to at least $1.6 billion, and potentially $2.25 billion — every cent of which will be paid for by consumers through higher power bills. We have seen limited functionality, with customers who have smart meters being unable to use the devices to continually monitor their energy use, as promised by the government, because there is an absence of in-home display units. The privacy commissioner, Helen Versey, has identified a real risk to privacy from the operation of smart meters. In a submission to the Essential Services Commission the privacy commissioner stated:

> … smart meters have the potential to impact severely upon the privacy of individuals …

and —

> … smart meters collect detailed usage data in an area which is usually 'off limits' — a person's home.

and —

> Usage data could also be used to determine when the occupant uses certain appliances, when they wake, when they sleep, when they shower and so forth. If the usage data is shared beyond the electricity provider, this type of information could be used by other electricity companies, for research purposes or even by third parties for direct, targeted marketing based on usage. One can envisage situations where law enforcement agencies or insurance companies would desire this information as well.

If Victorians are to have confidence that the Brumby government's smart meters will not be used as spy meters, the Minister for Energy and Resources needs to explain exactly how he is going to introduce safeguards to ensure that the privacy of Victorians who are required to have smart meters will be protected.

Burwood electorate: community youth grants

Mr STENSHOLT (Burwood) — I rise to congratulate YACC 1766, the Ashwood Ashburton and Chadstone Young People's Action Committee, on its recent grants awards night held at the Craig Family Centre. YACC 1766 is a local youth foundation which has been established with the joint support of local community banks at Ashburton, Surrey Hills, Canterbury and the state government. They have each provided $106 000 towards the foundation's corpus, and the state government has provided an additional $120 000 for a part-time coordinator for three years.

I congratulate the members of the committee on their great work in running the grant program. They are C. J., Luke, Kento, Kat, Kanishka, Najla, Amira, Omar, Jin and Kris. I am a great fan of the work they do, and it is excellent that they are out there supporting the youth in our community. I also want to record the community's thanks to their wonderful coordinator, Verity Nicholson, who has done this job for the last two years. She is retiring this Friday to become a young Australian ambassador abroad in Mongolia. Her work has been inspirational, and we all wish her well in her new role.

I also want to thank the local partnership group comprised of representatives from the Bendigo Community Bank, in particular its chair Dick Menting; Ashwood Secondary College; Boroondara and Monash city councils; Camcare; the Ceres Calisthenics Club; the Glen Iris Uniting Church; the Inner East Community Health Service; the Monash youth representative group; and the Salvation Army, together with the Craig Family Centre, which acts as the lead agency in partnership with the Southern Ethnic Advisory and Advocacy Council (SEAC). This is an excellent program, and I commend it to Parliament.

Rodney electorate: Barmah National Park

Mr WELLER (Rodney) — I rise today to express the great disappointment and frustration being felt by me and by thousands of people in the Rodney electorate over the planned 29 June government celebrations for what it terms the official opening of the Barmah National Park. What is there to celebrate about 44 job losses, the wrecking of family lifestyles and heritage and the escalation of a deadly fire risk? The minister and his city-based green supporters have ridden roughshod over local people, whose centuries-old knowledge of the forests has been completely ignored. The government has implemented a strategy which can only lead to disaster for our forests and for those who love and once worked in them. The massive growth now taking place on the forest floor puts in place the capacity for devastating fires, and that growth will continue unchecked now that the minister has done away with cattle grazing, which for so many years served to provide protection as a natural control.

Sadly the government has already shown that it cannot handle Victoria's national parks, with weed infestation already at record levels. We have already seen evidence that the government's claim about supporting tourism ventures in this area is nothing more than a sham, with the first call for help from a Barmah-based operator being flatly refused.

As the parliamentary representative of the people who have been cast aside by this government and its frighteningly stupid environmental polices, I have no intention of taking part in or even being present at the minister's ego-driven celebrations. The date 29 June will be remembered as a black and sad day for the people of northern Victoria and as the day the government came to celebrate the destruction of rural jobs and rural lifestyle.

Torquay: secondary college

Mr CRUTCHFIELD (South Barwon) — I had the pleasure of attending a public meeting on Monday night with the shadow Minister for Education, the member for Nepean, regarding Torquay College. A small number — about 80 — people attended the meeting to talk about public school education in Torquay for some 3000 kids of primary and secondary school age.

If you had taken out Liberal Party members, people from places other than Geelong and people who did not have kids at the school, there would have been a

paucity of individuals at the meeting who actually had an interest in the issue. I suggest there were 20 interested individuals attending, and they are the individuals I am particularly keen to continue a dialogue with.

The member for Nepean is content to dumb down that school. He has attacked the school in terms of its educational outcomes for year 7 students, talked about their educational setting and said they are stupid, and has coalesced with a group of individuals who started a whispering campaign against the school principal, the school council and the school leaders. That whispering campaign is unseemly and the member for the member for Nepean needs to apologise — —

The ACTING SPEAKER (**Mr K. Smith**) — Order! The member is out of time.

Wayne Smith

Mr TILLEY (Benambra) — I rise to congratulate Mr Wayne Smith of Bethanga who received the Medal of the Order of Australia in this year's Queen's Birthday honours. Mr Smith has been honoured for his service to the youth in our community, particularly for his work with the Australian navy cadets. Mr Smith is the commanding officer of training ship TS *Albury*, a role he has undertaken for several years now. He is also an honorary life member of the Australian Volunteer Coast Guard Association.

I have known Mr Smith for some time now. We first met when we were both members of Victoria Police, and I have been pleased to continue this association since my election to Parliament. In his role as a member of Victoria Police at the one-man station in Bethanga, a very small community in the electorate of Benambra, his care for the community, professionalism and effectiveness has been, from all accounts, exemplary.

I have witnessed firsthand Mr Smith in his role with the naval cadets at TS *Albury*. Wayne commands the respect of all cadets, which is testimony to his effective leadership style and care for their welfare. He willingly gives his time to the community and, like all our volunteers, is a vital part of the fabric which holds our society together. I was very pleased to support his nomination for the Medal of the Order of Australia and am greatly pleased that his service to our local community has been duly recognised.

Beaconsfield Football Club

Ms LOBATO (Gembrook) — I wish to congratulate the Beaconsfield Football Club for a couple of recent achievements, one of which was the Brumby government's allocation of $1 million towards the club's new pavilion, announced by the Minister for Community Development. The pavilion will be sited at the fabulous multimillion-dollar Holm Park Road sport and recreation complex being developed in Beaconsfield by the Cardinia shire.

I also wish to congratulate Beaconsfield football and netball club for the organisation of the club's 120th year celebrations, including a re-creation of the club's first committee meeting at the same location, the Beaconsfield Central Hotel, as it occurred 120 years ago. Other celebrations included the yellow and black night last Saturday night and the luncheon on Sunday to commemorate that first game against Cranbourne over a century ago. As the club celebrates and retraces its historic longevity it continues to plan and progress towards its very bright future.

National Trust: Casey Cardinia branch

Ms LOBATO — I also wish to express my thanks to the Casey Cardinia branch of the National Trust for yet another fabulous and memorable annual gala dinner. As a member of the National Trust, I wish to thank all members for their dedication and passion in preserving our heritage. We were fortunate to hear from historian and trust member Anthony Knight who spoke eloquently of the importance of respecting and maintaining our heritage, and demonstrated this in his book *Beleura Mornington — A Theatre of the Past*. In Berwick there has never been a more important time to become a member and participate in the Casey Cardinia National Trust.

Deakin University: Ballarat clinical education centre

Mr HOWARD (Ballarat East) — Last week I was pleased to represent the Minister for Health at Ballarat Health Services, where I was able to formally open the $4.9 million Deakin University Ballarat clinical education centre. The Brumby government is committed to ensuring that all Victorians have access to a high-quality health system regardless of where they live. As part of this commitment we have invested $43 million in capital works and upgrades at Ballarat Health Services since 1999. We are aware, however, that we need to see more doctors trained and encouraged to practise in rural and regional Victoria.

We have therefore supported the federal government in the establishment of the Deakin University medical school, and we have allocated $27.6 million to Deakin University to build infrastructure for medical education in public hospitals and other health-care facilities across

Victoria. The $4.9 million Deakin University, Ballarat clinical education centre forms part of this investment. This modern facility is equipped with state-of-the-art technology and provides a great training facility for the current 18 students from Deakin University. A further 72 students from Deakin and Melbourne universities plan to be using the facility next year.

This training will ensure that medical students gain a broad range of experience in medical disciplines undertaken during their time in Ballarat and is expected to see many of these students choosing to stay in Ballarat or other parts of regional Victoria after they complete their training. This is a great outcome for rural and regional health.

Bulleen Road, Templestowe Road and King Street: upgrades

Mr KOTSIRAS (Bulleen) — I stand to condemn the Labor government for ignoring the needs of my electorate. I have raised these issues on numerous occasions, yet the government refuses to acknowledge that there are issues in Bulleen. I have raised the issue of Bulleen Road, Templestowe Road and King Street, yet after 11 dark years the Labor government has ignored the wishes and requests of residents in the electorate of Bulleen. The government believes it can treat residents with contempt and that it does not have to do much in the Manningham area to win votes in the upper house.

I therefore call upon the government once again to arrange to meet with the residents groups that have been established to help build Bulleen Road, Templestowe Road and King Street and to make sure those — —

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

TRANSPORT LEGISLATION AMENDMENT (PORTS INTEGRATION) BILL

Referral to committee

Mr CAMERON (Minister for Police and Emergency Services) — I move:

> That the Transport Legislation Amendment (Ports Integration) Bill 2010 be referred to the Dispute Resolution Committee for consideration under section 65C of the Constitution Act 1975 and that a message be sent to the Legislative Council informing them accordingly.

Before going into the details as to why the government wants to do this and why we see this bill as being important I will set out the factual matters that bring about this dispute for the purposes of the Constitution Act. On 27 May the bill was passed by the Legislative Assembly. As a result of that it was dispatched to another place. It was second-read in the Legislative Council on 27 May. On 10 June there was debate on the bill in the Legislative Council, and there was a motion to defer the debate for a week.

That debate resumed on 22 June, when the Legislative Council divided on the motion. The Greens and the coalition voted together against the bill, and accordingly the bill was not passed. As the bill has been defeated, the Constitution Act 1975 provides a mechanism to refer the disputed bill to the Disputes Resolution Committee. Division 9A of the constitution sets out the provisions on disputes concerning bills, and where a bill has been rejected by the Legislative Council it is then capable of being referred to the Disputes Resolution Committee of Parliament. This is what this motion now seeks to do.

The government has a very clear view around an integrated and sustainable transport system. This Parliament has previously supported that vision for the transport system, as shown by the passage of the Transport Integration Act 2010 in February this year. That act provides for reform of all Victorian transport agencies with the exception of the port corporations. The bill we are discussing here, the one that we seek to refer, would have the effect of completing the integration of the transport portfolio by adding the state's port corporations to the Transport Integration Act.

The defeat of the bill was a missed opportunity to affirm the vital role of ports as part of the integrated transport system, a missed opportunity to improve the competitive position and the efficiencies of the port of Hastings and a missed opportunity to have a more sustainable future for Victoria's ports and more sustainable development of Hastings.

That is why the government is seeking to explore resolution. We believe this bill is important, and it is the exploration of resolution which can occur as a result of the constitutional provisions. When it comes to the importance of competition, something the opposition has misunderstood, we take the view that with this bill the competitive position of the port of Hastings would be improved. There were reduced incentives for the port of Melbourne to simply maximise freight throughput at Melbourne, and it signalled that the port of Melbourne must improve the port of Hastings. It was

about merging the strength of Melbourne's two ports to confirm the city as the premier port in Australia.

The integration of the ports of Melbourne and Hastings is about supporting jobs and supporting farmers and exports, and it is about growing our economy. It creates a clear obligation — —

Dr Napthine — On a point of order, Acting Speaker, the debate here is a very narrow one. It is about the proposed referral of a bill to the Dispute Resolution Committee. I suggest the minister is now straying further — he has strayed previously but some latitude was given, into discussing the merits or otherwise of the bill itself, which is not within the bounds of this limited debate in regard to the referral of the bill to the Dispute Resolution Committee.

The ACTING SPEAKER (**Mr K. Smith**) — Order! I agree with the point of order. Debates in this regard are very narrow, and I ask all members who will be participating in this debate to note that this is a referral to the Dispute Resolution Committee; it is not a debate on the bill. I call on the minister to continue in that fashion.

Mr CAMERON — Thank you very much, Acting Speaker. I will not dwell on those issues any more, save to say that the reason we seek to advance this is because of the importance of the vision and the importance of issues around competition and also environmental and other issues.

Going back to around 2003 you will remember, Acting Speaker, when the constitution was amended to reform the upper house — a place you came from — to provide for proportional representation. As a part of that it was envisaged that it would often be the case that the government of the day would not have a majority in the upper house. As a consequence a mechanism was put in place to have a dispute committee. The reason for that was — hopefully — to be able to resolve things. The lower house of Parliament is the superior house, but because a lower house majority may not necessarily replicate an upper house majority there needed to be another mechanism.

If we have a look at the way the Westminster world has evolved over time, we see that different arrangements have been put in place at different locations. If we go to Mother Westminster, what we saw with the resolution of disputes between the lower and upper houses earlier last century with Prime Minister Asquith was not to have a dispute resolution mechanism but to strip the House of Lords of its power, to take away its capacity over money bills and to simply put in place a mechanism whereby it could delay other legislation.

Mr McIntosh interjected.

Mr CAMERON — Sorry? They can only delay — —

The ACTING SPEAKER (**Mr K. Smith**) — Order! The minister should ignore interjections.

Mr CAMERON — In the middle of the last century that was changed by shortening those time lines. What we have done in Victoria, by going to a very democratic model of proportional representation in the upper house, is to put in place an arrangement with a dispute committee-type arrangement to try to make it clear that the lower house of Parliament, as the superior house, is entitled to have a view. But of course ultimately that view has to be settled by the Dispute Resolution Committee. Nevertheless, it is designed to afford the lower house, as the superior house, that opportunity. Certainly the principles of a government mandate were set out in section 16A of the Constitution Act when the reforms took place earlier in the decade.

The government seeks to advance this proposition so the matter can be re-examined, because we take the view, given the importance of the legislation, that to simply knock it off — to abandon it — and not have something is a very retrograde step for this great state.

Dr NAPTHINE (South-West Coast) — This motion is a desperate action from an arrogant government that is out of touch with Victoria. It is a government that simply cannot accept the decision of the democratically elected Legislative Council. In this case it is a Legislative Council that has been elected on a model instituted by this very government. The Labor government here in Victoria changed the constitution of Victoria with regard to the process of election of members to the Legislative Council. It introduced proportional representation; it introduced multimember electorates for regions in Victoria. The Labor government created the Legislative Council that it is now seeking to thumb its nose at.

The current Legislative Council model, which was created by changes to the Victorian constitution made by the Bracks Labor government, has now been put in place, and it is that Legislative Council that has examined the Transport Legislation Amendment (Ports Integration) Bill. It has done its job as a house of review, and it has rejected that legislation.

What we are seeing here is a government that is so out of touch with the community and so not listening to the

community or to the democratic process it created that it is now trying to circumvent a decision of the democratically elected Legislative Council by referring this bill to the Dispute Resolution Committee, a committee the government knows full well has a secret process which is dominated by government members. The government knows that the Dispute Resolution Committee is stacked against the interests of the democratic process and against the interests of the Parliament, particularly the Legislative Council.

The government is thumbing its nose at the Legislative Council, it is thumbing its nose at the Victorian community and it is thumbing its nose at the Westminster democratic system. Let us be absolutely clear about this: the bill was debated and defeated by the Legislative Council. Any normal Victorian would expect that when a bill is defeated by the upper house of this Parliament that the government would accept that decision. It would accept that it needs to re-examine its policy proposals and the contents of that bill, and if it wanted to pursue the matter further, it would re-examine the underlying policies and the contents of the legislation, re-write the legislation and bring forward a new bill for which it would hope to get the support of the opposition, and if not the support of the opposition, then the support of the minor parties in the Legislative Council.

But this is an out-of-touch and arrogant Brumby Labor government that has stopped listening to the Victorian community. Rather than listen to the upper house and rather than listen to the Victorian community on this issue, what it is saying is, 'What we will do is send this off posthaste'. The bill was only defeated on Tuesday, and less than two days later, instead of considering the implications of the decision of the Legislative Council and weighing up its policy options, instead of weighing up the points raised by the various members in this house and in the other house in debate on the bill, instead of considering that valuable input from members of Parliament and then reconsidering its position on this issue, the government has said, 'We are right. The Legislative Council is wrong. Everybody else is out of step. Let us crash this through. Let us bully our way through the Dispute Resolution Committee, because our way is the only way forward and everybody else is out of step'. That is why this government is not listening to the community and is fundamentally thumbing its nose at it.

The government should stop, take time and listen to the community of Hastings, which has concerns about this legislation; it should listen to the community of port users and stakeholders who have concerns about this legislation; and it should listen to what people are saying about this legislation to ensure that it makes the right policy decision with regard to the future of the port of Hastings rather than trying to crash and bully through using the Dispute Resolution Committee (DRC) in this way. The fact is that this bill was debated in the upper house and it was defeated. It is dead, deceased, desiccated, decaying, decrepit — —

Mr Robinson — That is a Monty Python skit; come on!

Dr NAPTHINE — No, the member for Box Hill does that Monty Python skit much better than I do.

What the government is now trying to do is dredge up from its watery grave at the bottom of the harbour this dead and defeated bill and ram it through against the interests of the community using the dispute resolution process. This is not a disputed bill; it is a defeated bill. It is a bill defeated by the democratically elected Legislative Council, which is based and elected on the model introduced by this Parliament under the Bracks Labor government.

The bill itself — and I will only refer in passing to its contents — proposes one major policy proposition, and that is that the Port of Hastings Corporation should be abolished and taken over by the port of Melbourne. As a consequence, the prospect of sensible and much-needed development of the port of Hastings, including container facilities, will be delayed until at least 2035. That proposition was put to the Legislative Council and defeated. The bill was rejected and the Legislative Council said that it does not have the support of this Parliament. It does not have the support of the community of Hastings. It does not have the support of broad stakeholders in the import and export business or port users in this state.

This bill fundamentally continues a litany of broken promises, poor decisions and ill-conceived plans for the port of Hastings under the Labor government, whether it be the broken promise on Crib Point or whether it be the rail lines. We are not going to discuss the bill itself; what we are going to say is that we agree with the government that we need real action to develop the port of Hastings. We need competition at our ports and we need to stop the overcrowding of the port of Melbourne area, but this entire process — —

Mr Lupton — On a point of order, Acting Speaker, I refer to your former ruling and ask the member to be brought back to the point of this motion.

The ACTING SPEAKER (**Mr K. Smith**) — Order! I understand that. I uphold the point of order but

I know that the member for South-West Coast was in fact getting back to debating the issue before the house.

Dr NAPTHINE — Absolutely, because I respect the Acting Speaker's ruling on this. I would love to spend more time debating the actual merits of the proposals in the bill, but let me talk about the process.

One of the fundamentals is that throughout this entire process — the introduction of the bill in this place, the debate, the transmission of the bill to the other house, the second-reading debate and its adjournment there, and the finalisation of that debate this week, at which point the bill was defeated — the Minister for Roads and Ports has not made one telephone call to me as shadow minister for ports to discuss this issue. He has not knocked on my door. He has not approached me personally in the house. He has made no effort whatsoever to consult with me, the shadow minister for ports, or with the coalition with respect to trying to seek a resolution to what appears to be a difference of policy on this issue.

Mr Robinson — That's what we're doing!

Dr NAPTHINE — Minister Robinson interjects and says that is what the government is doing, but that is not what it is doing. What it is doing is saying — without fair and reasonable consultation; there have been no efforts to consult prior to this — 'Let's go to the Dispute Resolution Committee', because it knows the numbers are stacked on the committee. It is a stacked committee; it is a secret process in which Labor has the numbers. You will see the bullyboy Labor tactics rolled out there, just the same as we have seen in Canberra. The faceless factional warlords and heavyweights, the union bosses rolling it out — —

Honourable members interjecting.

The ACTING SPEAKER (**Mr K. Smith**) — Order! Back on the motion before the house, thank you.

Dr NAPTHINE — What we are seeing is obviously the faceless factional warlords, heavyweights and union bosses ordering the government and the minister to bulldoze this off to the DRC where the government can bully its way through and not listen to the community, the people of Hastings, the stakeholders or port users in this state.

This is a motion that should not be supported. This is a motion that is contrary to common sense, because common sense says that when you have a Westminster system of Parliament with a lower house and an upper house and the democratically elected upper house defeats a piece of legislation, that bill should be defeated, and the government should reconsider the propositions it has put forward in that legislation and bring forward new legislation rather than trying to resurrect a dead bill through a secret process of dispute resolution.

Let me say that when the constitution was debated in this house and the other house, this process was part of the constitutional changes but we saw little or no attention given to it. It was not raised in the speeches made during the second-reading debate in this house or in the other house by either of the government's lead speakers of the day. It was raised very briefly in the committee stage of the bill in the upper house. The fundamental view put by the Labor Party with respect to this proposition was that the dispute resolution process would be rarely used. It said it would be used only in extreme circumstances, that it would not be a process we would ever expect to have to rely upon.

We are now seeing the standard practices of the Brumby Labor government, which is renowned for bullying people who oppose it and for trying to steamroll its way through. Its members think they are right on everything they say and will not listen to any other point of view. If there is any opposition in the Parliament to their proposals, they threaten the dispute resolution process or they proceed with a motion like this to force things through the dispute resolution process. As Labor Party operatives their modus operandi is bullying, heavying and forcing people to do what they want. It is the same situation as we have seen in Canberra with the factional heavyweights, the faceless people — —

The ACTING SPEAKER (**Mr K. Smith**) — Order!

Dr NAPTHINE — The faceless factional leaders, the faceless union bosses, the undemocratic — —

The ACTING SPEAKER (**Mr K. Smith**) — Order!

Dr NAPTHINE — The thugs and the bullyboys of the Labor Party, and that is what we are seeing in this process with this motion. We are seeing the typical Labor Party thug and bullyboy approach to democracy. Rather than allowing the democratic processes of the Legislative Council and respecting its decision to defeat a piece of legislation — a move respected by this house, by the Parliament and by the people of Victoria — the Premier and his union mates, the thugs and bullyboys of the Labor Party, are rolled out to thumb their noses at the Parliament, the Legislative Council, the people of Victoria, the people of Hastings,

the stakeholders and the importers and exporters who want genuine competition and a better port system in this state.

That is why I oppose this motion. It is fundamentally wrong; it is a fundamental anathema to democracy in this state, and it should be defeated.

The ACTING SPEAKER (**Mr K. Smith**) — Order! I call on the member for Prahran, who understands the importance of sticking to the motion before the house.

Mr LUPTON (Prahran) — It is a great pleasure to rise in support of this motion. It is very interesting to follow on from the member for South-West Coast and the extraordinary and outrageous contribution he just made. It is only fair to say that he saved the house from half of his potential speaking time, and for that we are grateful! The important issue before the house today is the way in which we are able to progress the potential passage of the Transport Legislation Amendment (Ports Integration) Bill 2010 using the constitutional processes of this Parliament. We seek to resolve the dispute between the two houses of Parliament in relation to this important piece of legislation through the Dispute Resolution Committee process established under our Constitution Act. Under section 65C of the Constitution Act, the motion seeks that a message be sent to the Legislative Council informing the chamber that this bill is referred to the Dispute Resolution Committee.

The constitutional basis for this referral motion has been established through the fact that on 27 May the bill was passed by the Legislative Assembly and was transmitted to the Legislative Council where it was second-read, also on 27 May. On 10 June there was debate on the bill in the Legislative Council and a motion was moved to defer the debate for one week. After resumption of the debate on 22 June the house divided on the second-reading of the bill, and as has been noted by the Minister for Police and Emergency Services, the Liberal-Nationals coalition and the Greens voted against the bill, so it was defeated in that chamber. Because the bill has been passed by the Assembly and defeated by the Council, the Constitution Act provides a mechanism to refer the disputed bill to the Dispute Resolution Committee.

We have a situation where the opposition has opposed all matters that have so far been referred to the Dispute Resolution Committee under our constitutional processes. To that extent it has been consistent through a period of time, just as it is opposing this motion today. Notwithstanding the fact that the Dispute Resolution Committee may resolve a particular course of action through its deliberations, the Legislative Council ultimately has a decision to make on the basis of any recommendation that comes out of the Dispute Resolution Committee. Within a certain number of sitting days of a dispute resolution being arrived at the Legislative Council, as well as the Legislative Assembly, has to deal with the matter and make a decision about whether to accept or reject the outcome of the Dispute Resolution Committee process.

The way in which the Legislative Council deals with that has up until now been to accept the resolution of the Dispute Resolution Committee. Frankly, that has been because the Dispute Resolution Committee process has worked effectively. That may not always be the case; nonetheless, our experience to date has been that that is the case.

If the Legislative Council ultimately decides not to accept or act in accordance with the Dispute Resolution Committee recommendation, then that is a matter for that chamber. It ultimately means that the disputed bill becomes a deadlocked bill, and the constitutional processes that flow from the existence of a deadlocked bill mean that theoretically that bill could be introduced after an election and passed by a joint sitting of both houses.

That is the constitutionally enacted process for resolving disputes between the two chambers in our system, and in that sense it is very similar to the type of arrangements that apply under the federal constitution, which has a process for joint sittings to deal with disputed bills. To say that the dispute resolution or deadlock-breaking process of the Dispute Resolution Committee is in some way unknown or contrary to the Westminster system is completely incorrect. For the opposition to continue to promote this notion in this place is completely misplaced.

It really shows that the opposition has not been able to come to grips with the constitutional reforms that were enacted after 2002. The opposition has not been able to come to terms with the way in which the newly constituted Parliament, with a proportional representation basis for election to the Legislative Council, has changed the way in which relations between the two houses operate. That is the constitutional basis upon which we operate now in Victoria. That is the foundation of our constitutional democratic process. To come into the chamber and rail against what is our constitutionally enacted process in Victoria really shows that the opposition is in many ways living in the past. It is not in tune with the way in

which our constitutional processes work. It is just another example of how the opposition is not fit to govern this state.

We are dealing with legislation that will benefit from the Dispute Resolution Committee process. Whether it ultimately leads to an agreement between the members of the Dispute Resolution Committee or ultimately leads to the Legislative Council agreeing to this bill, either in its current form or in any other form that emerges from the process of the Dispute Resolution Committee, this is the process that we have under our constitution in Victoria. It is a process that is designed to facilitate agreement between the houses after there has been a dispute, facilitate the passage of good legislation, facilitate the improvement of legislation and overcome disputes and deadlocks between the political parties and between the houses. For those reasons it should be supported by this chamber.

Mr McINTOSH (Kew) — From the outset can I say that I support the member for South-West Coast in my opposition to the referral motion. I also point out from the outset that the opposition does not accept that this bill amounts to or can amount to a disputed bill. It is the opposition's contention that as a matter of constitutional interpretation it is a rejected bill from the upper house which cannot ever constitute a potential disputed bill. It has been defeated by the upper house. This is a fundamental tenet that we have raised on a number of occasions in relation to this matter, and we do not accept the constitutional parameters.

However, we also accept that the Speaker has formally ruled on this matter. We accept that ruling as constituting the nature of this debate, but certainly from the outset we will make sure it stays on the record that we do not accept that a rejected bill from the upper house could ever amount to a disputed bill. As the member for Box Hill has so eloquently and cogently said on other occasions, it is a dead parrot once it is rejected by the upper house and cannot be proceeded with any further.

In relation to this matter I refer to the words of the Leader of the Government in the Legislative Council in the committee stage of a bill that was really the only substantial discussion about this dispute resolution process that has taken place in either house. During the course of the discussion about this process the Leader of the Government in the other place indicated that it would be used 'sparingly'. 'Sparingly' would suggest that it would not be used that often and only in dire circumstances.

In the course of this Parliament this is the fourth bill that has come before the house with a referral motion. I had a great deal of involvement with the Police Regulation Amendment Bill when it was introduced by the Minister for Police and Emergency Services. It was ultimately defeated by the upper house, but while it languished there for a number of months substantial negotiations were going on between me and other members of the opposition with representatives of the government. There were a number of formal meetings and informal discussions in the corridors and elsewhere between me and the minister occasionally, but there was nothing about substance or any great detail in relation to the bill. Those formal meetings were discussions between me and other representatives of the opposition, members of the bureaucracy, the chief of staff to the minister and the parliamentary secretary. We went through the detail of a long and extensive bill over a number of meetings. My recollection is that some 8 to 10 meetings took place over that two or three-month period.

During the discussion of those matters a great deal of detail was discussed even before the issue of dispute resolution arose, but not once at any of those formal meetings did the minister turn up to discuss any of the details of the bill, notwithstanding the fact that those discussions continued for a number of months. Right in the middle of it the minister put on the notice paper that he wanted to refer the Police Regulation Amendment Bill to the Dispute Resolution Committee. The minister wanted to use that as a mechanism to whack us over the head — to drive an outcome in relation to the bill.

Ultimately those discussions came to nought and the minister withdrew the motion because he knew the bill was completely unpalatable to the Victorian community. It was a dud bill. It was not a deadlocked bill, it was not a disputed bill, it was just a completely dud bill, and the matter has, of course, evaporated completely. As a result of a number of discussions and notwithstanding that they are continuing, the minister decided to use that mechanism as a whack over the head, a sledgehammer to get this bill through by trying to refer it to the Dispute Resolution Committee. As I said, that action did not proceed and the bill was withdrawn because it was completely unpalatable to the community.

Two other bills — the Planning Legislation Amendment Bill to establish the development assessment committees bill, or DAC bill, and the Planning and Environment Amendment (Growth Areas Infrastructure Contribution) Bill, or GAIC bill — were referred to the Dispute Resolution Committee. That happened in the last 12 months, and this is the third bill

inside 12 months that is being referred to the committee.

The worst part about this procedure is that, contrary to the tradition of a parliamentary democracy, we have a body that has to meet in secret, which makes it almost impossible to adhere to those rules. For example, in relation to the GAIC bill, which took an enormous amount of negotiation, the minister was not a member of our committee and we had to make special arrangements for the minister to talk to us. The shadow Minister for Planning was not a member of that committee either, and again it comes down to matters of complete detail, and there has to be some latitude with respect to secrecy because it is unworkable in a true parliamentary democracy.

There are key stakeholders in relation to these matters who need to be spoken to about the detail of the bill, and that potentially transgresses the idea that this is a secret process. It is an absurd process, and the secrecy notion is completely ridiculous as a mechanism for resolving these sorts of disputes.

I am indebted to the member for Box Hill, because with his knowledge of planning and as the opposition spokesman on planning in the lower house he was able to provide adequate details on the DAC and GAIC bills. What concerns me is that with the Transport Legislation Amendment (Ports Integration) Bill now being referred to the committee there will be no opposition members directly responsible for that bill on that committee. We would have to breach the secrecy provisions to be able to discuss the details and potential amendments or changes to that bill that may come about as a result of the dispute.

The reality is that the government is using this process as a mechanism to bludgeon not just the opposition but also the minor parties. As well as the opposition the Greens voted against this bill. On other occasions the Democratic Labor Party has joined us in relation to other bills that it has opposed. It is a mechanism for the government to bludgeon the opposition, including the minor parties, into accepting its will. That is undemocratic in the extreme and can lead to perverse outcomes, as we saw in relation to the DAC bill. A resolution was achieved but we had to come back at the very death knock because the government draftsmen had made an error in the bill and that had to be corrected.

That was a matter of profound concern because if we do not get it right we only get 30 days to correct it. If that is the resolution, then it is the one that has to go to the house and that the house has to pass. Whether it is good, bad or indifferent, with or without mistakes, it cannot be corrected and must be adopted by both houses of Parliament. The short time frame creates real problems for members on the committee and for the parliamentary draftsman of the bill. It is important that we get that right, but the time frame is much too tight and potentially can cause problems in the proper drafting of these bills.

We have a significant problem with this process. It is dealt with in secret. We say it is also a matter of constitutional concern, that a bill rejected by the upper house should not be a disputed bill. We accept the Speaker's ruling in relation to that matter and that is why we are debating this today. On top of that, the whole process is dominated by the government. It has the numbers and basically it can do whatever it likes, use whatever process it likes and technically — and I hope this does not happen in the case of this bill — it does not even have to call a meeting because there is no mechanism whereby we can demand a meeting. If we get to the end of the 30 days without reaching a resolution, that can mean that it is a disputed bill, which can lead to a dissolution of both houses of Parliament as provided for in the constitution.

All in all, this is a mechanism that has demonstrated an utter failure by the government to properly communicate with the other democratically elected parties in accordance with the constitution in relation to this bill. I am not aware of any substantial negotiations between the government and the opposition or any minor parties on this bill in an effort to get it through between this place and the other place.

It is a clear demonstration that the government will use its numbers to merely bludgeon through whatever it feels is correct. That is the most undemocratic process. It is contrary to the traditions of this place and the Westminster system, and to say they are doing wonderful things for the benefit of Victoria is a clear falsehood that should not be adopted in support of this motion. Accordingly, I will certainly be voting with the member for South-West Coast and the opposition to oppose this motion.

Mr INGRAM (Gippsland East) — I rise to speak on the motion before the house. It is an interesting process that our Parliament has to resolve disputed legislation. I note some of the interesting commentary around this motion. I followed in some detail the debate in this and the other chamber on the bill that is being referred. I supported the legislation here, and I did that because I did not believe the conviction of the coalition parties in that debate. There seemed to be two sides to the debate here. One followed closely along the lines of

the Greens' argument, opposing any development of the port of Hastings, and there were also arguments that it should be developed faster and add competition.

There are a range of different processes in different parliaments for dealing with situations of this sort, and the motion before the house reflects the way our Parliament has chosen to deal with them. I note that if the member for South-West Coast had had his way when upper house reform was being debated, there would not be an upper house at all and this bill would now be law. Another interesting point that needs to be made is that members and parties in this place, the opposition and government, seem to use particular arguments to justify their taking a position on this — —

Dr Sykes — Don't you?

Mr INGRAM — All members of Parliament do; that is fine, but there has to be credibility behind those arguments. I think the question that needs to be asked is: when the coalition is in government, will it use this process and will it refer bills that are voted down in the upper house to the dispute resolution process? That is the critical question. This is the process this Parliament has adopted to resolve disputed bills. If the committee recommends a particular course of action and the upper house is still minded to oppose the legislation at that stage, that is democracy. That is a decision the upper house will, or can, take at that time. Clearly it is unlikely that any government would then throw the question open to the people and say, 'We are going to the polls on the back of this'. It is extremely unlikely that that would happen with a piece of legislation like this. This is part of the process of asking how does the government get legislation through the Parliament when it is knocked back in the other place. If the other place then decides it still stands by its decision to refuse the legislation, that is the democratic process we have and that is what should be supported.

I support the concept of referring these matters to the Dispute Resolution Committee. That is the process we have to resolve those pieces of legislation on which the upper house decides as it did. With those words, I will support the motion.

Mr ROBINSON (Minister for Gaming) — I am pleased to make a brief contribution in support of the motion. I have listened closely — —

Mr McIntosh — We did a deal.

Mr ROBINSON — Well, hold on — —

The DEPUTY SPEAKER — Order! The minister should just continue, quickly!

Mr ROBINSON — Talk about bullying! Goodness me! Talk about bullying behaviour: trying to gag a member for making a — —

Honourable members interjecting.

The DEPUTY SPEAKER — Order! The minister, through the Chair.

Mr ROBINSON — We have seen a bit of froth and bubble from the other side in this debate, but not much in the way of substance. If I remember correctly, at the time of reforming the constitution to establish the Dispute Resolution Committee, there was debate in the Parliament. I remember recently having a look back at the contributions of members during that debate, and I struggled to find any criticism from those opposite about the need for, the justification for or the value of establishing a Dispute Resolution Committee.

To take the point made by the preceding speaker, the member for Gippsland East, the circumstances confronting Victoria through the reforms of the voting system for the upper house mean that, in future, Victorian parliaments are more likely to comprise upper houses in which the party having a majority in the lower house does not have the numbers. That is the logical outcome of the reforms introduced in this state, so the disgraceful situation that existed in the 1990s when the then Kennett government was able to use the upper house, where it had the numbers, to rubber-stamp legislation without any consultation or criticism is not likely to be repeated. The likelihood of circumstances, therefore, in which legislation passed by the lower house is rejected by the upper house is increased. That is why at the time the constitutional debate took place we established the Dispute Resolution Committee, and that is why members opposite in their contributions to that debate at that time did not oppose that structure and that development. Its design — —

Mr Clark interjected.

Mr ROBINSON — The member for Box Hill can go through — —

Mr Clark interjected.

The DEPUTY SPEAKER — Order! The minister should ignore interjections and speak on the motion.

Mr ROBINSON — The record will show there was no commentary on the Dispute Resolution Committee.

Honourable members interjecting.

The DEPUTY SPEAKER — Order! The member for Kilsyth is out of his seat and out of order.

Mr ROBINSON — The process allows the Parliament to resolve impasses. That is what Victorians expect this place to do: where impasses emerge, the Parliament will find the means to resolve those impasses. That is what Victorians think this place should be about. That is why it is a valuable process. I served for a little while on that committee when I was a parliamentary secretary, and I understand there will be some give and take through that process, just as there has been give and take with other similar processes. For a while the Legislative Council had a Legislation Committee where members could be involved.

I went along once in relation to a liquor bill. We were able through that process to reach a reconciliation of views. The Parliament needs those mechanisms to deal with those circumstances. It is a bit disingenuous of the other side, having accepted the reality of a dispute resolution committee, to then disown it. It is a committee of the Parliament which deserves respect, not contempt. To hear the member for South-West Coast in his contribution — and the member for South-West Coast is probably the third opposition party, because his views are very much his own views, not opposition views — denigrate that committee and the way it operates is appalling. It is a committee of the Parliament which deserves respect. It exists for the purpose of resolving impasses such as the one we have. The motion by the government to refer to that committee a bill which has been the subject of differences of opinion is perfectly reasonable, and for that reason the motion should be supported.

House divided on motion:

Ayes, 49

Andrews, Mr
Batchelor, Mr
Beattie, Ms
Brooks, Mr
Cameron, Mr
Campbell, Ms
Carli, Mr
Crutchfield, Mr
D'Ambrosio, Ms
Donnellan, Mr
Duncan, Ms
Eren, Mr
Foley, Mr
Graley, Ms
Green, Ms
Hardman, Mr
Harkness, Dr
Helper, Mr
Hennessy, Ms
Herbert, Mr
Holding, Mr
Howard, Mr
Hudson, Mr
Hulls, Mr
Ingram, Mr
Kairouz, Ms
Langdon, Mr
Languiller, Mr
Lim, Mr
Lobato, Ms
Lupton, Mr
Maddigan, Mrs
Merlino, Mr
Morand, Ms
Munt, Ms
Nardella, Mr
Neville, Ms
Noonan, Mr
Pallas, Mr
Pandazopoulos, Mr
Perera, Mr
Pike, Ms
Richardson, Ms
Robinson, Mr
Scott, Mr
Seitz, Mr
Stensholt, Mr
Trezise, Mr
Wynne, Mr

Noes, 31

Asher, Ms
Baillieu, Mr
Blackwood, Mr
Burgess, Mr
Clark, Mr
Crisp, Mr
Delahunty, Mr
Dixon, Mr
Fyffe, Mrs
Hodgett, Mr
Jasper, Mr
Kotsiras, Mr
McIntosh, Mr
Morris, Mr
Mulder, Mr
Napthine, Dr
Northe, Mr
O'Brien, Mr
Powell, Mrs
Ryan, Mr
Smith, Mr K.
Smith, Mr R.
Sykes, Dr
Thompson, Mr
Tilley, Mr
Victoria, Mrs
Wakeling, Mr
Walsh, Mr
Weller, Mr
Wells, Mr
Wooldridge, Ms

Motion agreed to.

ELECTORAL AMENDMENT (ELECTORAL PARTICIPATION) BILL

Second reading

Debate resumed from 10 June; motion of Mr HULLS (Attorney-General).

Opposition amendments circulated by Mr CLARK (Box Hill) pursuant to standing orders.

Mr CLARK (Box Hill) — The Electoral Amendment (Electoral Participation) Bill is a bill to make a range of changes to electoral law, including authorising the Victorian Electoral Commission to enrol voters based on information obtained by the VEC and allowing unenrolled voters to enrol and vote on election day.

It should go without saying that Australia for more than a century has been the beneficiary of a strong democracy. Australia and Victoria have been amongst the longest continuous democracies in the world. We have certainly benefited from the high levels of participation in the electoral process in Australia and in Victoria, and it is desirable for as many Victorians as possible both to be enrolled to vote and to be engaged in and participate in the democratic process. That, of course, includes encouraging each new generation of voters to become involved in the democratic process. However, in doing so it is also important to ensure that our electoral laws operate fairly, impartially, accurately and reliably and that we avoid creating the risk of the sort of electoral turmoil and disputes that we have seen

overseas in recent years, even amongst some well-established democracies.

It is in those latter respects that the coalition parties have some serious concerns about a number of the provisions in this bill. Furthermore, given that this bill is the last opportunity the Parliament is likely to have prior to the election to address electoral matters in general, it is the view of the coalition parties that the Parliament could and should be taking this opportunity to address a range of other issues that are outstanding in respect of the proper functioning and the improved functioning of our electoral system — for example, ending the continued outrage at taxpayer-funded government advertising running incessantly and, in particular, running through election periods. It is an absolute affront to democracy that one side of the political debate can be abusing its office, abusing public funds and skewing the electoral system by using public funds to campaign for its side in the election to the disadvantage of all other participants in the electoral process. That is one glaring failure of our current electoral laws that could and should have been addressed in this bill.

Let me consider the provisions of the bill in more detail. The bill authorises the Victorian Electoral Commission of its own initiative to give notice to a person who was entitled to enrol at age 17 years who turns 18 without enrolling, based on information obtained by the VEC using its existing powers under the act to obtain information from various bodies. The coalition parties understand that if the bill is passed in its current form, the VEC intends to use data that it will obtain from the Victorian Curriculum and Assessment Authority (VCAA) to enrol people prior to the November election and that it intends to use only data obtained from that source.

As part of that package of changes the bill also requires the VEC, after it has given notice to a person of its intention to enrol that person, to then proceed to enrol the person unless the person within the period specified in the VEC's notice, which has to be a period of not less than 14 days, advises the VEC either that they are not entitled to be enrolled or that the proposed enrolment details are incorrect. If the person gives a notice back to the VEC with changes or objecting to enrolment, the bill nonetheless requires the VEC to enrol the person with any necessary corrections unless the VEC is satisfied the person has provided a valid reason not to enrol.

The bill provides that if the VEC gives notice proposing to enrol a person, the VEC can no longer prosecute the person for failing to enrol. The bill also removes the requirement that for a person to vote the address at which the voter is enrolled must have been the voter's principal place of residence during the three months prior to election day. The bill allows postal votes postmarked on the Sunday following election day to be counted if the declaration was witnessed on or before election day. We understand that this practice is already followed by the electoral commission under guidelines and procedures that it has issued. Nonetheless, this measure does raise some issues that perhaps deserve some further exploration.

The bill allows a person to cast a provisional vote if they claim to be entitled to vote and if their name cannot be found on the roll if they complete an enrolment and declaration form and provide either the prescribed identification or the name of what the bill refers to as a service provider prescribed for the purpose of enabling identification.

The bill broadens the list of voters who can vote electronically to include those with motor impairments or insufficient literacy skills and provides for auditory assistance and touch screens for electronic voting.

The bill allows Legislative Council candidates to amend their grouping request at any time before noon on the day before final nomination day. The bill makes it mandatory for Legislative Council candidate groups to lodge group voting tickets, whereas at present it is optional for them to do so.

The bill requires the VEC to publish copies of how-to-vote cards on its website, and it removes the requirement for electoral authorisation for a letter or card that bears the name and address of the sender provided that letter or card contains no representation of a how-to-vote card.

The bill proposes that the various provisions contained in it will commence on a day or day to be proclaimed but no later than 1 July 2011.

Members of the coalition parties appreciate the detailed information provided to them and/or the discussions they have held with the Victorian electoral commissioner, the privacy commissioner and departmental officers. That information has helped clarify a number of aspects of the bill and how it is planned that various aspects of the bill will be administered if they are enacted in their present form.

However, notwithstanding those discussions, the coalition parties have a number of serious concerns about various aspects of the bill, particularly in relation to the automatic enrolment of some voters, the abolition of the three-month rule and the provisions to allow

people who are not enrolled prior to election day to turn up and enrol and vote on election day.

Members of the coalition are also concerned that the government is proposing to give itself an open-ended power to pick and choose which of the provisions of the bill are brought into operation prior to the forthcoming election and which provisions are not brought into operation before then.

In relation to the provisions for automatic enrolment without the consent of the person concerned in certain circumstances, this raises issues at a number of levels. The bill gives a general discretion to the Victorian Electoral Commission as to which sources of data it uses for this purpose. As I mentioned earlier, we understand the electoral commission intends to use data from the VCAA and from no other source to enrol people prior to the forthcoming November election if the bill is enacted in its present form.

There is an issue of principle about a mechanism that can provide for the automatic enrolment of some authorised voters and not others using data drawn from some sources but not others. We are certainly not suggesting there is any deliberate bias or objective of political discrimination in the way these provisions would be used by the VEC. We fully accept that the VEC is seeking, entirely legitimately, to encourage as many eligible people as possible to be enrolled and to vote. Nonetheless, I think great care needs to be exercised in the way data sources are selected or omitted to ensure that discrimination against certain classes of voters does not occur.

There are two particular aspects, one arising from the bill itself and the other arising from the proposed implementation of the bill. The bill relates only to automatic enrolment of young voters. As I said at the outset, it is certainly a legitimate objective to encourage each generation of voters to take their place in the democratic process. However, the bill does not provide, for example, for similar procedures for the automatic enrolment of people from other groups who have not enrolled, such as migrants who have newly become Australian citizens.

In relation to young people, the bill will draw data from the VCAA which has been recorded primarily for the purpose of their completing their secondary education. That will have the effect of not enrolling those young people who have entered the workforce early or who have left school for any other reason.

There are also some serious logistical issues about how this process is going to operate, particularly in the case of young people who do not respond to the notice they receive from the commission. One of the consequences relates to those who, for whatever reason, never receive the letter from the VEC; for example, because it was sent to the wrong address and the recipient binned it or it was redirected and went astray or was set aside to be handed over to the young person and was never given to them. If the young person does not find out about the notice, then the VEC never receives the letter or has the envelope returned to sender and the person is enrolled. That could end up with them receiving please explain notices for not voting or potentially fines for not voting.

Mr Lupton interjected.

Mr CLARK — They will be enrolled — to respond to the interjection from the member for Prahran — and at least in principle they would be liable to be fined for not voting. However, the VEC has stated to us that if it sends out a please explain letter and that is returned to sender, the commission does not normally proceed to seek to impose fines.

The more worrying aspect beyond the potential for being fined is the potential for people to have their names placed on an electoral roll which becomes publicly available without them having any foreknowledge that that is going to happen and any opportunity to ask that it not happen. It will also be based on data they will have provided for a completely different purpose. The bill even suggests that the VEC is required to enrol persons if the notice is returned undelivered, although the VEC says it does not intend to do that.

The risk is that a young person may give data to the VCAA for the purpose of their school studies and then find that, without notice to them, that information has been used to place them on the electoral roll. It may be that in the vast majority of cases they take no exception to that; they may understandably regard it as a convenience that someone has done the work of enrolling for them, but the fact that this step is being followed raises issues of both principle and potentially serious practical consequences.

We put a lot of effort into encouraging young people to be careful in the way they hand out their personal data to other people. There are numerous warnings in news bulletins, current affairs items, government statements and statements by relevant officials that young people should be careful, for example, about what information they put up on Facebook and other social networking websites because they can never know how that information might be misused. Yet here we are officially saying, ‘You have given your data to the

VCAA for the purpose of your studies, and lo and behold, we, the authorities, are going to take that data and use it for a completely different purpose without having obtained your prior consent'.

That is a serious issue of principle, and it goes to privacy law, the Information Privacy Act and the information privacy principles. This is a very complex area, but I think it is fair to say that the underlying objective of the principles is very straightforward — that is, that when data is collected from people it should only be used for the purposes for which it is collected or for any other purposes to which the person from whom it is collected knowingly consents, and there must be appropriate measures in place to ensure that the data is accurate and the person concerned has an opportunity to correct it if it is inaccurate.

Both the VEC and the privacy commissioner seem to be relatively sanguine about how the mechanisms in the bill are going to work, but I think they are placing a lot of faith in administrative procedures which may not work properly. To cut to the core of the issue and give a very concrete example, the risk that one has to address is that a young person, perhaps in a context of family violence and perhaps living away from one parent with another parent or even living away from both parents and fearing potentially violent consequences either for themselves or for other members of their family, has given information to the VCAA for their studies and that information is then given to the VEC and ends up being placed on an electoral roll without that person knowing. That young person might not know they have been put on the roll because for some reason they have not received the notice, and yet that information can be used to track them down or track down other members of their family.

It is argued that there is a public interest in enrolling people to vote which perhaps has to be balanced against that risk. But anyone making a judgement call like that needs to make sure they have got it right, because they do not want to find a young person or members of their family exposed to violence or other adverse consequences because the system has broken down. We are concerned that the checks that are proposed are not going to be adequate for that purpose. The electoral commissioner is, I understand, planning to alert people to the opportunity to seek to be a silent voter. There will also be special measures taken if another family member at the same address is already a silent voter. Over time the VCAA is going to change its own privacy notice to alert people to the intended use of the data.

At the least this shows that there is perhaps an undue rush to get this measure in place, because for the current year the data from the VCAA that is going to be used will not be data for which the young person concerned has given any amended consent. No-one has suggested to us that the current consent notification given to young people by the VCAA is adequate to alert them to what is going to be done. The data can at present only be given to the VEC for very limited purposes which the scope of this legislation goes far beyond. If this provision is to continue, at the very least it should only be done on the basis that the young person at the time of giving their data to the VCAA or to any other data source has explicitly had drawn to their attention the intended purpose and has had an opportunity to indicate if that is going to cause problems. There is certainly no assurance that that mechanism is being put in place in relation to the intended use of this data in the short term. That is a major concern.

This measure is also going to have the consequence that young people who are automatically enrolled under this new procedure will be enrolled as state voters only and not as commonwealth voters, because the procedure will not meet commonwealth electoral enrolment requirements, and that is going to create an undesirable discrepancy in the electoral rolls. It may also set an unfortunate precedent for other future uses of the student number allocated by the VCAA.

For all of those reasons we believe it would be far better for the VEC to use the data sources available to it to precomplete an enrolment form for a young person, or for any other prospective but unenrolled voter, that includes the data the commission thinks is appropriate for that person. It could then send the form to that person and invite them to sign and return it. In the vast majority of cases that will be a useful service for the young person or other voter concerned; it will give them a crucial opportunity to check their data and give their knowing consent. Of course it will also help them because it will mean they are not just passively on the electoral roll but being proactive as a citizen in taking part in the electoral process. It will also ensure consistency with commonwealth enrolment requirements. One of the amendments I have circulated will achieve that result.

The next area to discuss is the proposed abolition of the three-month rule. The consequence of that, if the amendment proceeds in its current form, is that people will be able to continue to vote in an election based on an address in an electorate in which they no longer live and have not lived for some time, and that seems completely unacceptable. The law still requires them to change their enrolment when they change address, but

there is no procedure for checking for incorrect enrolments when people vote. In the second-reading speech the government claimed that this provision was based on a recommendation of the Victorian Electoral Commission, but when one looks back to the commission's report on the 2006 election, which was cited as the source, one finds that in fact it suggested two options: either to abolish the three-month rule or to exempt the rule from applying to electors on the roll who move within their electorate without updating their enrolment.

To make matters worse in terms of misrepresentation and lack of candid disclosure by the government, the report of the Electoral Matters Committee on this issue at recommendation 4.1 states:

> The Victorian government amends the Electoral Act 2002 (Vic) to exempt electors who change residential address (but remain within their existing electorate) without updating their enrolment.

In other words, the Electoral Matters Committee, on which government members have a majority, recommended the second of the two options put on the table by the VEC — and that seems to us to be the better way to proceed. There have been arguments about, for example, students who come from the country to live in the city or people who have returned from overseas. However, that is more an issue about the definition of what is the appropriate address for enrolment rather than what you do about people who do not update their enrolment in accordance with the enrolment requirements. One of the amendments I have circulated will give effect to the option recommended by the Electoral Matters Committee rather than the option moved by the government.

I turn now to the issue of election-day enrolments, and again there are a range of concerns. One of those is the potential for fraud. As I said at the outset, there are two options for people to prove their identity under the government's proposal. One is to provide a form of identification such as a drivers licence and the other is to simply cite a so-called service provider, which can be used to verify an address. That will be a body like a local council or an electricity provider. What in upshot that means is that the VEC will simply be confirming that a person of the nominated name lives at the nominated address, because that is all a local council or electricity provider will be able to confirm. This suggests the identification requirements are quite lax.

The VEC is of the view that this is not going to be a problem in practice, and it argues that it is easier to impersonate someone who is an enrolled voter than to impersonate an unenrolled voter. Be that as it may, intuitively it seems to lack appropriate checks to allow someone to simply wander into a booth and assert that they are a particular person who lives at a particular address and not be able to verify they are that person. One of the consequences of the mechanism in the bill is that if a person enrols on election day using identification like a drivers licence, then they will go onto the commonwealth roll, but if they use the cited service provider they will not. This is yet another source of roll discrepancy between the state and the commonwealth, which is highly undesirable.

Another problem with election-day enrolment is that by definition up to that point the person has not been enrolled. It means that while they are able to cast a vote, they will not have been on the roll for the purposes of their being engaged in the democratic process. One of the reasons for having a roll and making it public is so that those who want to solicit votes, be they party candidates or independent candidates, can identify who is going to be voting at the election and can put their message to them. That is an important part of being an active participant in the democratic process rather than simply being someone who casts a vote on the day. You expect people to turn their minds to whom they are going to cast their vote for — to take advantage of living in a democratic society and to participate in that process. That is not possible if they are not on the roll and therefore cannot be contacted by those who want to seek their vote.

The final concern I will mention, and in some respects it is the gravest one, is that over time this seems to have the potential to encourage the general attitude that it does not matter whether we update enrolment details prior to an election because we can always roll up to the polling booth on polling day and cast a vote even though our names have previously been struck off the electoral roll or we have not got around to enrolling when we moved from another state — or whatever the reason might be. I gather this mechanism will not apply to people who have already enrolled somewhere else, which is another potential for confusion. But the bottom line is that if this attitude develops, we are going to have a dramatic shift in patterns of enrolment. We are going to find more and more people taking advantage of this mechanism on polling day, which is going to put increasing pressure on the VEC on that day.

The VEC is confident it can manage the new provisions if there are no changes to patterns and to the numbers who are likely to turn up and seek to cast a declaration vote, but it is an entirely different issue if patterns of behaviour change dramatically. We have seen an analogous change in behaviour in relation to prepoll voting, which was originally a very limited concession

for those who had a very strong reason for not being able to get to a booth on polling day. Now virtually anybody who wants to is going to be able to turn up and cast a prepoll vote, and that is dramatically changing the dynamics of the election process. This measure has a similar potential. We saw the chaos at the recent general election in the United Kingdom with people queued up and unable to vote because polling officials could not cope with the numbers. It would be highly undesirable to allow the high quality of our electoral system in Victoria to be degraded.

Finally I mention the open-ended commencement power that the government has put in the bill. On this occasion I must express my disappointment that the Scrutiny of Acts and Regulations Committee did not refer to this issue, because generally it is assiduous in examining bills. I would have thought this was a clear case of inappropriately making rights dependent on administrative discretion. The government of the day should not have the power to pick and choose which provisions of electoral legislation come into force before an election and which ones do not. I also understand the VEC needs certainty with whatever changes are made well in advance of an election day. The government should have picked up on this point. It is inappropriate to have a pick-and-choose clause in a bill like this, and that needs to be addressed.

As I indicated at the outset, there are many other issues that could and should have been addressed in the electoral bill, it being the last opportunity prior to the election to do so. One such issue is the misuse of taxpayer funds for government advertising from the run-up to an election campaign. However, even on the measures that are in the bill the opposition believes substantial changes are needed. The on-the-spot enrolment provision should be removed altogether. We should have smart pre-enrolment forms for young voters prior to elections, and we should modify the three-month rule for principal place of residence only in relation to those who have moved address within the same electorate. I commend to the house the amendments I have circulated on those matters.

Mr LUPTON (Prahran) — I rise today to support the Electoral Amendment (Electoral Participation) Bill and to commend its objective of increasing electoral participation, which is reflected in its title. The objective of this bill is to increase participation in the democratic process in Victoria by reforming the Electoral Act in a number of ways to encourage and facilitate higher levels of enrolment by eligible voters in Victoria.

The reforms that are included in this bill are principally to facilitate enrolment procedures on election day for those electors who are not on the electoral roll. It also abolishes what is called the three-month rule, which currently uses the elector's principal place of residence three months prior to election day as a measure of the elector's entitlement to vote. It streamlines enrolment procedures whereby the Victorian Electoral Commission (VEC) will have the power to enrol people on its own initiative based on information obtained from sources set out in the legislation. It will also require the publication of registered how-to-vote cards on the Victorian Electoral Commission website and include some additional reforms recommended by the electoral commissioner, including the extension of electronic voting, clarification of eligibility of postal voting and the like.

The overall effect of this legislation will be to provide more streamlined, more effective and simpler ways for people who are eligible to vote in Victoria to be on the electoral roll and to cast a valid vote. Because of our system of compulsory voting, participation rates in Victoria and around Australia are high in comparison to many other places around the world. Nonetheless in Victoria we find at each state election that there are many thousands of people who wish to cast a vote and for one reason or another are denied the opportunity. Anyone who is eligible to be on the roll or wishes to be on the roll and cast a valid vote ought to have the opportunity to do that.

At the 2006 election some 66 000 people completed what are called declaration votes, yet their votes were not counted. For one reason or another the names of those 66 000 people could not be found on the electoral roll at the address at which they lived, and they cast absentee declaration votes or attempted to enrol too late. As a consequence they were not able to cast their vote notwithstanding their obvious desire to do so. In particular at the 2006 state election some 39 667 people cast an unenrolled declaration vote because they were not on the roll but claimed to be eligible to vote. About 1499 early voters and 33 237 people who completed absent declaration votes could not be found on the roll for the address they were claiming enrolment for. That meant a total of 74 403 declaration votes were subsequently checked by the Victorian Electoral Commission; of those, only 7596 — or 10.2 per cent of the total declaration votes checked — were admitted to the count. Accordingly, some 66 000 people completed that declaration vote of one type or another and their votes were not counted. Overlapping this group were some electors who enrolled too late for the election. In 2006 the VEC processed more than 40 000 enrolment transactions after the close of the rolls, and some

thousands of those people who wished to enrol and vote were not eligible to vote because their applications were received too late.

What we see here is evidence of considerable mobility around the community. We see many people who change address fairly regularly. In many cases through one process or another, their names have been removed from the electoral roll and as a result they have experienced considerable difficulty in exercising their franchise. The processes that have been put in place under this legislation to enable enrolment to take place on election day for those who are not on the roll and to abolish the three-month rule, which does not exist in any other Australian jurisdiction, will mean that more people will be able to either enrol to vote on the day or be able to update their enrolment details and vote notwithstanding that they may have moved in the recent past.

Another important element of this legislation is that using the information obtained from the Victorian Curriculum and Assessment Authority (VCAA) the VEC will be able to automatically enrol Victorian students who turn 18 for the purposes of voting in state elections. There are some 48 000 students in Victoria who will turn 18 this year; that is a considerable number. The current process is that the Victorian Curriculum and Assessment Authority data is made available to the Victorian Electoral Commission, which is already authorised to obtain that data, and it sends out birthday cards to 17-year-olds with an offer to enrol. That process has not really been effective in getting large numbers of potential voters to take up that offer; the response rate has been relatively low at around 19 per cent. Accordingly, it is recommended that we move to a better system of getting people onto the roll once they turn 18 and become eligible to vote. It is a requirement of Victorian law, and has been for a considerable time, that people are obliged to enrol. When we take steps like this we are facilitating that process and ensuring that as many people as possible get to enrol.

The opposition has circulated some proposed amendments to this legislation, and I want to take a moment to comment on those matters because it seems that these amendments show that the opposition does not intend to facilitate the greater participation in the electoral system that this bill envisages, and that is a disappointment. As I have mentioned, the VCAA data is already available to the electoral commission and the commission supports the concept of automatic enrolment for 18-year-olds. We would have thought the opposition would support that concept as well, because while it may not pick up everybody who is entitled to vote and is turning 18, it will considerably improve the system. It is about what one regards as most important, and the principle of enrolling as many people who are eligible as possible ought to be given a priority. The idea of just sending a form filled out to a young person and asking them to send it back is not that much different to the birthday card system that the VEC currently uses and would not be an effective change.

The opposition does not support the abolition of the three-month rule, but the VEC does. Two options were put forward: total abolition of the three-month rule or restricting that abolition to movement within an electoral district. The VEC ultimately came to the conclusion that total abolition of the rule was the best option. It would be administratively much more difficult for the VEC to take the other option. As I mentioned, the three-month rule does not exist in any other jurisdiction in Australia. Election day enrolment is becoming more common in jurisdictions around the world and also in other jurisdictions in Australia. There are very important protections put in place under this legislation to make sure that people get a declaration vote and sign a declaration that is accurate. They will be counted if they are an eligible voter. We ought to be supporting the notion of increased participation, and that is why I support this bill.

Mr O'BRIEN (Malvern) — I am pleased to rise to speak on the Electoral Amendment (Electoral Participation) Bill 2010. I do so with some background in these matters as a member of the Electoral Matters Committee of this Parliament. The Electoral Matters Committee has investigated a number of the issues which have subsequently found their way into the bill before the Parliament today. The integrity of the electoral roll is absolutely fundamental to the democratic process. We have a representative democracy where the people freely choose who will represent them in state Parliament. If people do not have confidence that the electors on the roll are eligible and are casting votes, it fundamentally undermines the legitimacy of the election process and therefore it fundamentally undermines our democratic processes.

Unfortunately there are a number of matters contained in this bill which threaten the integrity of our electoral roll. It is hardly a great surprise that the bill is coming from a Labor government. This is the same Labor Party who gave us Brimbank City Council and a number of other scandals. This is a government that does not see any real distinction between the Labor Party's own interests and the government's interests and Victoria's interests. The coalition finds that this bill contains a number of measures which are likely to threaten and undermine the integrity of the electoral roll.

I will go through some of those issues and also point out along the way the hypocrisy of this government, and particularly the Attorney-General, who is responsible for this bill. I was a member of the Electoral Matters Committee inquiry into voter participation and informal voting. One of the recommendations of that committee and that inquiry was recommendation 2.1, which states:

> The Victorian and commonwealth governments consider how best to harmonise electoral laws to ensure a uniform and consistent approach.

The government, in its response to this recommendation contained in the report that was tabled today, said under the heading of 'Support':

> The Victorian government agrees that a harmonised approach to electoral laws is desirable.

Does the bill before the house harmonise electoral laws between the commonwealth and the state of Victoria, or does it drive a wedge between them? It does the latter. What this bill will mean, if it is passed in its current form, is that a number of people who will be allowed to enrol on the Victorian state electoral roll will be ineligible to vote on the commonwealth electoral roll. We are going to be setting up a two-class system of voters in this state. If this bill is passed in its current form, we are going to see Victorians who have never previously been on the roll turn up on election day and provide a utilities bill to get them onto the electoral roll in Victoria, but that will not get them onto the commonwealth electoral roll.

Somebody can in good faith — because the government has told them they can rock up on election day — enrol to vote right on the spot and cast a vote. The government says, 'Bring your phone or gas bill with you. Yeah, sure, we'll put you on the roll. Sure, we'll give you a vote. But you can't vote in a federal election'. These people will be turning up on the next federal election day believing that because they have been able to vote in a state election, they will be able to vote in the federal election. However, they will be denied the franchise because this government through this bill is seeking to expand the differences between the state and the federal electoral rolls. By trying to give more people an opportunity to vote in a state election, they will actually be disenfranchising people who would otherwise be able to vote in a federal election. You cannot believe the government's words, because in responding to the recommendation of the Electoral Matters Committee it says it supports a harmonised approach to electoral laws when in fact it has a bill before the house doing exactly the opposite.

Another example is the three-month rule, which essentially provides that to vote in a Victorian election you need to have lived at the residence that is on the electoral roll for the previous three months. This was a matter which the Electoral Matters Committee considered, and there were two options that were proposed by the Victorian electoral commissioner on this matter. He said one option is to get rid of the three-month rule entirely and another option is to say that if you move within the three-month period but you are in the same electorate, then your vote should still count.

The Electoral Matters Committee recommended that the latter option was the one that should apply. If you are moving within the same electorate — if you move across the road — then of course you are still part of that electorate and should be able to cast a vote, but if you have lived in Woop Woop and you have moved somewhere else entirely, why should you be allowed to cast a vote in Woop Woop when you do not live there and you do not have any community of interest with it? Democracy has to be about voting for a local representative. If you do not live in the community in which you are voting, it undermines the integrity of the electoral process. The government had the Electoral Matters Committee recommendation that the three-month rule be amended so that if you were moving within the same electorate, your vote would still count; the government rejected that. The government response says, 'We support it in part', but the government has done no such thing. The government has rejected the recommendation of the Electoral Matters Committee, but it does not have the guts to say it, so it misleads, lies and says, 'We support it in part'.

The government now says, 'We are going to abolish the three-month rule entirely'. That is sending a green light to anybody who was living in a marginal seat but has now moved into a safe seat of one party or another and says, 'I think my vote will be a bit more important in the marginal seat, so I will never update my details. I will keep my address on the roll in that marginal seat. I will turn up on election day and cast my vote in that marginal seat, notwithstanding the fact that I do not live there, have not lived there for some time and have no existing interest, other than a base political interest, in trying to affect the outcome in that electorate'.

We have a government which has rejected the unanimous recommendation of the Electoral Matters Committee, which has a Labor Party majority, and has lied about what it has been doing by claiming it supports the recommendation in part when in fact it is rejecting it. The government has then turned around and

said it is going to abolish the three-month rule entirely and open up the floodgates for people to manipulate the electoral roll and how they are able to exercise their vote.

Election day registration is another matter which the member for Box Hill has covered in his contribution. I would like to amplify some of his concerns. If you are off the roll, to some extent you are off the radar when it comes to the ability of your local political representatives and others to send you material. I am sure the minister at the table, the Minister for Children and Early Childhood Development, would agree that an election campaign is the time when people focus on the forthcoming election and the choices they have, and the electoral roll is used by all parties and candidates to get material out. If somebody is not on the rolls because they think, 'I can just roll up on election day and vote', then the candidates are missing out on that opportunity. The political parties have a legitimate interest in communicating with the electorate before election day. If election day registration takes off and people think, 'I do not really have to be on the roll. I can just rock up on the day', then that is going to impede the ability of candidates to communicate with the electorate. It is going to make for a less informed electorate, and that is bad for democracy.

Moving to the topic of automatic enrolment, we are now turning 150 years of democratic practice upside down. It used to be that the individual had a responsibility and a right to put themselves on the electoral roll. Now the government is going to do that for them. The Attorney-General is going to decide that you can go on to the roll. You may not know about it, you will not have been told about it, you may have moved away, the material from the Victorian Electoral Commission may be going into the bin and you will have no idea that you have been put on the roll, but under this bill you can be put on the electoral roll without your knowledge, without your consent and against your will. That is absolutely disgraceful.

There are some measures that should have been adopted. The Electoral Matters Committee recommended smart enrolment. Smart enrolment is basically filling in the forms for people as much as possible to make it easy for them, but you still need their signature at the end of the day. You need them to say, 'Yes, I agree this information is correct' to put it on the roll. There are myriad ways to improve participation and get more people on to the roll without compromising the integrity of the electoral roll, which is exactly what this bill does in its current form.

Mr SCOTT (Preston) — It gives me great pleasure to rise to speak on the Electoral Amendment (Electoral Participation) Bill 2010. As has been said by previous speakers, this is a bill to amend the Electoral Act to do a number of things, including introducing what is called election day registration, although I would note that it is election day registration of a limited form compared to some other jurisdictions. This is for persons who are not currently on the roll rather than for updates of address for people who are on the roll. The bill will implement the abolition of the three-month rule, streamline enrolment procedures, allowing persons who are turning 18 to be enrolled automatically, and expand eligibility for electronic voting to a wider group of electors.

I will touch upon electronic voting first, because I believe it is an aspect that is not being opposed by the opposition, and that is something I welcome. The Electoral Matters Committee — of which I am the current chair, and in speaking on this bill I pay tribute to the previous chair and the work that was done on electoral participation — recommended a trial of electronic voting. There is certainly the view, and I think I speak for all members of the committee, that it should be a limited trial for persons within specific categories who have difficulty accessing the electoral system. Persons who are visually impaired, motor impaired or have insufficient literacy skills, whether in English language or their primary spoken language, will now have access to an expanded trial of electronic voting. Before there can be a universal system of electronic voting for all electors there are a number of issues that would need to be addressed, particularly the scrutiny of such ballot processes.

Returning to the bill, this is an excellent bill which addresses a number of issues in our electoral process. I find discussions around these issues interesting because, as has been mentioned, approximately 66 000 persons — and it is quite clear from the evidence that the vast majority of them are eligible electors — sought to make declaration votes for the last election but were unable to vote because they either were not enrolled or had not updated their electoral enrolment and had therefore dropped off the electoral roll and were not found by the roll when the Victorian Electoral Commission investigated their declaration vote. This is a large number of persons. To put it into context, it is 2 per cent of the electoral roll. That means that approximately 2 per cent of persons who were entitled to vote attempted to cast a vote but did not do so because they were not found to be on the electoral roll. Frankly, that number of people could be material to the possible outcomes in a number of cases.

In Victoria we have a system of compulsory enrolment and voting. While people are fined for not voting on election day, it is almost unheard of for a person to be fined for not enrolling. In effect enrolment has become almost a voluntary action. I note that the member for Malvern described this as an overturning of the traditions of the Victorian electoral process and even of the Australian traditions. In a compulsory system it is reasonable to ensure accuracy, but it is as much an affront to the democratic process that people who are eligible do not participate in such a system as is any other action that causes persons who are otherwise trying to participate to fail to participate, including the casting of an informal vote. Informal voting is not addressed in this bill, but I hope it will be addressed in future bills.

The spectre of problems around election day registration is something that should have been investigated by the Electoral Matters Committee. On my reading of the evidence, and other members may disagree, there is very little evidence of that around the world. There is little evidence that that is a problem in jurisdictions such as Canada, which has a Westminster system that is quite comparable to Australia's system of government. Occasionally an issue is raised, and I know it was raised by the member for Box Hill, about the logistics of election day registration. Again, in jurisdictions similar to our own where election day registration is the norm, that is a normal part of the electoral process, planning allows for adequate resources, there are no particularly onerous requirements on the managers of elections in dealing with it and it is happily dealt with. In fact members should understand that when a declaration vote is made, and in particular if we take the example of a declaration vote at the last federal election when photographic identification or other ID of a similar nature to that described in the provisions of this act was required, it is not an onerous administrative problem for the Australian Electoral Commission.

I do not see that there are administrative hurdles that would need to be overcome and the international evidence does not suggest that there will be voter fraud on a large scale. I note that such fraud is restricted to persons who are not on the roll. There is obviously a greater issue if people are allowed to update their electoral enrolment on the day, because obviously that would allow people to manipulate the process much more easily because existing electors could switch electorates to try to affect the results. This bill obviously does not allow persons who are already enrolled to change their electoral enrolment on election day, and that is a reasonable step at this point in developing a sound system.

I respond in a very simple way to the fear that various procedural issues may lead to an occasional anomaly concerning who is on the electoral roll. It appears that there were approximately 66 000 anomalies at the last state election; it was certainly in that order of magnitude. Under the current system those persons were ineligible to vote and did not get to cast a vote in a system which, I remind members, is compulsory. In the way that voting in elections is not considered to be optional legally, enrolling to vote is also not considered to be optional — it is not simply a right; it is a responsibility. I do not regard the actions the government is taking in introducing this bill — particularly the provisions about streamlined enrolment, where, if I understand correctly what the electoral commission is talking about, there is an electronic gathering of data about people from the school system and 18-year-olds are put on the roll — are an infringement and will lead to a more inaccurate roll. In fact quite the contrary is the case. If you look at this issue from the utilitarian perspective, this bill will actually increase the accuracy of the electoral roll and lead to elections which more accurately reflect the intent of the election franchise. It is a very unlikely scenario that the passing of this bill will lead to an electoral roll which is less reflective of those who are compelled by law to be on the roll.

There are a number of other useful aspects of the bill, including a requirement that the commission publish how-to-vote cards on its website, which from memory is a recommendation of the Electoral Matters Committee and which, as I touched upon earlier, expands the availability of electronic voting.

If the abolition of the three-month rule is a huge issue my understanding is that it applies in no other jurisdiction within Australia and certainly does not apply to federal elections. I also note that it is reasonably likely we will have a federal election perhaps before the state election, and I suspect — and this is commentary — that the impact of many people having attempted to vote in that federal election and not being on the roll having received an enrolment form and having filled it in will be that the administrative burden of dealing with election day registration will be quite minimal.

This is an excellent piece of legislation which deals with a number of anomalies that lead to a material level of inaccuracy in the roll where approximately 2 per cent of electors who attempt to vote are not enrolled. I note the concern that there will be a lack of an ability to proselytise and campaign for the benefit of those persons so that they will be unaware of the various political issues confronting the state, candidates,

members of Parliament who are seeking re-election or people seeking to remove members from the Parliament. It is clear that people who are enrolling to vote for the first time on election day are engaged enough in the electoral process that they have bothered to come to the polling place to attempt to vote. The argument that those people are not aware of elections is fundamentally flawed in that they are aware enough to actually seek to cast a vote in the election. I am not particularly concerned about persons who know where their polling place is and who attempt to vote and seek to exercise their franchise not being able to be sent direct-mail letters, given all the other forms of campaigning that are available. That is not something I will lose sleep over in supporting this bill.

This is an excellent piece of legislation which will ensure that the electoral roll is actually more accurate and more reflective of those with a legal obligation both to be enrolled and to vote. I commend the bill to the house.

Mr WELLER (Rodney) — I rise today to speak on the Electoral Amendment (Electoral Participation) Bill 2010. Members on this side of the house are all in favour of making voting simpler, encouraging people to vote and getting people on to the roll. That is why the member for Box Hill has circulated some amendments to improve the operation of this bill, and they would improve the bill. I will speak about those later.

The main provisions of the bill authorise the VEC (Victorian Electoral Commission) to, of its own initiative, give notice to a person entitled to enrol at age 17 who turns 18 without enrolling, based on information obtained by the VEC from various bodies using its existing powers, and to enrol that person on the electoral roll. This is one of the parts that we feel can be improved because if you enrol people without them knowing — I know it says that they send the letter out and after 14 days if there has been no reply, they duly enrol them — if the letter goes to the wrong address and the person who has just turned 18 does not know that they have been sent this letter, they have been enrolled but it could be with the wrong details.

What we are suggesting is to send out the enrolment form when they turn 18. It is then at their discretion to return it with their proper details. That would be a much simpler process. It is similar to when you turn 50 and they send you a bowel scan kit: it is up to you whether you use it or not. Here when they sent out the enrolment form, you could send back the right information. It is the person's choice, and they will want to enrol, so they will do it.

This bill also broadens the list of voters who can vote electronically to include those with motor impairments and insufficient literacy skills and provides for auditory assistance and touch screens for electronic voting. Once again, we are very supportive of increasing the number of people who are able to vote and of increasing participation at elections. This is why we are supporting this part of the bill.

There are also problems with the bill in that it creates two electoral rolls. As it now stands, there are three rolls: I am enrolled on the Victorian roll, on the local government roll and I am also on the commonwealth electoral roll. This bill proposes that you can use one of your utility bills — for example, a water bill — to change your address for the purposes of enrolment. The commonwealth will not accept that, so the next time I roll up to vote in a federal election I might think I am enrolled but I will not be. We need to clean that up and improve the bill by taking that ambiguity out of it so that if people are enrolled on the state roll, they will also be enrolled on the commonwealth roll. We cannot have it that they are on only one or the other. That will confuse people as to whether they are enrolled or not. I have read the second-reading speech for this bill and one interesting part is where the Attorney-General says that this will not hold voting up, but I say that it will. I will read from the second-reading speech:

> Applicants without a driver's licence will be able to nominate one reliable source from a prescribed list to enable identification of the person, including VicRoads, a municipal council or an electricity provider. The VEC will follow up the source of identification provided by the applicant after election day …

The Attorney-General went on to say that this will not hold up the counting of the votes. Of course it will hold up the counting of the votes, because it will have to be verified after election day. I do not know whether it will be the following Monday, Tuesday or Wednesday, but verification will be some time after election day and those votes cannot be counted until that has been done. Indeed it will slow the process of counting votes, contrary to what the Attorney-General would have us believe in the second-reading speech.

This bill needs to be improved so that there is no confusion about whether you are on the federal roll or the Victorian roll, because under this system some people will be on the Victorian roll but not on the commonwealth roll. Letters sent to 18-year-olds may never be received, so those people will be enrolled without even knowing and possibly be enrolled at an incorrect address. That needs improvement. We need to make sure that there is not chaos on polling day and we are not delaying vote counting with extra procedures.

We think this bill can be improved by the amendments circulated by the member for Box Hill, and I commend those amendments to the house.

Mr HUDSON (Bentleigh) — It is a great pleasure to speak in support of the Electoral Amendment (Electoral Participation) Bill. This bill will enhance the participation of citizens who are eligible to vote in our democracy. The election of governments by a majority of voters is one of the cornerstones of our democracy, and I think Australia and Victoria can be very proud of their record in conducting not only free and fair elections but also elections in which the vast majority of citizens who can vote do so.

We can be proud of the fact that, because of compulsory voting, the turnout at elections in Australia and Victoria is amongst the highest in the world. Take, for example, the figures for Victoria where the percentage of registered voters who participate in state elections has averaged 94 per cent since 1976. That is a very high figure. It is much higher than countries like Canada where voter turnout in 2008 was just under 60 per cent — the lowest rate ever recorded for a Canadian election. Likewise in the UK the voter turnout in 2005 was 61 per cent — the third lowest turnout in the United Kingdom since 1847. The high rates of electoral participation in Australia and Victoria are a result of our system of compulsory enrolment and compulsory voting.

At a time when there is a trend towards declining electoral participation across the world, Australia's system of compulsory voting has retained high levels of voter turnout. I want to put on the record that, unlike many people on the conservative side of politics, I am a strong supporter of compulsory voting, although our system is not so much about compulsory voting as it is about a system that requires citizens to turn up at a polling booth on election day and think about whether they want to vote. In fact what voters have to do is turn up at a polling booth on election day, have their name ticked off the electoral roll, take the ballot papers and go into the voting centre and consider whether or not they want to vote. There is nothing in our system that requires a voter to vote. A voter can put the ballot papers with no markings on them into the ballot box and they will have fulfilled their obligation as a citizen. Because it is a secret ballot no-one is required to vote and no-one knows whether or not you have voted.

Compulsory voting and high levels of voter participation have major benefits for our democracy. What compulsory voting does is increase voter turnout, and a large turnout means that any government that is elected enjoys a high degree of legitimacy in the electorate after the election. That is because the sample of public opinion that has been used to elect that government is large. Our system also ensures that every citizen — irrespective of their background; whether they come from a system of privilege or a system of poverty; whatever their background — has the opportunity to exercise the right to vote. Our system of compulsory enrolment and compulsory voting ensures that the disadvantages voters might face because they are transient in where they live or because they are not in a position to enrol, for example, are overcome because they are on the roll and able to express a view through the ballot box.

If you are going to have a compulsory enrolment system and compulsory voting, you have to make that system as voter friendly as possible; you have to make it easy for people to be on the roll. What concerns me about the current system is that we are efficient — whether it is the Victorian Electoral Commission (VEC) or the Australian Electoral Commission — at taking people off the roll, but we have not made sure that the procedures that are in place to ensure people stay on the roll are updated in line with the way in which people are living their lives today. What the Electoral Matters Committee found and presented in an excellent report to this Parliament in 2009 is that around 250 000 voters in Victoria are not on the electoral roll. Disturbingly, the committee also found that at the 2006 Victorian state election as many as 66 000 eligible voters attempted to vote but had their votes rejected because they were not on the electoral roll.

In addition, there are a substantial number of Victorians who are enrolled but not participating in state elections. In 2006 around 146 000 Victorians received an 'Apparent Failure to Vote' notice from the Victorian Electoral Commission. What we see is that a large number of people would like to vote, a large number of people are not on the roll to vote and a large number of people have received notices and are being penalised because they apparently failed to turn up to vote. This bill will streamline the measures that will allow those people to participate in our democracy by enrolling and voting. It seems to me that the conservative side of politics is much more concerned with arcane procedures and systems of enrolling people which often reduce their capacity to participate in the democracy, rather than thinking about how we can update those procedures and improve them to get as many people as possible who are able to vote on the roll.

Let us take the position of young people. What the Electoral Matters Committee found was that, whilst Victoria has one of the highest youth enrolment rates in Australia for those aged 18 to 24, at around 85 per cent,

it is still 8 per cent below that of the general population. That is a concern because they are the future bedrock of our democracy. If we develop a system where our young people enrol in lower numbers, if we develop a system where people believe you do not need to be on the electoral roll, if we develop a culture in which people think that they do not need to be enrolled and that they do not need to vote, then our system will lead to declining rates of participation.

What this bill will ensure is that we use more modern methods. A system where, for example, the VEC is able to streamline enrolment procedures for students aged 18 years and older who are registered with the Victorian Curriculum and Assessment Authority seems to me to be a sensible step. In fact it is not a huge step because the VEC already has the power to collect and use personal information from government agencies, including the VCAA, for enrolment purposes. Some concern has been expressed about the privacy of this information. There has been concern about people not knowing they are on the roll and then finding they are on the roll. I believe we have adequate protections for privacy in this state. Government agencies respect the privacy of people's information, and the surprise that people will experience at finding they are on the roll is far outweighed by the fact that they will have the opportunity to vote on election day.

The same can be said for the enrolment procedures on election day. There are adequate safeguards in this bill to identify voters to ensure that they have been properly enrolled. I do not think there is any evidence at all that people will be rorting the roll from the abolition of the three-month rule. The three-month rule is currently applied only in Victoria. There is no evidence from other states that the abolition of that rule has led to rorting of the electoral roll in other states. These are sensible measures and the opposition should support them. I commend the bill to the house.

Ms ASHER (Brighton) — In making my comments on the Electoral Amendment (Electoral Participation) Bill 2010 I want to concentrate in particular on the amendments moved by the member for Box Hill and to outline my strong support for those amendments.

The bill before the house covers a range of matters in relation to what the government regards as electoral reform. The key issue for all of us in this Parliament is to get the correct balance between a desire to increase voter participation, which I am sure all parties and the Independent support — it is important to get maximum voter enrolment and maximise voter participation in elections — and to minimise electoral fraud. Electoral fraud has occurred in Victoria previously. Whilst in the past the scope of it has been narrow, it is always important to regard it as something that must be avoided at all cost. More importantly, we need to look after what is called the integrity of the electoral roll. In other words, the overwhelming issue of a geographically based electorate is that you should be enrolled where you live. It is a fundamental principle, and the government is seeking in some instances to move away from that.

There are a couple of key changes that the government is putting forward to which I wish to draw attention in this presentation to the house.

The government wants to embark on something called a 'streamlined enrolment procedure'. The perspective of opposition members is that we do not necessarily regard this as streamlining but as a significant change to the way people are enrolled. What we are seeing put forward in this bill is that the government, in the body of the Victorian Electoral Commission, will enrol you. It is not your own action that will enrol you; you will be enrolled by the government. We think that is a step too far. The mechanics of this process, as outlined in the bill, mean that the government will receive information from the Victorian Curriculum and Assessment Authority — that is, students — and automatically enrol that class of person. The government will then notify the individual.

It is very clear that if someone sends back a letter — for example, saying, 'I do not live at this address', because their parents do and they have passed on the letter — then obviously that person would not be enrolled. However, the system the government is putting forward has a number of concerns. The end result will be in some instances people will be on the roll without knowing it. There will be people who are not in a position to respond to the letters that may be sent out, and people will be on the roll without knowing it. In this state and in this country we have a system of fining people if they do not vote. We have a system the opposition thinks goes too far — that is, people can be on the roll and fined for not voting, according to the technical words of the law, and we think that is wrong.

In the first instance we also think that the bias of enrolments towards students will lead to a distorted result. The government's chosen mechanism, in the first instance anyway, is to get information from the Victorian Curriculum and Assessment Authority — that is, students — and the government at this early stage is not looking at other ways to locate young people. It is a matter of fact that that is a biased way to have automatic enrolments.

Opposition members are also concerned about people who may wish, for whatever reason, to have a silent enrolment. I would have thought members of Parliament who are often silent electors would be quite sensitive to this point. I acknowledge completely the member for Bentleigh's point that this will be a small group of people, but it is an important group of people. Someone may not wish to have their address made public for legitimate reasons, often associated with family violence. Under this system a person can have their address made public without their consent. The easiest way in this country to track someone down is via electoral rolls. Opposition members are concerned — and I would have thought the government would be slightly more sensitive about this — that people's names will be placed on an electoral roll and their address disclosed without their consent. As I said, I acknowledge the point that it is a small group of people, but it is a vulnerable group of people. We have a right in this state and in this country to a silent enrolment, and this bill is moving against that right.

On this side of the house we have privacy concerns, which have been outlined by the member for Box Hill in a letter to the privacy commissioner. We are arguing that one body — in this case the Victorian Curriculum and Assessment Authority — is given information in good faith, by students in this instance, and those students have the right to think that that body will keep that information private. We are having one body being given information by people in good faith, then disclosing that information to another body. We think there are significant privacy issues attached to that. The other major point of concern on our side of the house is the clear disparity between commonwealth and state electoral rolls that is going to occur if this bill passes unamended. This bill will produce disparities, albeit in a small number of cases, and that is a cause for concern.

A second element of the bill is on-the-spot enrolments and a subsequent provisional vote that is going to be allowed if the bill passes unamended. I, for one, have an immediate image of a joint voting centre and a whole series of people queuing to cast provisional votes as an issue of practicality on election day. If we put that aside — and this is where a difference between the commonwealth and the state electoral rolls emerges — there is the issue that a drivers licence for evidence for the commonwealth roll and a letter or account addressed from a utility or service provider to the voter will do if the legislation passes, but it will not do for the commonwealth roll. This is one example where there may be a distinction between the commonwealth and the state electoral rolls which we do not think is desirable.

The basis of the amendment put forward by the member for Box Hill is that opposition members think there are alternatives to increase voter participation. This is outlined in a minority report of the Electoral Matters Committee inquiry into voter participation and informal voting of July 2009. The minority report says:

> Measures such as 'smart enrolment', where an electoral commission can use information held by it about citizens to prepopulate fields on enrolment forms and thereby make completing forms easier, hold much promise in this regard.

I agree with that proposition put forward by the minority report, because the proposition put forward by our amendment and the minority report actually requires someone's signature on the piece of paper before the enrolment occurs. That is a very worthwhile amendment.

I also note that in the VEC's newsletter *Selections*, dated June this year, the VEC makes reference to the New South Wales Parliament having passed the Parliamentary Electorates and Elections Amendment Act 2009, which will allow the New South Wales Electoral Commission to:

> … use information from trusted sources to automatically enrol new electors or to update existing electors' addresses.

I wonder if this is the way of the future for Victoria because, as I said in my introductory remarks, I think it is important that the integrity of the electoral roll is maintained.

The member for Box Hill has suggested amendments in relation to the three-month rule, where there will be a system for those who move within a geographical electorate and a different set of rules for those who move outside electorates. We think it is a fundamental proposition that you should be enrolled to vote where you live, and there should be a test for where you live, not an address you may have moved into on a whim on one particular day. Believe you me, I think we have all seen those types of enrolments, which are undesirable.

Another element of the bill which disturbs us is that the government can now pick and choose which parts of the act will be implemented when. According to the precise nature of the bill before the house, if the government likes a clause in the bill, it can implement that prior to the November election, but if the government is not as fond of another clause, then the government can delay. We think it is unacceptable that the government can delay passage of parts of the bill. As I said, I am strongly in favour of the amendments put forward by the member for Box Hill for the reasons that I have outlined, and I would urge the government to seriously consider them.

Ms GREEN (Yan Yean) — It is with great pleasure that I join the debate on the Electoral Amendment (Electoral Participation) Bill. There is nothing more important in a democracy than to ensure that everyone has the ability to participate and have a say in the election of those who represent them. I speak with great pride as the member for Yan Yean, because I have one of the youngest electorates in the state, and the amendments in the bill before the house will particularly benefit young people.

When we look at the history of people having their say in a democracy not only worldwide but also in this state, we realise extending the franchise and ensuring that people have a say is important. In the early days only landowners were able to be representatives in the upper house. When this state was first established women were not entitled to vote. It was only the year before last that we celebrated the centenary of women's suffrage. The bill before the house will ensure that young people have a greater ability to exercise their say, and that is another great advance in electoral participation. It does not surprise me that the conservatives on the other side of the house are afraid of this legislation and afraid of expanding young people's ability to have their say.

We saw during the time of the Howard government a great contraction in people's ability to get on and remain on the electoral roll, and that was very bad for our democracy. I reside in the federal electorate of McEwen, and I am very confident that the very close election held there would have had a different result if young people had not been precluded from getting on the electoral roll. There can be a very deep impact on our democracy if the rules guiding how people get on and remain on the roll are too restrictive.

I was pleased recently to attend a climate change forum at the senior campus of Mill Park Secondary College with students from years 8 to 12. I was amazed at the passion young people have for participating in the democratic process, having their say and having dialogue with their representatives. However, on that day I was disturbed at the contempt shown by Mr Barber, a member of the Greens representing Northern Metropolitan Region in the other place. Despite having had three conversations with one of the teachers organising the event, he treated those young people with contempt and with no excuse did not show up. I am really pleased that has not deterred the young people at Mill Park Secondary College, and I know they will be very pleased about the proposal in this bill to enable anyone who is registered with the Victorian Curriculum and Assessment Authority to undertake year 12 studies to automatically be placed on the electoral roll on their 18th birthday.

I commend the year 12 students at the senior campus of Mill Park Secondary College, and I quote from a recent article which appeared in the *Whittlesea Leader*:

> For Indian-born Mill Park student Tezza Kaur Uppal, nothing is more Australian than having her right to vote.
>
> With looming state and federal elections, the year 12 student at Mill Park Secondary College is counting down the days until July, when she and her family receive their official Australia citizenships.
>
> 'For me to vote would mean a lot, it would be like I'm part of Australia, I get to have my voice heard', Tezza said. 'I'll feel as if I'm one of them, I'm not different.'
>
> Last week, she helped her fellow national politics classmates with enrol-to-vote activities.
>
> The students' goal was to enrol every year 12 student on the senior campus.
>
> 'I don't want my friends to be careless about their future because politics is basically our future', she said.
>
> 'All the legislations passed by the houses are for us, it's not for them.
>
> 'I want them to have their say, and take it seriously.'
>
> Samantha Christides and Christopher Anagnostou took time out of their extremely vocal and engaging politics class to speak about the importance for young people to take an interest in politics.
>
> 'Everything that happens in politics affects young people, they don't know it as such but the health reform is going to affect everyone, WorkChoices affects their parents, and the My School website even', Samantha said.
>
> 'Not many young people are interested in politics … there's one class for 300 kids, so that's about 20 out of 300. By having this (Enrol to Vote Week) there might be more interest.'

I would certainly say that an interest in politics and participating in the democratic process is alive and well in my electorate of Yan Yean, and I commend those young people for their efforts.

I commend the work of the Electoral Matters Committee — this bill has come from the recommendations in its report. The committee found that 66 000 people attempted to vote at the 2006 election but were unable to do so. That shows there were many people who wanted to exercise their right to vote but were prohibited from doing so. I represent an area that is growing massively — the number of electors in my electorate has grown by almost 20 000 in the time I have represented it. I want everyone living in the area who is entitled to vote to be able to express

their view, whether that be in support of me or in support of someone else. The right to vote is just too important. Since the tragic bushfires I have seen many people lose their homes and relocate temporarily but they are passionate about wanting to have a say about the area they love, and it is pivotally important that they are able to do so.

I support the bill and the proposals it makes. I am not surprised that the conservatives are frightened by this legislation. We saw how the former Howard federal government tried to contract people's ability to be on the roll and to have their say. We on the Labor side want to ensure that everyone who wants to have their say can do so; we are not afraid of that.

This is a very auspicious day for the Australian electorate and the Australian community, and I would like to place on record my delight about and congratulations to former Deputy Prime Minister Julia Gillard on becoming the Prime Minister of our great nation. I know that many young people are very interested in this issue, as they are interested in the electoral participation reforms this government is proposing. This is a great day for Victoria and for Australia. These are great and sensible reforms that will increase participation in the democratic process, and I commend the bill to the house.

Mr DIXON (Nepean) — In my contribution to the Electoral Amendment (Electoral Participation) Bill I just have one issue I wish to raise and on which I seek some clarification. Hopefully I will receive that when the minister is summing up.

An honourable member interjected.

Mr DIXON — No, the minister responsible. The Minister for Education may be able to help as well. The issue relates to part 5 of the Education and Training Reform Act 2006. Section 5.3A.9 in division 3 of that act is entitled 'Access, use or disclosure of Victorian student numbers and related information'. Under the subheading 'Authorisations for use of Victorian student numbers or related information' the act says:

> (1) The Secretary may authorise any of the following persons, bodies or classes of person or body to access, use or disclose one or more Victorian student numbers or related information —

The list of organisations includes the Victorian Curriculum and Assessment Authority (VCAA); the Victorian Registration and Qualifications Authority; any education or training provider; and any person employed under part 3 of the Public Administration Act 2004 as it relates to education whose duties include the analysis and evaluation of information relating to students. The act goes on to say:

> An authorisation under subsection (1) may authorise the access, use or disclosure of one or more Victorian student numbers or related information for any or all of the following purposes —
>
> (a) monitoring and ensuring student enrolment and attendance;
>
> (b) ensuring education or training providers and students receive appropriate resources;
>
> (c) statistical purposes relating to education or training;
>
> (d) research purposes relating to education or training;
>
> (e) ensuring students' educational records are accurately maintained.

Under this bill the VEC (Victorian Electoral Commission) will be gaining related information about students from the VCAA with regard to their student numbers and obviously their addresses. In this section of the act the VEC is not listed as one of the authorised bodies that can receive that information. The act also says that the VCAA is allowed to receive information about student numbers and their details, but it is only allowed to use that information under certain conditions. The conditions, as I have read out, that are listed in this act do not include the use of those numbers for electoral roll purposes. There seems to be quite a hole in this argument. I think the Education and Training Reform Act 2006 obviously needs to be amended again so that the electoral commission can use the information that the VCAA currently holds.

I remember we supported the Victorian student number being introduced, but concerns were raised by me and other members regarding the privacy of that information, the use of it and the restriction of the use of that information. The minister said we should trust the word of the government, and guarantees were made. Earlier this year an amendment to the act added Skills Victoria and the Catholic Education Commission of Victoria to the list of authorised users, but there has been no reference at all to the VEC and no change to the way the VCAA can use the information it has.

As I said, to me there seems to be a hole in the provisions of this bill. I would be very interested to hear the government's feedback on whether we will see changes to the Education and Training Reform Act 2006 to facilitate what the bill is trying to do.

Ms CAMPBELL (Pascoe Vale) — I rise in support of the Electoral Amendment (Electoral Participation) Bill. As a member of the parliamentary committee that

drew attention to the provisions in the Electoral Act that are being amended and to the low enrolment numbers, particularly amongst young people, it is with great pride that I look today at this great result in terms of the legislation before us. Every Victorian has a profound interest in government, whether that be state, local or federal. Every Victorian over 18 years of age is considered intelligent enough to cast a vote in elections, but we know from the evidence available in our parliamentary committee's report that not every Victorian who is 18-plus is enrolled to vote. Whilst those on the roll are required to vote, not everybody either enrols or uses the provisions available to them as a citizen of Australia and of Victoria.

When the number of young Victorians enrolled is 8 per cent below that of the general eligible population, we have a significant problem. We have a significant opportunity to address the problem and improve the situation. Part of the solution is to use the provisions that are already available to the Victorian Electoral Commission (VEC) to not only contact people who are listed on the Victorian Curriculum and Assessment Authority database that they communicate with already but to actually enrol them.

In relation to silent electors I want to make just one point that has been raised by the opposition: the VEC has stated that it will be able to note that a student who is living at an address where a silent elector is already registered on the roll will also be able to become a silent elector, as would any person who goes onto the electoral roll. The other point I want to take up briefly is that the opposition is concerned about disparity between the Australian electoral roll and the Victorian electoral roll. There have always been disparities. Despite the best efforts of the Australian Electoral Commission and the VEC to ensure that both rolls include all the people who should be registered, it does not always happen. This bill will go some way towards addressing one huge disparity in the entire electoral roll, and that is by bringing more young people onto it and enabling people who want to enrol on the day and fill in forms to have the opportunity to cast a vote.

I would also like to raise a couple of other points. The first is that we as a nation should be mighty proud today that we have a new Prime Minister, Julia Gillard. I am sure there will be many young people who want to vote for her in the forthcoming election. The other point I would like to make is that many people who are new arrivals in this country and who also want to get involved in the electoral process will be assisted by this great piece of legislation.

Sitting suspended 12.59 p.m. until 2.03 p.m.

Business interrupted pursuant to standing orders.

QUESTIONS WITHOUT NOTICE

Opposition members: government dossiers

Mr RYAN (Leader of The Nationals) — My question is to the Premier. I refer the Premier to reports in the *Age* that the government has engaged private investigators in an attempt to smear the Leader of the Opposition, and I ask: is it not a fact that the Premier has secretly authorised up to $250 000 to be spent on a dirt unit which is creating dossiers to smear a number of members of the opposition as part of the Premier's attempt to create a class war in Victoria?

Mr BRUMBY (Premier) — I thank the Leader of The Nationals for his question. I was asked about this matter at a press conference earlier today. The first time I was aware of these matters was on reading about them in the *Age* today. What I did say at the press conference was that the *Age* article raises legitimate issues about the conflicts of interest which the Leader of the Opposition has. These are significant and important issues to the Parliament of Victoria. We have a requirement under the Members of Parliament (Register of Interests) Act for an individual's interest that could be a conflict to be declared, and that has been a longstanding provision.

As you know, Speaker, some months ago I introduced a new Members of Parliament (Standards) Bill, which aims to elevate and improve the level of openness, transparency and information about members of Parliament which is provided to the public at large. It is good public policy to do that. It is entirely reasonable for the *Age* newspaper or indeed for any other newspaper, outlet or public commentator to focus on the conflicts of interest, real or perceived, in relation to the Leader of the Opposition.

Employment: government initiatives

Ms BEATTIE (Yuroke) — My question is also to the Premier. I refer the Premier to the government's commitment to make Victoria the best place to live, the best place to work and the best place to raise a family, and I ask: can the Premier update the house on the steps the government is taking to secure jobs and investment in Victoria?

Mr BRUMBY (Premier) — I thank the member for Yuroke for her question. She has been a great supporter of Melbourne Airport and has worked with the airport to bring more flights, more jobs and more opportunities into our state. Earlier this week, in fact on Tuesday

morning, together with the Minister for Industry and Trade, I was delighted to announce that from November this year Air India will fly directly from Delhi into Melbourne, Australia. These will be the first direct flights from India into Melbourne.

Honourable members interjecting.

Mr BRUMBY — While the Deputy Leader of the Opposition is interjecting across the chamber, the people of the Indian community in Melbourne — 150 000 strong — are welcoming this announcement. This is a great announcement. It is about building stronger ties between Victoria and Australia and India, and it is about opening up new opportunities in tourism — and this will mean new jobs and new opportunities particularly in the tourism industry in our state.

I was pleased that the *Age* described this as a 'diplomatic and economic coup' for Melbourne, because it adds to the other four international carriers which have started flying to Victoria in the last 18 months. They are AirAsia, Etihad Airways, V Australia and Qatar Airways. This represents a huge growth in inbound flights to Australia. Victoria now has a total of 25 international airlines servicing the state, which will increase to 26 when Air India commences services in November. It is also one of the reasons why 1.54 million overseas visitors came to Victoria in the last 12 months, which is more than ever before. It represents a 4.2 per cent annual growth rate — the highest growth rate anywhere in Australia.

To go to the question asked by the member for Yuroke, it is also one of the reasons we in Victoria have generated more jobs in the last year than any other state in Australia. As I said at a conference this morning, there is no issue as important to the people of our state and the people of Australia as jobs, and I am proud of the fact that we have seen 113 000 new jobs generated in our state over the last year. By the way, 70 per cent of those jobs have been full-time jobs and around 48 per cent of the full-time jobs created across Australia have been created here in Victoria.

Recently we made a number of other announcements that will create jobs across the state. Last week we opened the upgraded port of Geelong, which will deliver up to $220 million of economic benefit to our state. The announcement the Minister for Regional and Rural Development and I made about Vertex some days ago will result in 600 new jobs in Ballarat, which is fantastic for Ballarat and for the state. There was also the announcement last week of Tiger Airways setting up a new home at Avalon with its additional aircraft, creating 200 new jobs in the region, which is of course backed strongly by our government.

All of these things have been significant investments in our state, and all of these things mean jobs and opportunity. None of these things would have occurred except for the strong budget position of the government, the strong surplus position, the AAA credit rating, the modest levels of debt and the positive investment environment. I am delighted that we have been able to work to achieve these jobs and give Victoria the strongest jobs performance that we have seen in our state for the best part of 25 years.

Former Chief Commissioner of Police: government support

Mr BAILLIEU (Leader of the Opposition) — My question is to the Premier. I refer the Premier to his repeated claims of total support for the former Chief Commissioner of Police and his statement in this chamber on Tuesday that during the period that Christine Nixon was chief commissioner she had his full support, and I ask: is it not a fact, as reported in the *Australian* today, that the Premier was misleading the Parliament and Victorians about his support for Ms Nixon and that in reality he and his ministers were actively undermining the chief commissioner as part of his secret campaign to remove her?

Mr Hulls — On a point of order, Speaker, I seek your guidance in relation to this matter, because as you would probably be aware, under the Police Integrity Act there is an offence in relation to disclosing information about a restricted matter except as permitted by a section of that act. It appears that the course of questions asked by members of the opposition a couple of days ago and also today in relation to this matter reveals that they either have knowledge of it or it has been brought to their attention through conversations — —

Honourable members interjecting.

The SPEAKER — Order! I will hear the point of order in silence.

Mr Hulls — It appears to reveal that they have knowledge, either via people such as Noel Ashby or Mr Mullett or anyone else, other people, in relation to matters that are no doubt subject to and covered by the Police Integrity Act in that those matters that are restricted matters cannot be revealed unless permitted by the act. Indeed there is a definition of what restricted material is, and it includes material that may have been subject to telephone intercepts and conversations.

I simply seek your guidance, Speaker, in relation to the basis upon which the Leader of the Opposition is asking this question and this course of questions, because if he has come into contact with or been provided with material that is restricted, he may well be in breach of the Police Integrity Act.

Mr McIntosh — On the point of order, Speaker, I think the Attorney-General has overcooked his argument. The reality is that this is a legitimate question given the fact that there is a matter out in the public arena as a result of an article published in the *Australian* this morning and the Premier should be able to confirm or deny the veracity of that story. That is what it goes to. It is not about secret tapes or otherwise; it is about whether that story is correct or otherwise.

Mr Batchelor — I rise to support the point of order raised by the Attorney-General. This is a matter that is covered by the laws and statutes. People are required to abide by those laws. Members of Parliament are required to abide by those laws. Just because something is in the public domain does not abrogate our responsibility to abide by those laws. Whether it is in the public domain is neither here nor there. The issue is that the Attorney-General — —

Honourable members interjecting.

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

Mr Batchelor — The member for Kew is the one who has met with Mr Mullett and Mr Ashby. We ought to get this very clear. He is probably — —

Mr McIntosh interjected.

Mr Batchelor — You have met with him. You have met with him, haven't you? I know.

The SPEAKER — Order! I ask the Minister for Energy and Resources to confine his comments to the point of order.

Honourable members interjecting.

The SPEAKER — Order! I ask the members for Kew and Hastings for some cooperation.

Mr Batchelor — It is not appropriate to have this question asked here because it presupposes either an attempt to break the law or that they know they have access to them, and that is an issue that they will have to account for themselves outside this chamber. I suppose they are privileged in the sense that what is said in Parliament cannot be used against them in the court or they would be going straight to jail.

Mr Ryan — On the point of order, Speaker, this point of order is specious nonsense. The arguments made by the Attorney-General, and supported in as much as they were by the Leader of the House, are arguments to be made with regard to the legislation that applies to whomever it may have been who originally obtained the information to which they refer. We are basing a question around a report in a newspaper which has been publicly — —

Honourable members interjecting.

The SPEAKER — Order! The member for Mordialloc, the Minister for Sport, Recreation and Youth Affairs and the member for Yuroke will not interject in that manner. I ask for the cooperation of members.

Mr Ryan — There is published in the *Australian* newspaper today the material on which this question is based, and I ask therefore that the Premier be required to answer the question which has been put to him.

The SPEAKER — Order! It is very difficult for the Chair to rule out of order a question that is based on a media article, although, as members know, the Chair cannot direct a minister as to how they will answer a question. I would expect all ministers to be able to answer a question in a reasonable and lawful manner.

Mr BRUMBY (Premier) — I thank the Leader of the Opposition for his question.

Ms Asher interjected.

The SPEAKER — Order! I ask the Deputy Leader of the Opposition not to abuse her position to make constant interjections across the table.

Mr BRUMBY — In answering the question I make the observation that in relation to the question either the Leader of the Opposition has access to the information referred to, or alternatively it would explain why in this place on Tuesday the member for Kew had difficulty with his question, because the fact is someone wrote the question for him.

Honourable members interjecting.

Mr Ryan — On a point of order, Speaker, the Premier is debating the question. This fanciful reconstruction of the question from earlier this week has nothing to do with the question that is being asked

today. I ask you to have the Premier answer today's question.

The SPEAKER — Order! I uphold the point of order. The Premier is debating the question. I ask the Premier to come back to the question.

Mr BRUMBY — There are longstanding precedents in this place, and obviously there has been some focus in recent years overseas about cash for questions, and the fact is the question that was asked by the member for Kew on Tuesday was written by somebody outside of this Parliament, and the Hansard tapes confirm that.

Mr Ryan — On a point of order, Speaker, the Premier is flouting your ruling. He is debating the question, and I would ask that he answer the question he has been asked. It is not a difficult question.

Honourable members interjecting.

The SPEAKER — Order! As the Leader of The Nationals knows, it is not within the Chair's authority to direct a minister or the Premier as to how they will answer a question. Can I ask the Premier though to not discuss the questions as asked on Tuesday but to direct his answer to today's question.

Mr BRUMBY — I am happy to do that of course, but I am making the self-evident point that Thursday's *Australian* was not published on Tuesday and somebody wrote the member for Kew's question, which is why he struggled to read it. In relation to the — —

Honourable members interjecting.

The SPEAKER — Order! The member for Scoresby.

Mr BRUMBY — In relation to the matters, they refer to private phone conversations and — —

Mr Wells interjected.

The SPEAKER — Order! The member for Scoresby.

Mr BRUMBY — They refer to private phone conversations, and they are ancient history. I do not believe — —

Honourable members interjecting.

The SPEAKER — Order! I suggest to the members of the opposition that their interjections are unhelpful.

Mr BRUMBY — As I made clear publicly earlier today, I do not believe they change anything.

Mr R. Smith interjected.

The SPEAKER — Order! I suggest to the member for Warrandyte that if he wishes to address a member in this chamber, he does so by their correct title.

Hospitals: funding

Ms MUNT (Mordialloc) — My question is to the Minister for Health. I refer to the Brumby Labor government's commitment to make Victoria the best place to live, work and raise a family, and I ask: can the minister inform the house of how the Brumby government is investing in Victoria's health system to treat more patients?

Mr ANDREWS (Minister for Health) — I thank the honourable member for Mordialloc for her question and for her long-term commitment to health service provision in her local community. Over its term in office this government has made sure that every hospital in every town, in every suburb, in every year has received a funding boost, because what we know, and what our dedicated staff and the communities they serve know only too well is that more money means more doctors, more nurses, more beds being open and more patients being treated more quickly. That is what we know and understand, and that is what we have given effect to in every year of our term in office.

There is no better example of that commitment than this week's announcement of 102 additional subacute beds to support our nurses, doctors and, most importantly, their patients in what is undoubtedly the busiest time of the year — our colder months. That $13.9 million investment in 102 additional beds, treating just over 1000 patients during this coming winter, is a great example of the strong, practical and ongoing support that our government has provided and will continue to provide to health services right across Victoria, both metropolitan health services and large regional health services and also health services in communities that are not quite so big.

We are very pleased to provide that additional support. I know the member for Mordialloc would be very pleased to learn that Southern Health, which covers her local community, my local community and indeed yours, Speaker, will receive 15 additional beds to treat some 100 patients. Alfred Health is receiving 30 beds to treat 207 patients; Eastern Health is receiving 4 additional beds; Northern Health, 16; and Peninsula Health, 6 beds — I know the honourable member for

Frankston will be very pleased to see that, as more beds means more patients treated more quickly. There are also additional beds for Ballarat, Bendigo, Central Gippsland, the Western District Health Service and of course Albury Wodonga Health.

That is an important one because that is Australia's only cross-border health service, one that is being run by the Victorian government after an agreement was struck with the New South Wales government. Whilst it covers both the Wodonga and Albury communities, it is a hospital run and operated by the state of Victoria. There is no clearer example of what those to our north believe in terms of the, if you like, ranking of our health system than the fact that they have been pleased to hand the care of the Albury community to the Victorian government.

I am delighted to say that this bed boost sees additional beds for Albury Wodonga Health, and it just so happens that because the subacute beds are located in Albury those beds are a boost for Albury. I would say this is a great example of the fact that good policy knows no boundaries. We are delighted, just as the *Border Mail* was delighted. Its headline was 'Brumby funds six Albury beds — cash flows to deal with winter illnesses'. It is a very important boost for that community. It is important to note that Dr Stuart Spring, the CEO, was quoted in the article as having said:

> 'That money from Victoria will be used to assist the whole community', he said.
>
> 'It is very good news, the fact they are looking cross-border.
>
> … specifically allocating for a community rather than an individual hospital.

That is a fantastic example. Whether it is small country towns, large regional centres, the outer suburbs of Melbourne or the centre of Melbourne, there have been funding boosts in every budget every year to support our doctors and nurses to in turn support the patients who turn to them for care. This is a very important boost, and it is one that will benefit patients right across Victoria.

I should also acknowledge that it is not just these 132 beds, as important as they are. As part of this process every single hospital has developed a winter plan — an important plan to manage demand to make sure we can cope with all the pressure that comes in our coldest months. This shows not only that good policy knows no borders but highlights the stark contrast that can be seen between a practical and important real investment on this side of the house in real beds that treat real people and the reams of paper, spreadsheets and databases which are the only offer of another group in our community. It shows that good policy is always good policy and that there are no friends of good health policy on the other side of this chamber.

Former Chief Commissioner of Police: government support

Mr BAILLIEU (Leader of the Opposition) — My question is to the Minister for Police and Emergency Services. I refer the minister to his claim in this chamber on 4 December 2007 that 'We fully support the chief commissioner', and I ask: is it a fact that, as reported in the *Australian* today, at the same time as the minister was misleading the Parliament his chief of staff, now the member for Albert Park, was secretly calling members of Victoria Police to undermine and criticise the then Chief Commissioner of Police, Christine Nixon?

Honourable members interjecting.

The SPEAKER — Order! I thank all the members of the opposition, but I can see that two members stood.

Mr Batchelor — On a point of order, Speaker, the nub of this is a false allegation. It is not true, and it should not be allowed as a question.

Mr Foley — On the point of order, Speaker, I would ask that you rule this question out of order on the grounds that the Leader of the Opposition falsely seeks to impugn me. If he has any substantive issue he wishes to raise, he should not sneak in here and use question time to try to smear people's names with material that is only known to that side of the house. He should use the processes of the house that are open to him, move a substantive motion and have a debate on its merits. We will then establish who knows what, who knew what when, who met with who and who got their questions written for them. On that basis, Speaker, I ask that you rule this question out of order.

Mr McIntosh — On the point of order, Speaker, this is a very simple matter. The reality is the question relates to a publication from this morning, and indeed the most important thing is that it is a legitimate question, it should be ruled in order and the minister should respond to the question.

Mr Hulls — On the point of order, Speaker, the Leader of the Opposition in his question made an unambiguous accusation that the Minister for Police and Emergency Services misled this house. That accusation can only be made by way of substantive motion in this place, therefore the question ought to be ruled out of order.

Dr Napthine — On the point of order, Speaker, the point of order raised by the member for Albert Park is specious. The question raised by the Leader of the Opposition was based on an article published in today's *Australian*. The question asked: is it a fact as published in the *Australian* today — and then certain comments were made. The question is asking the minister: are the assertions made factually correct? That is the nub of the question. It is up to the minister to be called upon to answer that question. The people of Victoria deserve to know, and the people in this chamber deserve to know. The only people who seem to be trying to hide from this are the government members, particularly the pale member for Albert Park.

Mr Stensholt — On the point of order, Speaker, I support the argument that this question should be ruled out of order. I refer to standing order 118, which states that imputations can only be made by substantive motion. I think there were imputations made with respect to two members of the Assembly. I also point out that in *Rulings from the Chair* the ruling headed 'Imputations concerning actions prior to election as MP' states in part:

> No distinction should be made between remarks made relating to actions prior to a member being elected and those concerning events since election.

I therefore support the point of order raised by the member for Albert Park. I say that this should be dealt with by substantive motion and not in question time by a question.

Mr Clark — On the point of order, Speaker, the point of order raised by the member for Albert Park seems to be predicated on the allegation that there was an imputation against him. As I recall the question, there was a reference to him misleading the house. There was no accusation that he deliberately misled the house. It could conceivably have been misleading due to error or other factors not involving an imputation. I support the point made by the member for South-West Coast that there were a series of factual propositions put to the minister and it is up to the minister as to whether he wants to refute or confirm those matters. But they have been put to him for the purpose of him responding to them, and I submit that the question is therefore in order.

The SPEAKER — Order! Standing order 118 clearly states that imputations on members of this chamber are disorderly other than those made by substantive motion. I ask the Leader of the Opposition to rephrase his question without impugning the member for Albert Park.

Mr BAILLIEU — My question is to the Minister for Police and Emergency Services. I refer the minister to his claim in this chamber on 4 December 2007 that 'We fully support the chief commissioner', and I ask: is it a fact, as reported in the *Australian* today, that at the same time as the minister was making this comment to the Parliament his then chief of staff, the now member for Albert Park, was calling members of Victoria Police and criticising Chief Commissioner Nixon?

Mr Foley — On a point of order, Speaker, clearly the Leader of the Opposition was incapable of listening to your earlier ruling. He has simply restated, almost verbatim, his earlier question. The member continues to seek to falsely impugn me in this matter. If he has any substance to what he says, under the proper processes of the Parliament and the proper processes of privilege — which is a great responsibility as well as a great right — he should seek to move a motion in the appropriate forum and not impugn me or indeed any other member of this house in a question in the manner in which this one was asked. I again ask you to rule this question out of order.

Dr Napthine — On the point of order, I think the member for Albert Park does protest too much. There was absolutely no imputation in the question as asked by the Leader of the Opposition. This is a spurious point of order being raised by the member for Albert Park, who is trying to cover up and hide the truth. What we need is for the minister to stand up and answer the question. That is what the public deserves and I ask you, Speaker, to rule this point of order out of order.

The SPEAKER — Order! In his comments the member for South-West Coast has impugned the member for Albert Park.

Mr Stensholt — On a point of order, Speaker, I was merely going to say that the member for South-West Coast impugned the member for Albert Park.

Mr Foley — On the point of order, Speaker, I seek to make the same point that the member for Burwood makes. I ask that the member for South-West Coast withdraw his imputation and apologise to the house.

The SPEAKER — Order! The member for Albert Park has asked for the member for South-West Coast to withdraw his comments.

Dr Napthine — I withdraw those comments from Shakespeare.

Honourable members interjecting.

The SPEAKER — Order! The record will show that the member for South-West Coast impugned the member for Albert Park, and I ask him to withdraw the imputation.

Dr Napthine — I withdraw.

Mr Batchelor — On a point of order, Speaker, I draw your attention to a ruling by Speaker Andrianopoulos at page 161 of the Legislative Assembly of Victoria's *Rulings from the Chair*. It is a ruling about procedures when the authenticity of questions is challenged, and that is certainly what has happened here. The authenticity of what the Leader of the Opposition has said has come under direct challenge. The ruling says:

> If a point or order is taken on authenticity, whether of documents or in relation to information contained in a question, the Chair will ask the member to vouch for its accuracy. If the member does so, the Chair accepts the authentication. If a member cannot confirm the accuracy of information, the question is disallowed.

In relation to the other points of order, Speaker, there is this additional threshold requirement that with respect to the allegations that have been made by the Leader of the Opposition, which have been denied and rejected by the member to whom they have been directed, you should ask him to vouch now for their authenticity, and if he cannot do so and tell us where he gets that information and show that it is true, you should disallow that question in line with the previous rulings by the Chair.

Mr Ryan — On the point of order, Speaker, the point of order just taken shows a patent misunderstanding of the ruling. What the ruling says is that whoever poses the question has to direct the house to the source of the question being asked. That is the extent of the ruling. It is nonsense to say that for every question that is asked in this place there must be a source in the sense of the knowledge of the matter about which the question is posed. If that were the case questions would never be asked here. The issue is: what is the basis upon which the question is posed? Clearly, as the question refers to, the source — the authentic source — is the article in today's *Australian*. There is no point of order.

The SPEAKER — Order! I will allow the question.

Mr CAMERON (Minister for Police and Emergency Services) — Let me say that the Brumby Labor government supports the office of Chief Commissioner of Police. It is an important office. Let us go back to the very basis of this question in relation to the member for Albert Park and the inference that has been given. Let us go back to the fundamental basis of this question in that respect.

Two weeks ago in this house in the preface to a question the honourable member for Kew asserted that the honourable member for Albert Park leaked information, gave information, to the then assistant commissioner, Noel Ashby, in relation to the then deputy chief commissioner, Simon Overland, going to somewhere called Fontainebleau and that he was leaking the information. In fact the honourable member for Kew referred to the evidence that was before the Office of Police Integrity hearings in late 2007 before Mr Justice Wilcox, the retired Federal Court judge. When you actually have a look at that evidence, what do you see in that evidence before Mr Justice Wilcox? Where that came from, where Mr Ashby learnt that, was from a woman, and in fact he told the honourable member for Albert Park. It was nothing but a disgusting, repulsive and repugnant Liberal lie — disgusting and repulsive!

Today we have these allegations about undermining; in fact it is well known that I support the Chief Commissioner of Police. At all times I supported Chief Commissioner Nixon and I support Chief Commissioner Overland. It is well known that I asked Chief Commissioner Nixon whether she wanted to stay on. I say to the Leader of the Opposition: you can take your disgusting, repulsive and repugnant Liberal lies and go away.

Water: opposition policy

Ms GRALEY (Narre Warren South) — My question is to the Minister for Water. 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: is the minister aware of proposals to build major new dams in Victoria to secure city and regional water supplies and does the government have any plans to proceed with such dams?

Mr HOLDING (Minister for Water) — I thank the member for Narre Warren South for her question. I am able to report to the house that I am aware of proposals to build major new dams here in Victoria. I refer to a number of different sources. An article in the *Herald Sun* of 7 November 2007 quotes the Leader of The Nationals as saying that the government could dam the Mitchell River and that he would support this plan. He also supported building a dam on the Barkly River or building a second larger dam above the Glenmaggie Weir on the Macalister River. At The Nationals state conference of 19 April 2008 the Leader of The Nationals said, 'For goodness sake, build more dams'.

I was labouring under the misapprehension — it now appears — that, based on these bold and emphatic statements, it was the opposition's policy not only to build a dam but to build a dam on the Mitchell River. Speaker, you would be aware that it is not the state government's policy to build a dam on the Mitchell River. We do not support the proposal to build a dam on the Mitchell River or indeed to build dams or major storages on the tributaries of the Mitchell River, but we have been approached by the irrigators in the Lindenow plains who would like us to build an on-stream storage either on the Mitchell River or on a tributary of the Mitchell River. These irrigators have received support from those opposite, who said they would support their proposition to build a storage on the Mitchell River or on a tributary of the Mitchell River.

Then we were subjected to the spectacle of a member for Eastern Victoria Region in the other place, Mr Philip Davis, push polling his constituents to oppose building another storage on the Mitchell River.

Dr Napthine — On a point of order, Speaker, the minister is debating the question. I ask you to bring him back to answering the question with respect to government business.

The SPEAKER — Order! I uphold the point of order. I ask the minister to confine his remarks to the question as asked.

Mr HOLDING — The government has made it clear that it does not support this proposition for an on-stream storage on a tributary of the Mitchell River or on the Mitchell River itself. We know the Lindenow irrigators are disappointed by the stance we have taken, but we know also that they are profoundly disappointed by the stance that others have taken in relation to this proposal. A Lindenow irrigator had this say in the *Weekly Times* of 9 June when the plans of others in Victoria came to pass:

> What a waste of space these guys (The Nationals) are, they haven't differentiated themselves at all …

Dr Napthine — On a point of order, Speaker, the minister is again debating the issue. I ask you to bring him back to answering the question with respect to government business. If the government has a position that it is opposed to, let him move on to the next issue.

The SPEAKER — Order! The minister was asked about government plans. The government's interaction with any community group can form part of the government's legitimate business dealings with that community group on important plans for its water supply. In the sense that the answer referred to the Lindenow irrigators community group and its dealings with the government, I rule that totally within the bounds of the question, but I ask the minister not to canvass opposition policy in this area.

Mr HOLDING — The Lindenow irrigators were talking about the question of differentiation. The Lindenow irrigators were clear in answering the questions they were asked — —

An honourable member — Who?

Mr HOLDING — I will give the name: Mr Ross Ingram. Traditionally they have not been supporters of the member for Gippsland East, but Lindenow irrigator Ross Ingram said in terms of the question of differentiating themselves from government policy:

> 'What a waste of space these guys (The Nationals) are, they haven't differentiated themselves at all …
>
> …
>
> He said irrigators would be better off voting for East Gippsland MP Craig Ingram because 'at least we know where he stands'.

We make our position on this clear: we do not support a dam on the Macalister River in Gippsland. We do not support a dam on the Mitchell River or its tributaries; we have ruled that out. We do not support the Halls Ridge dam site on the Aire River in the Otways. We do not support a dam on the Gellibrand River. We do not support the Arundel dam — the Arundel puddle! — on the Maribyrnong River. We do not support the expansion of Lake Buffalo. We do not support the expansion into the Big Buffalo dam. We do not support the expansion of Lake William Hovell.

What we do support is the upgrade of Victoria's irrigation systems through the food bowl modernisation project, because we know that can save staggering amounts of water and that that water can be shared between stressed river systems, irrigators and urban communities. We support the construction of Australia's largest desalination plant, and that project is under way at the moment. We support the connection of Victorian communities in the statewide water grid. We saw the benefits of that yesterday when the Premier and I were able to join with Central Highlands Water in announcing the easing of water restrictions for the community of Ballarat because of the water that is being delivered by the Goldfields super-pipe, which was opposed by those opposite. We support our ongoing efforts in relation to water recycling and water conservation. Victorians have responded magnificently to those efforts.

What we do not support is the construction of new dams or new reservoirs or the expansion of existing ones, because we know these solutions are not sustainable solutions for the Victorian community. We now know that it is not just the government that is opposed to building an additional storage on the Mitchell River tributaries because now finally we know that — it used to be the tail that wagged the dog — even The Nationals have rolled over and accepted the Liberal Party policy to oppose further storages on the Mitchell River and its tributaries.

Electricity: smart meters

Mr RYAN (Leader of The Nationals) — My question is to the Premier. I refer the Premier to a letter from ALP Melton branch member Graham Proctor which appeared in the *Moorabool Leader*. It states:

> The Melton branch of the ALP has already considered the use of smart meters and is opposed to the government's short-sighted policy.
>
> Hitting pensions and other low-income earners already hit through higher charges adds insult to injury.

I ask: is it not a fact that low-income earners, particularly those in regional Victoria, are being penalised by the Premier's smart meter rollout?

Mr BRUMBY (Premier) — I obviously have not seen the letter in question.

Honourable members interjecting.

Mr BRUMBY — It was in the paper, I know, but I have not seen it. What I do know about smart meters is — and I am sure the Leader of The Nationals would be aware of this — that the origins of the smart meters go back to a Council of Australian Governments (COAG) meeting in 2005, chaired by the then Liberal Prime Minister, John Howard.

Honourable members interjecting.

The SPEAKER — Order! I ask the member for South-West Coast not to interject in that manner, and I ask the member for Bass not to bang on the wooden cabinetry around his desk.

Mr BRUMBY — I stand corrected. It was Council of Australian Governments meeting in 2006 chaired by then Prime Minister John Howard. It was agreed to — —

Honourable members interjecting.

The SPEAKER — Order! The member for Kilsyth.

Mr BRUMBY — It was agreed to by the then Liberal-National party federal government and all — —

Mr Ryan interjected.

Mr BRUMBY — Why do you laugh at that? Why would laugh at that? Why would you laugh at John Howard?

Honourable members interjecting.

The SPEAKER — Order! The member for Macedon! The Premier will not respond to interjections, and I ask the Leader of The Nationals not to interject.

Mr BRUMBY — He is a former Prime Minister who deserves to be treated with some respect, and I was surprised by the disdain shown by the Leader of The Nationals.

Honourable members interjecting.

The SPEAKER — Order! The Premier!

Mr BRUMBY — That was what was agreed at COAG, and various states have been implementing that decision since 2006. In Victoria the rollout of smart meters, again as I believe the Leader of The Nationals would be fully aware, is overseen by the Australian Energy Regulator, which is part of the Australian Competition and Consumer Commission and which has overseen it, because again as the Leader of The Nationals would be aware, we are now part of a national energy system. This was part of a national decision taken by all Australian governments, and it is overseen by the national regulator — the Australian Energy Regulator.

Youth: Championship Moves campaign

Ms CAMPBELL (Pascoe Vale) — My question is to the Deputy 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 Deputy Premier outline to the house measures the government is taking to educate young people and help prevent alcohol-fuelled violence?

Mr HULLS (Attorney-General) — I thank the member for her question. I am sure everyone would agree that as a government, as a community and as individuals we all have we all have a role to play in the prevention of alcohol-related violence — and the Brumby government's Championship Moves campaign does just that. The campaign is about respect, it is about

educating the community and it is about encouraging young people, especially young adults, to stop and think about their actions. In fact the $2. 75 million campaign was initially launched in 2009 and has received ongoing support from the Australian Football League as well as from licensed venues right across the state.

Yesterday I was very pleased to announce a further eight-month education and promotional partnership with the AFL and AFL Victoria. This builds upon the strong support already shown for the Championship Moves campaign by the AFL Coaches Association. Indeed it acknowledges the important role that sport plays in instilling the values of respect and responsibility in the Victorian community. Danny Frawley, who is the chief executive of the AFL Coaches Association; Rodney Eade, who would be absolutely ecstatic about the recent promotion of the Bulldogs no. 1 supporter; Damien Hardwick from Richmond; and Peter Schwab, the CEO of AFL Victoria, were all there to help me launch the next grassroots phase of the campaign.

The campaign is about this: real champions look out for their mates and respect everybody's right to have a good time. If you are with your mates and you have had too much to drink and are about to make a mistake, you should be able to put your trust in them — in fact you should be able to put blind trust in them.

Honourable members interjecting.

The SPEAKER — Order! The members for Benalla, Malvern, Kew, South-West Coast and Scoresby should all cease interjecting and allow the Deputy Premier to conclude his answer.

Mr HULLS — They will step up and pull you into line. Under this campaign blind trust can be useful and can help people avoid conflict. Having the support of AFL Victoria as well as the AFL Coaches Association means that the Brumby government's message about the need to drink responsibly, and indeed to take responsibility, is getting in particular to the young men who need it most. I think this is a good example of cooperative community and also corporate support trying to address the issues of alcohol-related violence.

The new partnership will involve Championship Moves presentations at coaching seminars, a direct mail-out to 650 AFL Victoria clubs and also articles in the VFL/TAC Cup *Record* and also newsletters. The Essendon, Northern and Southern football leagues will receive campaign correspondence and incentives for coaches to run workshops. There will actually be a prize as well and a chance to win one of 10 prizes of an opportunity to shadow an AFL coach for a day — a great prize. Championship moves that are featured in the campaign include 'muzzle', which is about covering a mate's mouth before he can yell abuse or before he can yell provocative statements, and the 'chef', which is about filling a mate's mouth with food instead of abuse — although I am sure some will not like this food because the food does not come on a silver platter.

The campaign approach has received both national and international recognition: from the Northern Territory and from the council area of Fyffe in Scotland, of all places. Both have implemented their own versions of Victoria's campaign, and we think that is great for Victoria.

The key line from the Championship Moves campaign is 'Got the moves to keep you and your mates out of trouble?'. The fact is that if a mate is doing the wrong thing, getting into trouble and experiencing conflicts or not identifying or declaring conflicts, then you should use one of the championships moves on them and show them the error of their ways. That is what this very important campaign is all about.

Schools: infrastructure spending

Mr DIXON (Nepean) — My question is to the Premier. I refer to the government's failure to release the full funding details of Victoria's Building the Education Revolution projects, and I ask: will the Premier now follow the lead of New South Wales and release these details or will he maintain this cover-up in order to protect his former chief of staff, the new Prime Minister?

Mr BRUMBY (Premier) — I thank the honourable member for his question. I am happy to confirm that I have had some very good chiefs of staff over the years; the honourable member for Niddrie was a very good chief of staff.

The Building the Education Revolution (BER) initiative is delivering something like $2.5 billion for over 2000 projects across Victorian schools. There is a big difference between the political parties on this; there is a big difference between this side of the house and that side of the house. On our side of the house we invest in education. We build schools; we build them up and we believe in opportunity. It is a very different picture on the other side of the house, where they believe in selling off schools, closing them down and denying educational opportunities to people across our state.

It is no secret that when we brought down the budget last year in the midst of the biggest global financial crisis since the Great Depression our programs and investments were right for this state. It is those opposite who will be condemned for all time for opposing the increased investment we proposed in schools, hospitals and transport across the state. History shows that our vision, our plan, our investment was right for the state. I mention that because the opposition parties in this place have a lot of form on closing and selling off schools.

The SPEAKER — Order! The Premier should come back to the question.

Mr BRUMBY — I note the Leader of the — —

An honourable member interjected.

Mr BRUMBY — Are you okay? Have you got someone else to write your questions for you? Have you got someone else to write your questions?

Honourable members interjecting.

The SPEAKER — Order! I ask the Premier not to invite interjections from the opposition, and I ask the member for Kew, one final time before I ask him to leave the chamber, to cooperate with the smooth running of question time

Mr BRUMBY — In terms of value for money, I am able to advise the house that the rollout of the BER in Victoria ensures that every project tender is subject to a rigorous and market-based competitive process which ensures maximum value for money. Many of the Primary Schools for the 21st Century program projects have now been contracted and are progressing well, and in fact 87 per cent of projects have been or are about to be awarded. I can say that I am proud of the fact that there is building work in place across the state.

In terms of the claims that have been made about project management fees, the project management fee which is paid in Victoria is below the 4 per cent ceiling required by the commonwealth government.

Mr Ryan — On a point of order, Speaker, the Premier is debating the question. The Premier was asked a question which invited the government to simply publish the information, which is already published in New South Wales. If he were to publish the information, as the question asked, none of this information he is now giving would be necessary.

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

Mr BRUMBY — As I indicated, many of these school projects are complete and many are under construction but some are still under tender. But let us be clear about the real gist of this question. This is a question from members opposite who do not want to see investment in our government schools.

The SPEAKER — Order! I believe the Premier is now debating the question.

Mr BRUMBY — On our side of the house we are pleased that our Victorian schools plan, in partnership with the federal government's Building the Education Revolution initiative, has made a huge difference to schools and to educational opportunities across the state. Whether it be in relation to the 8500 teachers we put into the system, class sizes, completion rates or the literacy and numeracy of Victorian students compared with those interstate, we have a record we can be proud of in terms of our investment in education, and it is very different to those of our opponents who would close and sell off schools.

Housing: neighbourhood renewal program

Ms KAIROUZ (Kororoit) — My question is to the Minister for Housing. I refer to the Brumby Labor government's commitment to make Victoria the best place to live, work and raise a family, and I ask: can the minister update the house on what has been achieved through the Brumby government's neighbourhood renewal program, and is the minister aware of any challenges going forward?

Mr WYNNE (Minister for Housing) — I thank the member for Kororoit for her question. Neighbourhood renewal is without doubt one of the great success stories of the Brumby government. It is a unique program that brings together the resources of the state government, local councils, community organisations and, most importantly, local residents to narrow the gap between 21 of Victoria's most disadvantaged communities and the rest of the state. It is truly an example of social inclusion, which is championed of course at the federal level by the former Deputy Prime Minister, Julia Gillard, who is now our Prime Minister.

Mr Seitz — Hear, hear!

Mr WYNNE — Thanks, George. As I said, in 21 communities across the state from Bendigo to Flemington, from Seymour to Fitzroy, from the Latrobe Valley to Shepparton, from Ballarat to Hastings, from Wendouree West to Corio and right across the state there is neighbourhood renewal. Right across the state disadvantaged communities are being transformed with improved housing, education, employment and

training, health and full opportunities for civic participation.

The principle behind neighbourhood renewal is that local people are best placed to make decisions and to take action to improve their communities. To the end of June 2009, $350 million had been invested by the Brumby government, and the results speak for themselves. We have seen 5500 job opportunities, 40 social enterprises, 8000 housing improvements completed and over 100 community infrastructure and urban design projects undertaken.

Earlier this month I was in Bendigo, where I had the privilege of joining the people of Long Gully and Eaglehawk as part of a community cabinet visit to celebrate the conclusion of eight years of neighbourhood renewal. One thing was striking when we went to Bendigo, and that was the number of volunteers who gave up their time to build the capacity of the community and to work towards finding common solutions to shared problems. Of course the strength of this community was severely tested during the Black Saturday fires.

At that event I was struck by a young woman who got up and spoke. This was a woman who was perhaps in her mid-20s and who had raised three children. She said that the importance to her of neighbourhood renewal was that it had provided her with an opportunity for training, an opportunity to build confidence and, now her children had grown a bit and were in school, for the first time she was able to access a job. These are the values that drive this side of the Parliament, because we know that employment brings the opportunity of dignity and independence. These are the values we hold true; they are true Labor values.

I am aware of significant support for neighbourhood renewal, and I refer to some recent correspondence I received advocating for an expansion of the neighbourhood renewal program to other areas. I quote:

> A neighbourhood renewal program, such as those that have been completed with positive results in towns in the Latrobe Valley, would be the most beneficial solution for the Wurruk estate …

That relates to a particular estate down in that area. The correspondent was a member for Eastern Victoria Region in the other place, Mr Philip Davis. We thank him for his advocacy, and we thank him for the vote of confidence he has provided in relation to neighbourhood renewal. This is in sharp contrast to commentary from some other people. I quote:

> … the state Labor government may have wasted eight years, more than $350 million and achieved very little towards addressing disadvantage in neighbourhood renewal areas.

We can guess who that might be. It is a person who continues to stand behind the opposition's risible budget commitment of $5 million to public and social housing. It is the self-proclaimed champion of social justice, none other than the shadow Minister for Housing in the other place. Shame on her!

ELECTORAL AMENDMENT (ELECTORAL PARTICIPATION) BILL

Second reading

Debate resumed.

Mr DELAHUNTY (Lowan) — On behalf of the Lowan electorate I rise to speak on the Electoral Amendment (Electoral Participation) Bill 2010. The following words are written on a section of the floor of the vestibule of Parliament House:

> Where no counsel is, the people fall; but in the multitude of counsellors there is safety.

In Australia we have a lot to be proud of in our electoral system. People elect members of Parliament and the MPs normally elect the leaders. We have seen a bit of a diversion from that today because we saw the unions with their hands up the back of some federal MPs in caucus electing a new Prime Minister — and by the way, congratulations to her. In reality, we have a lot to be proud of in our electoral system. The bill before us today has a number of purposes, including to authorise the Victorian Electoral Commission (VEC) to enrol voters based on information obtained by it; to allow unenrolled voters to enrol and vote on election day; and to make other changes to electoral law. In discussing this bill with people in my electorate and also in my capacity as shadow youth affairs minister discussing it with youth across Victoria, I found that comments have been made about the good points in the bill but some concerns have also been expressed. Those concerns have been discussed, and I support the amendments circulated by the member for Box Hill.

I want to talk about some of the main provisions of the bill. It authorises the VEC, on its own initiative, to give notice to vote to a person who turns 18 without enrolling based on the information obtained by the VEC using its existing powers to obtain information from various bodies. Some concerns have been raised about that; first of all, that it is a breach of privilege or right — —

Dr Napthine — Privacy.

Mr DELAHUNTY — Breach of privacy, thank you. Some people feel information provided to the education department and now used for other purposes, raises concerns about privacy by now allowing the VEC to have access to it.

The bill also removes the requirement that for a person to vote the address at which the voter is enrolled must have been the voter's principal place of residence during the previous three months. Some concerns have been expressed about that because many immigrants come to this area and students move around, and it is students in particular who have raised questions with me about where they stand.

The bill will also allow to be counted postal votes that are postmarked on the Sunday following the election. This discriminates against people who live in rural and regional Victoria. I have been informed that at the last election some votes that were postmarked on the Sunday were counted. Just about all post offices in rural and rural Victoria do not operate on a Sunday; in fact a lot of them do not operate on Saturday either. That discriminates against people in rural and regional Victoria, and I raise that concern here.

The bill will allow a person to cast a provisional vote. If people claim they are entitled to vote and their name cannot be found on the roll, they can complete an enrolment form and a declaration and they will be able to vote. There are some concerns about that. What about people who have just moved to this country, including immigrants? What I am trying to say is that concerns have been raised in relation to those people.

The bill allows for a list of voters who can now vote electronically to include those with motor impairments or insufficient literary skills who need to be given some assistance. Everyone I have spoken to thinks that is a good step forward, and we welcome those changes.

As I said, among the majority of people I spoke to as the shadow minister for youth affairs there was a lot of agreement that we need to improve the enrolment process, but everyone I spoke to also wanted to make sure there is adequate probity about it all and appropriate checks and balances. Members can see why the member for Box Hill raised a lot of those issues in his presentation here today, and that is also why I support the proposed amendments. I will be interested to see how the vote goes later this afternoon.

Ms GRALEY (Narre Warren South) — It is a great pleasure to rise today to support the Electoral Amendment (Electoral Participation) Bill. We in Victoria cherish democracy, and as members of Parliament we are very privileged to be able to participate in it. I am really proud to be part of a government that values the role that Victorians play in the democratic process. I believe the Brumby Labor government wisely continually upholds and enhances our democracy through parliamentary and electoral reform.

The bill currently before the house is all about eliminating obstacles and making our democracy as accessible as possible. There are three key components to the bill: streamlined enrolment procedures, abolition of the three-month rule and enrolment procedures on election day. I will briefly address each component.

While we have a system of compulsory voting, of which I am a great supporter, it is currently left up to the individual to obtain an electoral enrolment form, complete it with the required identification and send it off. I am really pleased that this bill streamlines this process, because I have often seen it as an obstacle to young people's participation.

The VEC (Victorian Electoral Commission) will have the power to enrol people on its own initiative based on information from various sources, including the Victorian Curriculum and Assessment Authority. In the first instance passage of this bill will mean that students 18 years and older who are registered with the VCAA will be enrolled to vote without the need to complete a form. I believe this will remove a significant obstacle to achieving better rates of youth enrolment. I am very pleased about this because my electorate is home to many young people — indeed it has more young people than most electorates — and I spend a lot of time speaking to them. I have shown hundreds of them through this Parliament, and many of them will be voting for the first time this year. They have specific needs and bring a new and unique perspective to issues being debated in the community at the local, state and federal levels. I think they are really up to not only exercising their right to vote but also participating more consistently and enthusiastically in the democratic process.

In a democracy with compulsory voting we need to ensure that the views of our young people are as well represented in election outcomes as those of older voters. I feel that currently this is not quite the case. By improving the enrolment rate — I understand the youth enrolment rate is 8 per cent lower than the enrolment rate of the general eligible voting population — we hopefully will see many young people taking an avid interest in politics and government.

The Electoral Matters Committee inquiry into voter participation and informal voting last year brought together some interesting statistics. As of June 2008 something like 400 000 young Australians aged between 18 and 25 years were not enrolled to vote. In Victoria the VEC receives the records of around 60 000 Victorian certificate of education students each year and sends birthday cards to those turning 17, inviting them to enrol. In 2008–09 only 19 per cent responded. The obvious reason for such a low response rate is that this is yet another form to complete, another thing to do and, as we know, most teenagers are very busy. The Australian Electoral Commission has previously had an enrolment target of 80 per cent of those aged 18 to 25. I am certain this bill will ensure that we will well exceed that target, and that is a very good thing.

This bill will also abolish the three-month rule, which uses the elector's principal place of residence three months prior to election day as a measure of the elector's entitlement to vote. At the last state election 10 000 people were unable to vote on account of failing to update their addresses in time. It is the government's view that a Victorian who fronts up to a polling booth should not face such an impediment to their ability to vote. That is especially the case in my electorate, where there are many people moving into the electorate and turning up to a new polling booth there for the first time. That we are able to assist them in this way will be greatly appreciated, I am sure. This bill will ensure that voters will be allowed to vote in respect of their registered address.

Finally, the bill introduces enrolment procedures for election day. I note that in 2006 around 66 000 eligible Victorians attempted to vote in the state election but were rejected because they were not on the electoral roll. Again, the government has committed to removing this impediment. Under this bill Victorians will be able to enrol at the voting booth on election day subject to producing identification.

These measures are designed to make our democracy as accessible as possible and remove any obstacles to voting. I note that there has been some opposition to this move and that somebody on the other side of the house said it was not desirable. That is a rather toffy attitude to take towards young people and others who are finding time to vote. While I am not surprised that those opposite oppose a move to ensure that as many Victorians can participate in the democratic process as possible, I am astonished by some of the criticisms. I noticed that Mr David Davis, the Leader of the Opposition in the upper house, has said that this bill is akin to branch stacking, something he may know a thing or two about. As I said, this does not come as a surprise. I would like to think that a more open and generous approach could be taken to allowing young people and residents, especially those moving into new neighbourhoods, the right to vote on election day.

I will just finish by saying that Dr Nick Economou of Monash University has pointed out that conservatives traditionally make the democratic process more difficult. Members will remember that when John Howard was in charge his changes to the electoral laws meant that up to 340 000 young people missed out on voting in 2007. I think those are astonishing and very disappointing figures. We on this side of the house are committed to removing any obstacles and impediments to voting. We want as many Victorians as possible to have their say and vote in this year's state election. I commend the bill to the house.

Mrs VICTORIA (Bayswater) — I too rise to speak on the Electoral Amendment (Electoral Participation) Bill 2010. At the outset I would like to express my support for the amendments put forward by the member for Box Hill. The purpose of this bill is to authorise the Victorian Electoral Commission to enrol voters based on information obtained by the VEC — and I will go into the manner of that in a moment — to allow enrolled voters to enrol and vote on election day and to make other changes to the electoral law.

According to the 2006 census there are approximately 4.25 million Australian citizens living in Victoria, and of that figure some 3.78 million are adults. According to the VEC, there are 3 478 418 enrolled voters. The Attorney-General pointed out in the second-reading speech that about 66 000 of these people are eligible to vote, but for different reasons some of them cannot.

The important thing we need to talk about here is democracy, which is something we have always held very dear to our hearts here in Australia. That is what our diggers went off to war to defend: they wanted to make sure we lived in a fair and democratic society. Not long ago I had the pleasure of meeting some overseas conservative MPs from places like Uganda, and they talked about the lack of democracy in their countries. We are lucky to have the right to vote, the freedom to enrol and the ability to cast our vote.

The thing that worries me about this bill is where the information comes from to enable the VEC to immediately enrol people to vote when they turn 18. If you look at the information it is getting from the Victorian Curriculum and Assessment Authority you see there is a bit of discrimination in that some of the young adults coming through school leave earlier; they

go on to apprenticeships and the like, but they might also go on to other institutions, not necessarily through the state school system. Not everybody is going to get equal treatment, so we need to have a good look at that.

Unfortunately there is not a lot of time left for debate on the bill in this sitting of Parliament. I wanted to say quite a lot, but I will finish off with a letter that I thought was quite poignant. It was published in the Geelong *Advertiser* and written by a lady called Elizabeth Cross, who lives in Highton.

Mr Eren interjected.

Mrs VICTORIA — I have no idea who this lady is; I have never met her. Her letter in the Geelong *Advertiser* of 14 June 2010 was headed 'Brumby wins both ways on automatic enrolment', and she wrote:

> John Brumby is obviously running scared.
>
> He would be as aware as the rest of us that a young person's priorities on turning 18 are for a drivers licence and permission to have an alcoholic drink — voting is about the furthest thing from their minds.
>
> Enrolling them without their permission will bring one of two outcomes: some will say 'Whatever!' and vote for the incumbent (John Brumby and Labor at the moment) —

and hopefully us after November —

> others won't bother complying and incur a fine.
>
> Whichever scenario the Brumby government wins — votes they wouldn't ordinarily have won, or more of the fines the Brumby government loves so much.

I think that says it in a nutshell. I commend the amendments to the house.

Mr NARDELLA (Melton) — I get really riled when people get up in this place and talk about democracy when in actual fact they are abusing democracy and what democracy means. They use the trials and tribulations and the deaths of great people who went to war to protect our democracy to restrict the ability within our community and our society to participate in the politics of our community. That is what the Liberal Party is doing. Its members come in here and cry crocodile tears about democracy. We just had the example where a letter from a Liberal Party member in Geelong was used as a basis to try to further restrict the voting rights of people within Victoria. This is a false position. The opposition says if you restrict the rights of people to enrol on the day, which this legislation seeks to change, that is democratic; that allows people to participate in the polity of Victoria; that is the way to go in a conservative fashion because that is the basis of what the Liberal Party and The Nationals believe in — the restriction of people's rights to participate in the democratic system in Victoria.

The government believes people should be involved in the democratic process, not saying 'Whatever!', as the member for Bayswater quoted from a Liberal Party member in Geelong. We believe in the reality of people going and having their vote and their view recorded to make a decision on election day in Victoria. The Labor Party philosophy, view and ideology has been over a very long time that people should participate in our democracy. They should be able to have their say. There is a great history in the Labor Party of getting rid of the shackles placed there by the conservatives — the member for Bayswater talked about the conservative view — over a long time, reducing the ability of people to participate in our democracy. For example, in the early part of the 1950s we got rid of the restriction of property right entitlements for voting in the upper house. Previously you could not vote in the upper house unless you owned property.

If you listen to what honourable members on the other side of the chamber say, you find their real position is that they believe that should be the case now. They want to go back to the good old days where you could not vote if you did not have property or if you were young — and yet I remind members it was those people on the other side of the house who back in the 1960s sent our young people who could not vote until they were 21 to Vietnam to protect our democracy. These same people want to continue to restrict the democratic processes and the democratic rights of people in Victoria. The opposition continues that policy today. It does not want young people to be able to vote because they might say 'Whatever!', so they should not be able to vote in Victoria. It should not be made easy for people to vote because the Liberals — the conservatives — and The Nationals believe it is a disadvantage to them. In fact the philosophy and the reasoning behind democracy demands that people should be easily able to participate in the voting and democratic processes in Victoria and in Australia.

Unlike the former Howard federal government, which restricted democracy and the ability of people to participate in political life in Victoria and Australia, we have the philosophical view that people should participate, that they are entitled to participate and that there is a responsibility to enrol people so they are able to participate in our democratic processes — processes which are dear to my heart. The amendments circulated by the opposition to continue to restrict the ability of people to vote here in Victoria should not be supported. I support the legislation before the house.

Mr THOMPSON (Sandringham) — The bill before the house introduces a number of reforms which will strengthen voter participation in the democratic process in Victoria. However, in addition to increasing participation in the process, it is very important that integrity of process be maintained. As a member of the parliamentary Electoral Matters Committee which submitted a report on this issue to this Parliament in July 2009 and only today received a reply to that inquiry by way of the government response, I would like to express concern about the tardy nature of the government response through this particular bill.

In terms of integrity of process, I note the comments of the member for Melton, some of which may have been better suited to the 19th or 20th centuries. In terms of voter participation, I would have liked to have heard him comment on engagement in the process. The Labor Party seems to believe in vicarious participation in the political process. One only needs to refer to the reports into the City of Brimbank and the City of Darebin and the recent reports about ALP branch stacking to note that the ALP's idea of involvement in the political process is to gain the acquiescence of people to join the Labor Party and pay their membership fees for them. This has brought into the ALP processes a number of migrant communities in Victoria which have been vicariously engaged in the political process.

The DEPUTY SPEAKER — Order! I ask the member to come back to the bill.

Mr THOMPSON — We were speaking about integrity of process. I think most fair-minded members of the Labor Party, including a former Labor leader in this state, Mr Cain, have expressed concern regarding integrity of process within the ALP and its factional power plays, which are dependent not upon integrity of process but rather abuse of process.

The bill before the house has been given consideration by a number of members, including the deputy chair of the Electoral Matters Committee, who made some sound points in relation to the bill, in particular the concerns about the lack of harmonisation between the commonwealth government enrolment process, which requires photo identification in the form of a drivers licence as opposed to the proposed new Victorian model, which requires identification of a name at an address. There are concerns as to whether this same-day enrolment may, firstly, create a burden on the electoral officers on polling day throughout Victoria, and secondly, impair the integrity of process if the verification of information does not have the same strength as that required by the commonwealth.

It is important in light of the lack of integrity of process in other voting patterns in the state of Victoria that the state voting system be protected. One of the great features of our Victorian democracy is the level of engagement in the political process; in most elections over 90 per cent of Victorians have the opportunity to and do cast their vote.

Debate adjourned on motion of Mr EREN (Lara).

Debate adjourned until later this day.

PUBLIC FINANCE AND ACCOUNTABILITY BILL

Second reading

Debate resumed from 25 February; motion of Mr HOLDING (Minister for Finance, WorkCover and the Transport Accident Commission); and Mr CLARK's amendment:

That all the words after 'That' be omitted with the view of inserting in their place the words 'this bill be withdrawn and redrafted to:

(1) ensure independent public bodies are not subject to political control and direction by government;

(2) ensure that outcomes are specified and reported on in a manner that enables government to be held accountable for its performance or non-performance towards achieving those outcomes;

(3) prevent government manipulation of performance measures through eliminating or redefining measures it finds politically embarrassing;

(4) prevent deliberate accumulation and dumping of annual reports in Parliament each year by government so as to avoid accountability;

(5) ensure that budget papers and annual reports provide a full range of relevant information on the performance of government, departments and public sector entities; and

(6) require that directions, determinations, notices and other requirements by the minister under the legislation be made public and be readily accessible via the Department of Treasury and Finance website.

Mr O'BRIEN (Malvern) — I am pleased to rise to speak on the Public Finance and Accountability Bill 2009. It is interesting that the bill has come back to this place after having initially been debated in February this year. During the course of the debate the member for Box Hill, who is the shadow minister for finance, pointed out some of the major flaws in this bill. Members of the opposition wondered whether these problems which had been identified by the member for Box Hill were inadvertent or whether the government

really intended to compromise the independence of a number of public bodies and put some public bodies under political control and direction and that was the deliberate intention of this bill.

The honourable member for Box Hill moved a reasoned amendment. I will refer to aspects of that. The reasoned amendment states:

> That all the words after 'That' be omitted with the view of inserting in their place the words 'this bill be withdrawn and redrafted to:
>
> (1) ensure independent public bodies are not subject to political control and direction by government —

Let me just pause to say that one would have thought that was a very hard proposition to disagree with —

> (2) ensure that outcomes are specified and reported on in a manner that enables government to be held accountable for its performance or non-performance towards achieving those outcomes …

Again, if the government is serious about accountability — and by the very title of this bill the government at least pretends to care about accountability — why would the government be worried about ensuring that outcomes are specified and reported on in a manner which enables the government to be held accountable? The reasoned amendment continues:

> (3) prevent government manipulation of performance measures through eliminating or redefining measures it finds politically embarrassing …

The member for Box Hill identified a number of measures which this government has put into previous budget papers as a yardstick for how it is performing and how its agencies and departments are going about their jobs, only to find in the next year's budget papers that that particular yardstick has been eliminated or has been amended so as to make comparison with the previous year impossible.

Why would that be the case? The only reason that is the case is that the government is embarrassed by its performance and does not want to be held accountable. Why else would the government keep changing and eliminating the yardsticks for its own performance if it was not embarrassed about the outcome?

The reasoned amendment further states:

> (4) prevent deliberate accumulation and dumping of annual reports in Parliament each year by government so as to avoid accountability …

We all know the absolute circus that goes on not 15 metres from where I am standing at the moment every year when the government waits until the last possible moment under legislation to bring out the rubbish, put out the trash, and we see on trestle tables throughout the corridors all the government reports dumped in such a way as to try to minimise the ability for members of Parliament, the media and the public to scrutinise what this government has been doing.

The reasoned amendment continues:

> (5) ensure that budget papers and annual reports provide a full range of relevant information on the performance of government, departments and public sector entities …

Again, one would hardly think that is a controversial proposition if the government is committed to accountability. It continues:

> (6) require that directions, determinations, notices and other requirements by the minister under the legislation be made public and be readily accessible via the Department of Treasury and Finance website.

Yesterday the report by the Auditor-General entitled *Managing the Requirements for Disclosing Private Sector Contracts* was tabled, and we know what that report found. It found that this government has had an appalling track record when it comes to disclosing private sector contracts as it is bound to do. For 1 in 10 private sector contracts where there is a requirement to disclose, the obligations have not been met by this government. Billions of dollars worth of public money, taxpayers money, is being put into private sector contracts, and this government has been covering up the contracts that would let the public know whether or not the government is getting value for money on behalf of the taxpayers.

That is the background to the government introducing this bill. It was debated in February, and the member for Box Hill circulated a reasoned amendment. The government then took the bill out of the government business program. We thought that maybe there was an opportunity, maybe the government had seen some level of sense, maybe it was willing to acknowledge that it had not got it quite right and maybe it was willing to sit down with the opposition and talk about amendments that could fix this bill and make it a true improvement to the public finance framework and accountability in this state.

As shadow Minister for Gaming I identified a problem in a bill that was in this Parliament recently, the Justice Legislation Amendment Bill, in that some of the proposals meant that the position of executive commissioner of the Victorian Commission for

Gambling Regulation would be abolished and replaced with a chief executive officer appointed by the Department of Justice.

The DEPUTY SPEAKER — Order! The member should return to the bill.

Mr O'BRIEN — The reason I raise this is that in that instance the government agreed with the concerns of the opposition and withdrew the provisions in that bill which compromised the independence of public officials. That is exactly what we are seeking in this bill. The member for Box Hill's reasoned amendment specifies that:

> … this bill be withdrawn and redrafted to:
>
> (1) ensure independent public bodies are not subject to political control and direction by government …

The government was prepared to accept that principle in relation to the Justice Legislation Amendment Bill; it was prepared to accept that principle in relation to the Victorian Commission for Gambling Regulation. Why is it not prepared to accept that principle in relation to the Public Finance and Accountability Bill?

The government will use its numbers to crunch this bill through the house. The government has given no indication that it is prepared to amend the bill, either in this house or in the other place. All we can assume from the conduct of the government is that it does not give a damn about protecting and preserving the independence of public officials. It wants to make them subject to political control and direction, it wants to continue the practice of covering up things that the public are entitled to know and it wants to continue the practice of having the annual dump of annual reports out there, 15 metres away, to try to minimise scrutiny and accountability.

On that basis, the position of the opposition remains that in the absence of support from the government for the reasoned amendment, the opposition is not in a position to support this bill.

Mr CRISP (Mildura) — I rise to make a contribution to the Public Finance and Accountability Bill 2009. The Nationals in coalition support the reasoned amendment by the member for Box Hill which seeks to have this bill withdrawn and redrafted.

The purpose of this bill is to replace the Financial Management Act 1994 and other acts with a new framework to regulate public finance, including planning, reporting, procurement, borrowing, investment and appropriations.

The bill was debated in February, and it has been on and off the business program ever since. The coalition believes this legislation has its problems and thus has proposed the reasoned amendment, as explained in some detail by the member for Malvern. The government has done little to address these problems; it has merely reintroduced it to the business program. As just pointed out by the member for Malvern, the government plans to crunch this through in a matter of minutes. Here we are with no changes, and there are some concerns about those changes, particularly in relation to the role and appointment of boards.

One of the great concerns I have about this legislation is that much of this is about control. Boards are appointed because of the skills and knowledge they have and because of their local connections. Under this legislation they are going to be very much more under the control of the minister or this government. I note that if passed unamended, the bill will give the government unprecedented powers of political control and intervention over independent institutions such as the Victorian Electoral Commission, the Ombudsman and even the courts. It would further weaken government accountability by enabling the government to hide behind vague and open-ended outcomes that would do nothing to remedy the chronic abuses such as the manipulation of performance measures and the accumulation and dumping of annual reports, of which the government has made an art form. Like all members, I almost cringe at what we call 'market day' here, when we are out there in the corridors, the reports are all lined up and we have to fight our way through, like bargain hunters at a market, looking for what is relevant to each electorate, because it arrives all at once and you have got to find all of the material that you need and then go about digesting it.

Given this history, and to avoid such confusion, the coalition has moved the reasoned amendment that the bill be withdrawn and redrafted to ensure independent public bodies are not subject to political control and direction of the government to ensure that outcomes are specified and reported in a manner that enables government to be held accountable for its performance or non-performance towards achieving those outcomes, to prevent government manipulation through eliminating or redefining measures it finds politically embarrassing, to prevent deliberate accumulation or dumping of annual reports in Parliament, to ensure that budget papers and annual reports provide a full range of relevant information on the performance of government departments and public entities and to require that directions, determinations, notices and other requirements by the minister under the legislation be

made public and readily accessible on the Department of Treasury and Finance website.

Discussions have taken place on these issues, and the government has chosen not to resolve any of them. In particular what we have been seeking from the Minister for Finance is the exclusion of bodies that are exempt or special bodies under the Public Administration Act, the narrowing of clause 12(1)(a) and (b), consultation with the Public Accounts and Estimates Committee over specifying performance measures, PAEC approval to be required for any deletion or amendment of performance measures, requirements for the tabling of reports within a specified time for the Auditor-General, publication of ministerial directions and other requirements on the Department of Treasury and Finance website to be based on the appropriate outcomes, and any downgrading of existing accountability to be based on outputs and inputs unless and until the use of the outcomes are established and proven as part of the budget and accountability cycle.

This is technical and complex; however, it is extremely important. Therefore the coalition remains resolute, and there has been no change in our position since this bill has been withdrawn and re-presented. We will be opposing this bill, and we support the reasoned amendment. Again, this is about control over public bodies, many of which are in country areas, possess specific knowledge about local conditions and work in consultation with the minister. I know that they need to act with some direction from, or in consultation with, the minister, but they will now be dictated to. This includes bodies such as our water authorities and hospital boards, which are doing the best they can in difficult times to provide services to the community. Many of the people on those boards are well-meaning and well-intentioned people who get on those boards to make a difference. They give up their time, get involved and get informed, and they want to make a difference. Now they are being told, 'Get involved and get informed, but don't make a difference. We're going to dictate to you'. This is a totally unacceptable bill to the coalition. It is a grasp for power by this centralist government. The Nationals in coalition have, and always will, oppose these grasps for power which take the say away from people who live in rural and regional Victoria.

Business interrupted pursuant to standing orders.

The DEPUTY SPEAKER — Order! The time set down for the conclusion of consideration of items on the government business program has arrived, and I am required to interrupt business.

House divided on omission (members in favour vote no):

Ayes, 54

Allan, Ms	Kairouz, Ms
Andrews, Mr	Langdon, Mr
Barker, Ms	Languiller, Mr
Batchelor, Mr	Lim, Mr
Beattie, Ms	Lobato, Ms
Brooks, Mr	Lupton, Mr
Brumby, Mr	Maddigan, Mrs
Cameron, Mr	Marshall, Ms
Campbell, Ms	Merlino, Mr
Carli, Mr	Morand, Ms
Crutchfield, Mr	Munt, Ms
D'Ambrosio, Ms	Nardella, Mr
Donnellan, Mr	Neville, Ms
Duncan, Ms	Noonan, Mr
Eren, Mr	Overington, Ms
Foley, Mr	Pallas, Mr
Graley, Ms	Pandazopoulos, Mr
Green, Ms	Perera, Mr
Hardman, Mr	Pike, Ms
Harkness, Dr	Richardson, Ms
Helper, Mr	Robinson, Mr
Hennessy, Ms	Scott, Mr
Herbert, Mr	Seitz, Mr
Holding, Mr	Stensholt, Mr
Howard, Mr	Thomson, Ms
Hudson, Mr	Trezise, Mr
Hulls, Mr	Wynne, Mr

Noes, 31

Asher, Ms	Northe, Mr
Baillieu, Mr	O'Brien, Mr
Blackwood, Mr	Powell, Mrs
Burgess, Mr	Ryan, Mr
Clark, Mr	Smith, Mr K.
Crisp, Mr	Smith, Mr R.
Delahunty, Mr	Sykes, Dr
Dixon, Mr	Thompson, Mr
Hodgett, Mr	Tilley, Mr
Ingram, Mr	Victoria, Mrs
Jasper, Mr	Wakeling, Mr
Kotsiras, Mr	Walsh, Mr
McIntosh, Mr	Weller, Mr
Morris, Mr	Wells, Mr
Mulder, Mr	Wooldridge, Ms
Napthine, Dr	

Amendment defeated.

Motion agreed to.

Read second time.

Third reading

The SPEAKER — Order! I advise the house that I am of the opinion that the third reading of this bill requires to be passed by a special majority.

Motion agreed to by special majority.

Read third time.

DOMESTIC ANIMALS AMENDMENT (DANGEROUS DOGS) BILL

Second reading

Debate resumed from 22 June; motion of Mr HELPER (Minister for Agriculture).

Motion agreed to.

Read second time.

Third reading

Motion agreed to.

Read third time.

CONTROL OF WEAPONS AMENDMENT BILL

Second reading

Debate resumed from 22 June; motion of Mr CAMERON (Minister for Police and Emergency Services).

Motion agreed to.

Read second time.

Circulated amendment

Circulated government amendment as follows agreed to:

Clause 5, page 4, after line 7 insert —

'( ) In section 5(3) of the Principal Act, after "(1)," **insert** "(1AA), (1AB),".'.

Third reading

Motion agreed to.

Read third time.

SUPPORTED RESIDENTIAL SERVICES (PRIVATE PROPRIETORS) BILL

Second reading

Debate resumed from 23 June; motion of Ms NEVILLE (Minister for Community Services).

Motion agreed to.

Read second time.

Third reading

Motion agreed to.

Read third time.

GAMBLING REGULATION AMENDMENT (LICENSING) BILL

Second reading

Debate resumed from 22 June; motion of Mr ROBINSON (Minister for Gaming).

Motion agreed to.

Read second time.

Third reading

Motion agreed to.

Read third time.

ELECTORAL AMENDMENT (ELECTORAL PARTICIPATION) BILL

Second reading

Debate resumed from earlier this day; motion of Mr HULLS (Attorney-General).

Motion agreed to.

Read second time.

Third reading

Motion agreed to.

Read third time.

WORKING WITH CHILDREN AMENDMENT BILL

Second reading

Debate resumed from 23 June; motion of Mr HULLS (Attorney-General).

Motion agreed to.

Read second time.

Third reading

Motion agreed to.

Read third time.

WATER AMENDMENT (VICTORIAN ENVIRONMENTAL WATER HOLDER) BILL

Second reading

Debate resumed from 23 June; motion of Mr HOLDING (Minister for Water); and Mr INGRAM's amendment:

That all the words after 'That' be omitted with the view of inserting in their place the words 'this Bill be withdrawn and redrafted to provide that water held by the Victorian Environmental Water Holder be treated as borrowed water in the event that the Minister qualifies environmental entitlements under the Water Act 1989, to ensure that when environmental flows, entitlements, water shares or water set aside for the environment is qualified and withheld for purposes other than at the direction of the Water Holder, the water is to be paid back within five years.

Amendment defeated.

Motion agreed to.

Read second time.

Third reading

Motion agreed to.

Read third time.

DOCUMENT

Tabled by Clerk:

Members of Parliament (Register of Interests) Act 1978 — Summary of Variations Notified between 13 April 2010 and 23 June 2010 — Ordered to be printed.

SEVERE SUBSTANCE DEPENDENCE TREATMENT BILL

Council's suggested amendments and amendments

Message from Council relating to suggested amendments and amendments considered.

Council's amendments:

1. Clause 12, page 11, line 3, after "person" insert "and must record in the clinical notes of the examination what steps were taken to give that explanation to the person".

2. Insert the following New Clause to follow clause 40 —

"**41 Review**

(1) The Minister must ensure that a review of this Act is completed by 1 March 2015.

(2) The purpose of the review is to determine —

(a) whether the objectives of this Act are being achieved and are still appropriate; and

(b) whether the Act is effective or needs to be amended.

(3) The Minister must make a report of the review, including the response of the Government to the review, available to the public within 3 months after the expiry of the period specified in subsection (1).".

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

That this house agrees to the amendments made by the Council.

The government agrees to the two amendments made by the Council to the bill. The first amendment will expand the requirements that must be met by a prescribed medical practitioner when examining a person for the purpose of determining whether or not to make a recommendation for the person's detention and treatment. Clause 12 of the bill already provides that before examining a person with the intention of deciding whether or not to make a recommendation for the person's detention and treatment — —

Honourable members interjecting.

The DEPUTY SPEAKER — Order! I ask for a little less conversation. I am trying to listen to the minister; I do not have the amendments in front of me. I ask that members lower the level of conversation.

Ms NEVILLE — A prescribed registered medical practitioner must, to the extent that is reasonable, explain the purpose of the examination to the person. The amendment to clause 12 will require a prescribed registered medical practitioner to include in their clinical notes the steps they took to explain the purpose of the examination to the person.

The second amendment will insert new clause 41 into the Severe Substance Dependence Treatment Bill, which requires a review of the legislation to be completed by 1 March 2015.

A copy of the review, including the government response to it, will be made available to the public by 30 June 2015. The review will provide an opportunity

to assess the effectiveness of the act after it has been in operation for four years. The amendment is in keeping with the government's commitment to the highest levels of transparency and accountability to the Victorian community. I commend the changes to the house.

Ms WOOLDRIDGE (Doncaster) — The coalition also supports these amendments. In fact these were issues raised by the coalition in the course of the debate in the lower house. In terms of recording in the clinical notes, the amendment made by the Legislative Council to clause 12, an explanation must be provided to a person by the GP or the medical practitioner of what is happening to them and for what purposes it is being done, and it must be recorded in the clinical notes that this has happened. Of course this does not guarantee that the client will fully understand what has been said, but they will know that it has happened, and to the best of the clinician's ability the messages and the understanding have been conveyed. We think that is very important.

The proposed new section 41 is headed 'Review'. This is a complex bill that contains some very serious issues, and we believe there are serious implications for individuals' rights. I raised very particularly in the debate in this house the fact that we need to be open and transparent in relation to the outcomes of this bill. We were concerned about the commitment to a public release of the results, and we are very pleased that these amendments are going to be supported across the board. In the past results of evaluations have not been made public, and the amendments will require that whatever government is in power will need to make public the results of the effectiveness of this bill and the outcomes that have been achieved for very vulnerable individuals. The opposition will be supporting these amendments.

Motion agreed to.

Council's suggested amendments:

1. Clause 4, page 4, line 25, omit "order." and insert "order;".

2. Clause 4, page 4, after line 25 insert —

   "***Victoria Legal Aid*** means Victoria Legal Aid established under section 3 of the **Legal Aid Act 1978**.".

3. Clause 18, after line 25 insert —

   "(4) If the court is satisfied that the person who is subject of the application is incapable or otherwise unable to obtain legal representation at the hearing, the court may order Victoria Legal Aid to provide legal representation to the person, on any conditions specified by the court, and may adjourn the hearing of the application until that legal representation has been provided.

   (5) Despite anything in the **Legal Aid Act 1978**, Victoria Legal Aid must provide legal representation in accordance with an order under subsection (4).".

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

That this house does not make the amendments suggested by the Council.

The suggested amendments would give the Magistrates Court the power to order Victoria Legal Aid to provide legal representation to a person who is the subject of an application for a detention and treatment order if satisfied that the person is incapable or otherwise unable to obtain legal representation at the hearing.

The key reason the government has concerns about these suggested amendments and will not be supporting them is that they would interfere with the ability of the board of Victoria Legal Aid to manage the Legal Aid Fund. The board of Victoria Legal Aid is responsible for the prudential management of a capped Legal Aid Fund and for determining the policies, priorities and strategies of Victoria Legal Aid. Any legislation which allows a court to direct how Victoria Legal Aid allocates its resources undermines the board's ability to manage the legal aid fund.

However, I can assure the house that the government will work with the Magistrates Court and Victoria Legal Aid during the implementation of the bill, if it is passed, to ensure that any person who is the subject of an application for a detention and treatment order is made aware of the duty lawyer service that operates in the Magistrates Court throughout Victoria.

The government will also make sure that the application form that must be used when applying for detention and treatment orders includes information about the services offered by Victoria Legal Aid. A person who files an application for a detention and treatment order in the Magistrates Court must within 24 hours of filing the application take all reasonable steps to personally serve a copy of the application on the person who is the subject of the application.

In addition clause 10 of the bill enables regulations to be made that prescribe the information that is included on application forms, and the government will ensure that the information that is prescribed includes the appropriate referral information for Victoria Legal Aid. The means test does not apply to duty lawyer services

coordinated by Victoria Legal Aid, and all duty lawyer services are provided free of charge.

In addition the guidelines for duty lawyers emphasise the need to exercise discretion to ensure that those who are before the courts and who are most vulnerable are assisted. I am confident that duty lawyers will give people who are the subject of an application for a detention and treatment order the highest priority.

I also note that clause 17 of the bill gives the Magistrates Court the power to adjourn the hearing of an application for a detention and treatment order in order to permit the person who is the subject of the application to obtain legal advice and representation. This bill will deliver vital treatment and care to some of the most vulnerable in our community, and it is my firm belief that the right balance between the need for urgent treatment and protection of rights has been struck.

Ms WOOLDRIDGE (Doncaster) — The coalition supported these suggested amendments in the other place because we believe that people who have a severe addiction which has had a significant impact on their health need to be guaranteed legal representation. All of these things are happening very quickly. There are very tight time frames in relation to the bill that we are debating and what happens to the individual. They are in the midst of very complex legal proceedings about their own involuntary detention, and they may not have legal representation. It occurs in other contexts, particularly in relation to some family violence applications, where legal representation is required to be provided. We believed it could have been done in this context as well.

Given that the government will not be supporting these amendments and obviously they will not come into force, I ask that the minister monitor the situation closely to ensure that these vulnerable individuals are getting the representation they need in what is an extreme situation in their life and a very complex environment. It is deeply regrettable that the government is not taking them up, and we are disappointed that these amendments will not proceed.

Motion agreed to.

Ordered to be returned to Council with message intimating decision of house.

PRIMARY INDUSTRIES LEGISLATION AMENDMENT BILL

Statement of compatibility

Mr HELPER (Minister for Agriculture) tabled following statement in accordance with Charter of Human Rights and Responsibilities Act:

In accordance with section 28 of the Charter of Human Rights and Responsibilities, I make this statement of compatibility with respect to the Primary Industries Legislation Amendment Bill 2010.

In my opinion, the Primary Industries Legislation Amendment Bill 2010, as introduced to the Legislative Assembly, is compatible with the human rights protected by the Charter. I base my opinion on the reasons outlined in this statement.

Overview of bill

The bill makes amendments to the Catchment and Land Protection Act 1994, the Livestock Disease Control Act 1994, the Primary Industries Legislation Amendment Act 2009 and the Veterinary Practice Act 1997.

The purpose of the amendments to the Catchment and Land Protection Act 1994 is to enable improved management of noxious weeds and pest animals.

The purpose of the amendments to the Livestock Disease Control Act 1994 is to improve the prevention of and response to the outbreak of disease in livestock and to provide for the release of specified information collected under the act for certain purposes.

The purpose of the amendments to both the Primary Industries Legislation Amendment Act 2009 and the Veterinary Practice Act 1997 is to further provide for the implementation of the National Recognition of Veterinary Registration scheme.

Human rights issues

Catchment and Land Protection Act 1994 — entry and search provisions

The bill amends part 9 division 1 of the Catchment and Land Protection Act 1994, which provides for search and entry powers. These amendments engage the rights in the charter to privacy and property but, in my opinion, are nevertheless compatible with the charter.

Power to take photographs — right to privacy

Clauses 9 and 10 of the bill amend the powers of authorised officers to photograph (and video record) items seen during a search of land under sections 80 and 81 of the act respectively. Clauses 9 and 10 remove the additional requirement of consent of the occupier for such photos to be taken.

Section 13(a) of the charter relevantly protects the right of a person not to have his or her privacy, family, home or correspondence unlawfully or arbitrarily interfered with. The right to privacy concerns a person's 'private sphere', which should be free from government intervention or excessive

unsolicited intervention by other individuals. An interference with privacy will not be unlawful provided it is permitted by law, is certain and is appropriately circumscribed. An interference will not be arbitrary provided that the restrictions on privacy are reasonable in the particular circumstances and are in accordance with the provisions, aims and objectives of the charter.

Case law suggests that, in the context of a search, the degree to which there exists a reasonable expectation of privacy depends on the circumstances (see *R v. Tessling* [2004] 3 SCR 432 [42]).

While the taking of photographs and videorecordings may, in some situations, result in an interference with privacy, it is not clear that such an interference can be said to be created by these provisions. That is because, although express consent is no longer a requirement before photographs can be taken, the occupier will still be entitled to refuse consent and will be informed of that right (sections 80(3)(ea) and 81(4)(ea)). In other words, the amendment removes the need for the officer to positively establish consent to the taking of the photographs but does not negate the ability of the occupier to refuse consent.

In those circumstances, it may well be incorrect to characterise the taking of photographs as an interference with privacy. Assuming that it does amount to such an interference, for the same reasons, any interference is not, in my opinion, unlawful or arbitrary.

Emergency entry — right to privacy

Clause 11 of the bill extends the power of emergency entry in section 82 of the act to circumstances where an authorised officer believes on reasonable grounds that a restricted pest animal is on the land. In such circumstances, an authorised officer is empowered to search (without a warrant), to examine land, goods and vehicles on the land and to take photographs. The amendment reflects the changing nature of pest animal management and provides the secretary with the same responsibility and powers to treat the most serious categories of pest animals as the secretary has for the most serious categories of pest weeds.

Restricted pest animals are animals which are rarely found in Victoria and which pose a threat to the state's primary production industry, ecosystems and public safety, such as dangerous boa constrictors, alligators and certain toads and turtles. Such animals usually enter Victoria through illegal trade or inadvertently along with produce and may form wild populations on public and private land. The risk of restricted pest animals entering Victoria has increased with the increase in global trade in pest animals and with increased incidence of international and domestic travel.

As the exercise of a warrantless power lacks the inherent prior safeguard afforded by independent verification through the warrant process, two issues arise. The first is whether the absence of a prior safeguard is itself reasonable in the context of the particular powers provided for under the bill. It has been recognised in New Zealand and Canadian jurisprudence that a search without warrant will be appropriate where the process of obtaining a warrant would have a disproportionate adverse effect. By way of relevant example, powers of warrantless search have been accepted where there is an emergency or potentially dangerous situation (see K. Tronc et al, *Search and Seizure in Australia and New Zealand* (1996), 47–53), a serious threat to safety or property (*R v. Williams* [2007] 3 NZLR 207 [20]) or where there is a risk to the safety of the public (*R v. Feeney* (1997) 115 CCC (3d) 129). In *BC Securities Commission v. Branch* (1995) 97 CCC (3d) 505, the majority of the Supreme Court of Canada held that, depending on the nature of the interests at stake and the extent of the expectation of privacy, searches in the regulatory or administrative context may attract a lower standard of protection than searches in the criminal context. The court held that the greater the departure from the sphere of criminal law, the more flexible the application of the requirement of prior authorisation of the search by a neutral magistrate.

In my view this provision is, on balance, compatible with section 13(a) of the charter. Before the power can be exercised, there must be a reasonable belief that a restricted pest animal is on the land. By its very nature, this is a situation that requires an urgent response. The power to search does not apply to a dwelling, where a greater expectation of privacy would arise (see *R v. Grayson* [1997] 1 NZLR 388, 407). A search of a dwelling for a captive restricted pest animal, or a search for the purpose of obtaining evidence of an offence against the act or regulations can only occur pursuant to a warrant (section 83). The power is appropriately circumscribed, certain and reasonable in the circumstances to manage the spread of pest animals. Authorised officers must exercise the power compatibly with the right to privacy and other relevant rights.

Emergency entry — right to property

I have also considered whether the extension of the power of emergency entry effected by clause 11 is compatible with the right in section 20 of the charter for an individual not to be deprived of his or her property other than in accordance with law. This right requires that powers which authorise the deprivation of property are conferred by legislation or common law, are confined and structured rather than unclear, are accessible to the public and are formulated precisely.

Under the emergency entry powers in section 82 (the reach of which is extended by clause 11) an officer may take without payment, or require the occupier of the land to give, samples of: plants or parts of plants; an animal or part of an animal; soil, sand, gravel or stone; or fodder or grain. However, the taking of samples is only permissible in accordance with the processes set out in the act and where an emergency is taking place.

In many if not all cases, the taking of samples may well amount to such a minimal interference with property that it may be incorrect to say that section 20 of the charter is engaged. Assuming it is engaged, however, any deprivation of property that occurs as a result of the amendment will take place under powers conferred by legislation, in accordance with the law, and only where necessary to deal with restricted pest animals. If not required for the purpose of a proceeding under the act, the remainder of any samples taken must, pursuant to section 83K, be returned to the person from whom they were taken within 28 days.

Accordingly, the provision is compatible with the right to property in section 20 of the charter.

Further seizure powers — rights to privacy and property

Section 83 of the act provides for the circumstances in which a search warrant can be obtained, empowering an authorised

officer to enter land and to search, inspect and seize items connected with an offence against the act and regulations. Where such a warranted search is being conducted, section 83A(b)(i)(B) also empowers the authorised officer to seize (or sample) items that are not of a kind described in the warrant if he or she reasonably believes that they will afford evidence about the commission of an offence against the act or regulations.

Clause 12 of the bill extends this power to items that the authorised officer reasonably believes will afford evidence about the commission of an offence against a related act or regulations made under those related acts, for the purposes of which the officer is appointed. A 'related act' refers to the Wildlife Act 1975, the Fisheries Act 1995 and the Flora and Fauna Guarantee Act 1988, each of which is also regulatory in nature and generally relates to conservation and natural resources.

It is possible that, in some cases, the seizure of items by an officer exercising a search power under warrant pursuant to section 83 may engage the right to privacy. In my view, however, any interference with privacy authorised by the new amendment to section 83A will be neither unlawful nor arbitrary. The statutory precondition of an independently issued warrant acts to prevent an unjustified exercise of the search power. Under the new amendment, an officer may only seize an item relating to offences against other acts if the officer has been appointed to exercise powers under those acts. Further, section 83A(b)(ii) adds an additional requirement: that the authorised officer must hold a reasonable belief that it is necessary to seize that thing in order to prevent its concealment, loss or destruction or its use in the commission of an offence against the act in respect of which it is seized.

There is a strong public interest in the investigation of regulatory offences of this nature, which have the potential for significant harm to the public. Finally, I also note the discretion of a court under the Evidence Act 2008 to exclude unlawfully or improperly obtained evidence, which would include evidence obtained in breach of a charter right.

For the same reasons, I am of the opinion that the amendment to section 83A is not incompatible with the right to property in section 20 of the charter. Given that the power to seize only arises where there is a risk of destruction or disposal of evidence or of the commission of an offence, it would be impracticable to require an officer to obtain a further warrant based on what was sighted at the premises during the initial search. I note that pursuant to section 83G, the seized items must be returned if not required or where a proceeding has not commenced or is discontinued within a particular period of time.

Livestock Disease Control Act 1994

Notification of unusual circumstances of disease or death — freedom of expression

Clause 17 (new section 7B) makes it an offence not to notify an inspector of any unusual circumstances of disease in or death of livestock.

The right to freedom of expression protected by section 15 of the charter includes a right not to impart information, although it is not clear that the right is engaged by a regulatory reporting requirement of this nature. Even assuming that it is, section 15(3) of the charter relevantly provides that special duties and responsibilities are attached to the right to freedom of expression and that the right may be subject to lawful restrictions reasonably necessary for the protection of national security, public order, public health or public morality. To the extent that clause 17 imposes any restrictions on freedom of expression, they are reasonably necessary for the protection of public health in terms of section 15(3) of the charter. Livestock disease control is a matter of considerable importance for the maintenance of public safety. Proper regulation is vital for protecting health and preventing the spread of disease. Inspectors need to be aware of disease or death of livestock from unusual circumstances to undertake their statutory functions. Requiring the provision of this information is necessary to ensure proper regulation and monitoring of the livestock industry.

Vendor declarations — right to privacy

Clause 18 (new section 8A) imposes various requirements to make vendor declarations when livestock are sold or transported. A vendor declaration may include the disclosure of limited personal information such as the location of the livestock owner's property and the name and signature of the person making the declaration. I consider that this provision is compatible with section 13(a) of the charter. In order to regulate the potential spread of disease it is important that the vendor is capable of identification if necessary.

Testing for diseases — right to privacy

Clause 25 (new section 16(2A)) requires a person who has submitted for testing any sample or specimen taken from any livestock or livestock product to provide their name and address as well as the livestock owner's name and address. If the sample or specimen is infected with disease, this information must be notified to the secretary (new section 16(2B)).

In my opinion, this provision is compatible with section 13(a) of the charter. The requirement to provide this information specifically relates to the testing of livestock suspected of carrying disease and the testing regime would not function effectively without relevant authorities being able to inform the owner about any diseases in their livestock. The secretary needs to be aware of the origin of any outbreak of disease so that measures may be taken to control it.

Secretary's powers to release records — right to privacy

Clause 38 (new section 107B(3)(c)) clarifies the circumstances in which disease notification records maintained by the secretary under section 107B(1) may be made available by the secretary. Records may be released to any person or body where the secretary is satisfied that their release will assist: in disease prevention, monitoring or control; in the protection of domestic or export markets for livestock or livestock products; or where it is otherwise in the public interest to do so.

Records may also be made available, under clause 38 (new section 107B(4A)) to certain public officials (employees of the Department of Primary Industries or the Department of Sustainability and Environment) if the records are required for the purpose of carrying out their duties in relation to emergency planning, preparation, response or recovery; to certain inspectors for the purpose of exercising functions or

duties under the Livestock Disease Control Act itself or under the Prevention of Cruelty to Animals Act 1986; and to an emergency services agency under the Emergency Management Act 1986 for the purpose of emergency planning, preparation, response or recovery.

Finally, new section 107B(4B) empowers the secretary to make available records relating to property identification codes allocated by the secretary to any person or body for the purposes of reuniting livestock with its owner, subject to conditions.

These records may contain limited personal information about livestock owners such as names and addresses. However, the provision of access to this information in the limited circumstances provided by the legislation accords with the purpose of the regime, which operates in the interests of public health and safety. Finally, the disclosure of information for the purposes of reunification of livestock with owners is intended to benefit the livestock owner.

For these reasons, the limited intrusion on individual privacy occasioned by the disclosure of information in accordance with the amendment is reasonable and is not arbitrary. Therefore, these provisions are compatible with section 13(a) of the charter.

Minister's and inspectors' powers to order destruction of livestock — right to property

Section 31(1)(b) of the Livestock Disease Control Act provides that the minister's powers to declare an area a restricted or control area include the power to require livestock to be destroyed or disposed of. Clause 27 amends section 31(1)(b) by clarifying that such an order can be made whether the livestock are diseased or not.

Although this clearly amounts to an interference with property, in my opinion, any such interference is in accordance with the law and appropriately circumscribed. The power operates in limited circumstances where a restricted or control area has been declared. An order that livestock be destroyed may only be made where the minister believes or suspects that it is reasonably necessary to make the order for the purpose of preventing, controlling or eradicating an exotic disease in respect of the specific class or description of livestock to which it applies. In addition, compensation is available to owners of the property that has been destroyed. Therefore, this provision is compatible with section 20 of the charter.

Clause 40 amends section 120(1) of the Livestock Disease Control Act to provide a power to destroy livestock or any other thing seized in accordance with division 3 of part 8 (Additional powers of inspectors for exotic diseases) to avoid risk to life or property.

Although this amounts to an interference with property, I am of the opinion that such an interference is in accordance with the law and appropriately circumscribed. The destruction may only take place where the inspector is of the opinion that it is necessary to do so in order to control, eradicate or prevent the spread of an exotic disease. The secretary's approval is required before destruction may occur. Compensation is available to owners of the property. Therefore, this provision is compatible with section 20 of the charter.

Fair hearing issues

Under section 24(1) of the charter, a party to a civil proceeding has the right to have the proceeding decided by a competent, independent and impartial court or tribunal after a fair and public hearing. In *Kracke v. Mental Health Review Board & Ors* (General) [2009] VCAT 646, Bell J. concluded that the right to a fair hearing is not confined to proceedings of a judicial character and can apply to civil proceedings which are of an administrative character. In *Kracke*, Bell J. noted that, in assessing compliance with the right, regard may be had to the whole decision-making process, including reviews and appeals.

I have considered the effect of the following clauses on the fair hearing right:

clause 21 of the bill (new section 9BA of the Livestock Disease Control Act);

clause 32 of the bill (new section 79HA(1) of the Livestock Disease Control Act);

clauses 31 and 33 of the bill (new sections 79(5C) and 79I(5)C of the Livestock Disease Control Act); and

clause 52 (amending section 21(1) of the Veterinary Practice Act 1997).

In each case, I consider that the procedures provided for in the relevant legislation (as amended by the bill), including the rights of appeal or review that are available, are appropriate to the nature of the particular interests that are at stake. In my opinion, there are no incompatibilities with section 24 of the charter.

Conclusion

I consider that the bill is compatible with the Charter of Human Rights and Responsibilities.

Joe Helper, MP
Minister for Agriculture

Second reading

Mr HELPER (Minister for Agriculture) — I move:

That this bill be now read a second time.

The Primary Industries Legislation Amendment Bill 2010 makes miscellaneous amendments to the Catchment and Land Protection Act 1994, the Livestock Disease Control Act 1994 and the Veterinary Practice Act 1997.

The Catchment and Land Protection Act 1994 provides the legislative framework for the management of invasive pests in Victoria.

The cost of weeds and pest animals to the Victorian economy is estimated to be $1 billion annually. While the social impacts are much more difficult to quantify, it is clear that these costs are considerable, particularly upon farm businesses.

Globalisation and the expansion of overseas travel and trade have also increased Victoria's rate of new pest incursions. There is, however, currently no allocation of responsibility or legislative powers to control wild or escaped populations of restricted pest animals which constitute the three highest categories of pest animals in Victoria and include species declared as prohibited, controlled and regulated.

For example, the red-eared slider turtle is a serious pest in a number of countries and has the potential to have a devastating impact on Victorian waterways. Fortunately this is the only restricted species currently known to be in the wild in Victoria, inhabiting a small number of water bodies in the Melbourne area. While the Department of Primary Industries (DPI) is currently treating the small number of known infestations in the interests of keeping Victoria free of these pests, it must rely solely on an implied power to do so. If these pests were to enter a private water body such as a farm dam, DPI would have no power to enter or take action to prevent the spread of this serious pest.

The bill provides the department with formal powers to enter land and manage infestations of restricted pest animals. This largely aligns department responsibilities and operational provisions with those that exist in respect of state prohibited weeds.

The bill will assist in protecting Victoria from new invasive pest animal species by providing for an emergency declaration of a new pest animal species which poses a threat to Victoria.

Other amendments provide enhancements to assist in the management of established pests and create efficiency gains through streamlining existing provisions. These include improved weed hygiene provisions and allowing contractors to assist in carrying out works on behalf of the secretary which reduces officer time spent supervising works. These amendments will enable DPI to better support key stakeholders and landowners already meeting their obligations for managing pests.

The Livestock Disease Control Act 1994 (LDC act) provides Victoria with the capacity to effectively detect and respond to disease threats faced by livestock industries. This bill further enhances these capabilities through several mechanisms.

A major portion of the LDC act concerns exotic disease surveillance, detection, prevention and control. These functions will be further improved by tightening controls on the illegal practice of feeding pigs scraps of meat, known as swill feeding, a practice which poses the highest risk for the introduction of foot and mouth disease into Australia. Early detection of new and emerging diseases is important if they are to be understood and controlled. Unusual circumstances of disease in livestock or unusual deaths may occur. Diseases may initially present with non-specific signs or in certain sectors of industry. Once an anomaly is detected it is vital that further events are reported. The bill makes provision to require such events to be notified to DPI so the cause can be further studied and dealt with.

Livestock traceability is key to product integrity and disease control. Knowledge of where livestock are, and their associated movements is paramount. A critical component of the national livestock identification system is vendor declarations which include information given by the vendors about the animals being sold to a purchaser and intervening persons such as livestock agents and saleyards. The requirement to make a vendor declaration is provided for by the regulations and other subordinate instruments. This bill moves this requirement into the LDC act to better underpin livestock traceability.

Diagnostic testing technologies are rapidly advancing, with veterinarians now able to undertake pen-side, or point-of-care, testing of sick livestock. Such tests allow for rapid and accurate detection and exclusion of endemic and more importantly emergency and exotic diseases, for example, anthrax. Some of the tests becoming available were previously only conducted at laboratories that had high capital investment in technologies such as polymerase chain reaction (PCR). The future promises 'lab on a chip' testing which will allow testing for many diseases or conditions with a one-step test.

The LDC act regulates testing for notifiable diseases, including exotic diseases. Testing ensures that animal health officials know when and where these diseases are occurring thereby avoiding the potential repercussions. There is no current framework in place to accommodate testing outside a registered veterinary diagnostic laboratory. The bill will allow the use of approved pen-side tests by trained and qualified persons. The bill will also ensure that adequate details and records are kept by the tester and that the results are notified to the Department of Primary Industries. An example of such a test is the one for anthrax that can be performed on animals that have died suddenly or unexpectedly. This will reduce the risk of the carcase being opened and consequently the community being exposed to a potentially lethal disease.

Veterinary diagnostic laboratory capacity is an important component of effective disease surveillance. Presently to test for notifiable diseases a laboratory is required to meet prescribed standards for registration, including the standard which in Australia is audited and accredited by the National Association of Testing Authorities (NATA). Some laboratories do not perform enough production animal testing for them to justify entering into NATA accreditation yet meet other requirements. The bill will allow the secretary of DPI to approve these laboratories for registration on a case-by-case basis.

The LDC act provides for collection of funds for the administration of compensation funds for the cattle, sheep and goat, pig and bee industries. This bill introduces administrative changes to the way the advisory committees are appointed to allow for flexibility in case of future changes to names and structure of representative organisations. The bill will also allow interstate producers of sheep and goats sold in Victoria to have paid duty refunded and will allow payments to be made from the Bee Compensation Fund towards programs that will benefit that industry more broadly.

As part of the administration of the LDC act, data is collected on livestock properties, including their location, contact details and animal numbers and species. This information is necessary to enable disease surveillance and control and proves vital in emergencies such as exotic disease outbreaks. It also has great potential to benefit the livestock sector and the broader community during the planning for, response to and recovery from other emergencies, such as natural disasters like that seen on Black Saturday last year. Knowing where livestock are improves the ability to deploy resources to protect them and respond to issues that arise. The bill will enable the release of disease notification and property identification information to a greater range of persons and their agencies for specified purposes including to other emergency response agencies. This will facilitate a more coordinated approach to emergencies and disease outbreaks.

The bill also amends the Veterinary Practice Act 1997 that deals with the registration of veterinary practitioners and for investigations into the professional conduct and fitness to practise of registered veterinary practitioners.

The bill will complete the legislative framework for the implementation in Victoria of the agreed national model for the national registration of veterinary practitioners.

The bill will also clarify the basis on which the Veterinary Practitioners Registration Board of Victoria may investigate complaints concerning the professional conduct of practitioners. The bill inserts a penalty for a registered veterinary practitioner failing to notify the board of a change of address but also doubles the time in which practitioners have to notify. The bill also provides more flexibility with regard to the function of the board to establish competency in veterinary practice.

I commend the bill to the house.

Debate adjourned on motion of Mr McINTOSH (Kew).

Debate adjourned until Thursday, 8 July.

CIVIL PROCEDURE BILL

Statement of compatibility

Mr HULLS (Attorney-General) tabled following statement in accordance with Charter of Human Rights and Responsibilities Act:

In accordance with section 28 of the Charter of Human Rights and Responsibilities, I make this statement of compatibility with respect to the Civil Procedure Bill 2010.

In my opinion, the Civil Procedure Bill 2010, as introduced to the Legislative Assembly, is compatible with the human rights protected by the charter. I base my opinion on the reasons outlined in this statement.

Overview of bill

The Civil Procedure Bill 2010 (the bill) reforms and modernises the laws, practice, procedure and processes for the resolution of civil disputes that may lead to legal proceedings and for the initiation and conduct of civil proceedings and appeals.

Its main innovations are:

Introducing overarching obligations for participants in civil proceedings. These obligations are subject to the paramount duty to further the administration of justice (clause 16). The obligations are: to act honestly; to refrain from making frivolous or vexatious claims, or claims for a collateral purpose; to take only those steps necessary to resolve or determine the dispute; to cooperate in the conduct of the proceeding; to not engage in misleading or deceptive conduct; to use reasonable endeavours to resolve the dispute; to use reasonable endeavours to narrow the issues in the dispute; to ensure the costs incurred are reasonable and proportionate to the complexity or importance of the issues and amount in dispute; to minimise delay; and to disclose the existence of all critical documents as early as reasonably possible or at such other time as the court may direct (cls 17–26).

To the extent that there is an inconsistency, these obligations prevail over other obligations including a client's instructions (in the context of the lawyer-client relationship), and over other duties including duties owed to a client, except for: those duties arising under the charter (cl 6(a)); the doctrine of privilege (cl 6(b)); the paramount duty (cl 16); and a legal practitioner's duty to the court (cl 15).

Courts will have the power to sanction breaches of the obligations, including by way of ordering that a party may not take a step in the proceedings, making costs orders, or ordering compensation (cls 28–29). The court may make such orders after application by the parties or of its own motion (cl 29(2)). When commencing proceedings, parties will be required to certify that they have read and understood the obligations (cl 41). Legal practitioners (or, if unrepresented, the party) will be required to certify that any allegations or denials of fact or non-admissions have a proper basis (cl 42). However, parties will not be prevented from commencing proceedings due to a failure to comply with these certification requirements (cl 45).

Introducing prelitigation requirements for civil proceedings. Parties will be required to take reasonable steps to resolve the dispute prior to the commencement of any civil proceeding in a court, or, failing that, to clarify and narrow the issues in dispute (cl 34(1)). The prelitigation requirements will require each person to exchange appropriate prelitigation correspondence, information and documents critical to the resolution of the dispute (cl 34(2)(a)). Persons involved must also consider options for resolving the dispute without the need for legal proceedings in a court, including but not limited to resolution through genuine and reasonable negotiations or appropriate dispute resolution (cl 34(2)(b)). There is a prohibition on the use of documents or information disclosed under the prelitigation requirements for a purpose other than the resolution of the civil dispute between the persons involved, or any civil proceeding arising out of the dispute (cl 35).

The court may take non-compliance with the requirements into account in awarding costs and making procedural orders, or may make any other order that it considers appropriate (cls 38–39).

There are various circumstances in which the prelitigation requirements do not apply, where compliance with these requirements would be inappropriate (cl 32). When commencing proceedings, the parties or their legal practitioners will be required to certify as to whether they have complied with the requirements (cl 43). However, parties will not be prevented from commencing proceedings solely by reason of not having complied with the prelitigation requirements (cl 36) or the certification requirements (cl 45).

Enhancing the courts' case management powers. A court will have the power to make any orders it considers appropriate to manage the proceeding in accordance with the overarching purpose of the bill (cl 47(1)), that is, to facilitate the just, efficient, timely and cost-effective resolution of the real issues in the dispute (cl 7). These will include: giving directions to ensure the proceeding is conducted promptly and efficiently; identifying the issues at an early stage; disposing summarily of certain issues; encouraging the parties to settle or use an appropriate dispute resolution process; fixing timetables; limiting the number of witnesses and the time for examination of witnesses at hearings; and making various orders to actively case manage proceedings (cl 47(3)).

The bill provides that the court may, in addition to any other power, make any order or direction it considers appropriate to further the overarching purpose in relation to pretrial (cl 48) and trial (cl 49) procedures.

If a party does not comply with such an order, the court may dismiss the proceeding or part of it; disallow or reject any evidence; make costs orders; or make any other order it considers appropriate (cl 51). The bill also expressly gives the court powers to strongly sanction failure to comply with, or misuse of, the discovery process, including by means of: the initiation of contempt proceedings; costs orders against parties and legal practitioners; orders preventing the party from taking any step in the proceeding; awarding compensation; and referrals to appropriate disciplinary authorities for disciplinary action against legal practitioners who aid and abet failure to comply with discovery obligations, failure to comply with orders or directions of the court, or conduct intended to delay, frustrate or avoid discovery of discoverable documents (cl 56).

Reforming the law relating to summary judgement. The bill liberalises the test for summary judgement by providing that a plaintiff or defendant may apply for summary judgement in a proceeding on the ground that the claim or defence or counterclaim has no real prospect of success (cls 60-63). The court may, however, nevertheless order that the matter proceed to trial if justice requires (cl 64).

Enhancing powers in regard to appropriate dispute processes. The bill provides courts with the power to make an order referring the proceeding to appropriate dispute resolution (cl 66(1)). Appropriate dispute resolution is defined as a resolution process attended, or participated in, by persons involved in a civil dispute or a party to a civil proceeding for the purposes of negotiating a settlement of the civil dispute or the civil proceeding or narrowing the issues in dispute and includes: mediation, early neutral evaluation, judicial resolution conference, settlement conference, references to special referees; expert determination; conciliation and arbitration (cl 3).

This power can be exercised even if the parties do not consent, but only where the outcome is to be non-binding (cl 66(2)).

Human rights issues

The bill raises charter issues in regard to the right to a fair hearing (s 24(1)) and the right to privacy s 13)).

Right to a fair hearing

Section 24(1) of the charter provides that a party to a civil proceeding has the right to have the proceeding decided by a competent, independent and impartial court or tribunal after a

fair and public hearing. The right has been held to include an implied right to have access to the courts (see *Kay v. Attorney-General* (No 3726 of 2009, 19 May 2009, VSCA at [11]).

In my view three elements of the bill potentially engage this implied right: the prelitigation requirements (pt 3.1); the power to order attendance at an appropriate dispute resolution process (cl 66); and the broadened power to obtain summary judgement (pt 4.4).

Prelitigation requirements limit the right

The introduction of prelitigation requirements engages this implied right in that the requirements impose preconditions on the commencement of civil proceedings (cls 33–34). Although parties are not prevented from commencing proceedings due to non-compliance with the requirements (cl 36), where a party does not comply, the party is vulnerable to sanctions, including costs orders, or any other order the court considers appropriate (cls 38–39). In light of this I am of the view that the introduction of the prelitigation requirements limit the implied right to access the courts.

Prelitigation requirements are a reasonable limitation

However, I am of the view that the limit on the implied right amounts to a reasonable limitation under s 7(2) of the charter.

(a) the nature of the right being limited

A limit on access to a hearing will not necessarily breach s 24(1). The European Court of Human Rights has held that restrictions on the implied right to access the courts are permissible if they serve a legitimate aim, and do so in a proportionate manner (*Ashingdane v. United Kingdom* (1985) 7 EHRR 528 at [57]).

(b) the importance of the purpose of the limitation

The purpose of the prelitigation requirements is to facilitate the early resolution of civil disputes without the need to proceed to litigation (cl 1(2)(b)). In my view this is a significant objective. The resolution of disputes without litigation is efficient, timely, cost-effective and likely to be durable. Where disputes are resolved without litigation, access to the courts is improved for others who are engaged in disputes that are most appropriately resolved by litigation. The prelitigation requirements also aim to encourage parties to narrow the issues in dispute, reducing costs and delays in those cases that do proceed to litigation. Accordingly, in my view the requirements serve a purpose that is sufficiently important to justify some limit on the implied right to access the courts.

(c) the nature and extent of the limitation

The limitation is of a minor nature and extent. First, it is a constructive limit only: parties must comply with the requirements (cls 33–34) and are vulnerable to sanctions if they do not (cls 38–39), but ultimately they can still proceed to litigation even if they have not complied with the requirements (cl 36). Further, the court has the power to order that one party pay another party's costs of compliance with the requirements if it is reasonable to do so (cl 38). Therefore, parties should not be discouraged from pursuing disputes by the potential costs of the new prelitigation requirements.

(d) the relationship between the limitation and its purpose

There is a rational and proportionate relationship between the limit that the requirements impose on the right to access the courts and the purpose that the requirements seek to achieve. The Victorian Law Reform Commission, in its *Civil Justice Review — Report*, noted that the introduction of pre-action procedures in the United Kingdom, Queensland, South Australia and the Family Court had been highly successful in resolving disputes.

The VLRC concluded that the combined effect of empirical and other evidence supported the notion that pre-action requirements have a significant role to play in facilitating earlier disclosure and settlement, reducing the number of cases which go to trial, narrowing the issues in dispute in those cases that do go to trial, encouraging parties to cooperate, rather than seeing each other as adversaries, and decreasing costs and delays in the civil justice system. This suggests that the requirements are an effective way of achieving the government's purpose.

Further, the requirements are not overly broad. They are carefully tailored to their purpose in that they only require parties to take reasonable steps having regard to the person's situation and the nature of the dispute (cl 34(1)). Therefore, the sanctions will only apply where a party has acted unreasonably. And ultimately as the court will, as far as possible, have to apply the powers consistently with the charter, there is no risk of the right being unreasonably restricted.

(e) any less restrictive means reasonably available to achieve its purpose

Although pre-action requirements are not a panacea for solving the problems of cost and delay they are an increasingly commonly used tool for doing so. As I said earlier, similar requirements are present in the United Kingdom, Queensland, South Australia, and in the Family Court (see Practice Direction-Pre-Action Conduct (UK); Personal Injuries Proceedings Act 2002 (Qld); Supreme Court Civil Rules 2006 (SA); District Court Civil Rules 2006 (SA); schedule 1 to Family Law Rules 2004 (cth). Although, other than in the United Kingdom, these jurisdictions do not have a human rights charter, they are nevertheless relevant examples, as the right to access the courts is also a common-law right.

In some instances, those protocols are more stringent than that provided for in the bill. For example, in Queensland, plaintiffs in personal injuries proceedings cannot proceed with a claim if they fail to comply with certain pre-action protocols, unless the respondent waives the non-compliance, or the court orders that the claim may proceed (s 18 of the Personal Injuries Proceedings Act 2002 (Qld)). In light of these comparisons, and the safeguards in the bill outlined above, I am of the view that the requirements are reasonable and minimally impair the implied right.

Given the relatively minor extent of the limitation, the evidence that such requirements are effective, and the safeguards built into the regime, I am of the view that the prelitigation requirements amount to a reasonable limitation on the implied right to access the courts in s 24(1) of the charter.

Power to order attendance at appropriate dispute resolution

The implied right to access the courts is also engaged by the power to order attendance at non-binding appropriate dispute resolution (cl 66(1)). Although the power only applies to non-binding processes, and therefore parties retain their ultimate ability to access the courts, it may be argued that such a requirement restricts access to the courts, especially for impecunious parties, and particularly if it results in unnecessary costs and delay (see *Halsey v. Milton Keynes General NHS Trust* [2004] EWCA Civ 576 at [9] (Dyson LJ). However, I am of the view that, as the power is discretionary, and as the court is obliged to apply the power consistently with the right, there is no risk of its being used in a manner that limits the right.

Therefore I am of the view that the proposal to allow courts to order attendance at non-binding appropriate dispute resolution without consent does not limit the implied right to access the courts.

Liberalising the test for summary judgement

The power for the court to obtain summary judgement might also be thought to limit access to a fair hearing (cls 47(3)(c)(ii) and 60–63). However, I am of the view that this power does not limit the right. All systems of justice have processes for identifying unmeritorious claims. The ability for the court to do so summarily where there is no real prospect of success is not repugnant to the right. This is especially so since the court is obliged to apply the power consistently with the right. Further, such decisions are able to be appealed.

Enhanced case management powers

It might also be considered that the enhanced active case management powers (pt 4.2), including the provisions in regard to the discovery process (pt 4.3), also have the potential to limit the right to a fair hearing. However, the obligation remains to deal with cases justly, meaning the right to a fair hearing will not be limited (see *Walker v. D* [2000] EWCA Civ 508 at [24] (Lord Woolf MR)). Moreover, the court is obliged to apply the powers consistently with the right (cl 6). Therefore I do not consider that the introduction of enhanced case management powers limits the right to a fair hearing.

Conclusion on s 24(1)

For these reasons I do not consider that the bill breaches the right to a fair hearing.

Right to privacy

Section 13 of the charter provides that persons have the right not to have their privacy arbitrarily interfered with. The bill engages this right by:

> requiring, as part of the prelitigation requirements, all persons involved in a civil dispute to disclose all documents that are critical to the resolution of the dispute (cl 34(2)(a)); and
>
> imposing an overarching obligation on parties to a civil proceeding to disclose the existence of any document that they reasonably consider to be critical to the resolution of the dispute, at the earliest reasonable time after they become aware of the existence of the document (cl 26).

These requirements are in addition to the normal discovery process. However, an interference with privacy is not arbitrary where it serves a legitimate aim, and does so in a proportionate manner. These disclosure requirements serve the legitimate aim of ensuring the efficient resolution of civil disputes. They are proportionate in that the threshold is set high. They apply only to documents that are critical, which is a higher threshold than that which applies in the discovery process. Sanctions for non-compliance with the prelitigation disclosure requirement will only apply where the non-compliance is unreasonable, taking into account the person's situation (cl 34(1)).

Likewise, in making orders sanctioning non-compliance with the overarching obligation of disclosure, the court must be satisfied that it is in the interests of justice to do so (cl 29). Finally, the disclosure requirements will not prevail over the common-law doctrine of privilege (cls 6(b) and 26(3)(a)), and use of disclosed documents for purposes other than the resolution of the dispute or the proceeding is prohibited (cls 27 and 35). Therefore in my view, the interferences with privacy are not arbitrary, and accordingly, the right to privacy is not limited by the proposals.

Conclusion

For the reasons given in this statement, I consider that the bill is compatible with the charter.

Rob Hulls, MP
Attorney-General

Second reading

Mr HULLS (Attorney-General) — I move:

That this bill be now read a second time.

The Civil Procedure Bill 2010 will reform, modernise and unify the procedure for the conduct of civil litigation. Courts play an important role in adjudicating civil disputes and procedural rights and that role should, of course, continue. But as a public resource, courts must be used responsibly. Parties should not abuse their right of access to the courts by unnecessarily tying up court resources, thereby preventing others from accessing justice. A well-resourced litigant should not be able to use their power to play tactical games and draw out litigation until the other party is forced into an unfair settlement or withdraws.

This bill will curtail such behaviour and arm the courts with the power to prevent such conduct. Parties should be encouraged to resolve their disputes by agreement, and where they require court intervention, the bill will ensure they adhere to appropriate standards of conduct. The result will be a more accessible civil justice system for those parties who need adjudication by the courts.

Very few of the cases which are lodged with the courts proceed to a final hearing. Most cases settle or are withdrawn prior to trial. However, the process to achieve resolution of civil matters that are started in the

courts, including the cases that are settled before trial, is often unduly long and costly. The current cost of litigation has reached a point where access to the civil courts is beyond the reach of most Victorians.

Access to justice in the civil courts is not meaningful unless there are processes in place to facilitate the quick, just and inexpensive resolution of those disputes.

The Victorian civil procedure reforms represent a generational change in the way civil litigation will be managed. The proposed changes are the first major attempt at civil law reform in Victoria in over 20 years. Following the recommendations made by Lord Woolf in the *Access to Justice Report* (1996), the United Kingdom rules of civil procedure were subjected to a major overhaul. Extensive civil reform initiatives were implemented in New South Wales and Queensland several years ago, and recently by the federal government.

The Victorian reform proposals are, therefore, an extension of the trend of civil justice reforms in Australia and in the United Kingdom, and as a package they break new ground, particularly in the areas of the prelitigation requirements and the overarching obligations.

The bill recognises that the civil litigation system has become out of balance and is increasingly unable to achieve essential goals of accessibility, affordability, proportionality, timeliness and getting to the truth quickly and easily. This bill will make these goals once again more achievable.

One of the bill's key objectives is to build a culture in which litigants are encouraged and empowered to resolve their cases without going to court. Lawyers, litigants, insurers, litigation funders, expert witnesses and the courts will be required to work together to achieve this important objective.

The prelitigation processes will provide a general framework for parties and lawyers to achieve resolution of the dispute or if that is not possible, to narrow the issues in dispute. The bill's intention is to give real meaning to the saying that litigation should be a measure of last resort.

Once proceedings have been initiated, the role of the overarching obligations is to continue to encourage the parties and their lawyers to use reasonable endeavours to achieve early resolution of cases by agreement or to narrow the issues in dispute except where justice or judicial determination is genuinely required.

The bill also provides clear legislative guidance to judges to proactively manage cases in a manner that will promote the overarching purpose — that is, the just, efficient, timely and cost-effective resolution of the real issues in dispute. This will empower them to give clear, effective directions in cases by requiring the parties to keep to the real issues in dispute. It should reduce the number of interlocutory applications in complex litigation and could be used, for example, to limit the time taken up in oral submissions.

At the core of these reforms is the concept of proportionality. Participants in litigation will be required to use reasonable endeavours to ensure that legal and other costs spent in the proceeding are reasonable and proportionate to the complexity or importance of the issues in dispute, and the amount in dispute. The courts will also be required to deal with a civil proceeding in the same manner.

These provisions are designed to cure unnecessary expenditure on litigation and the inappropriate use of the courts as a public resource, a matter that has been highlighted in several recent decisions.

I note recent judicial statements criticising the costs charged by some lawyers as being disproportionately high in comparison to the amounts in dispute, as well as urging lawyers to focus on resolving disputes, rather than attempting to win at all costs. Under the civil procedure reforms, these kinds of behaviours will need to change.

When the courts are used by litigants and lawyers in this way, the public loses faith in the justice system and the courts are unavailable to hear meritorious claims. This package of reforms will require all participants in the civil justice system to lift the standards of conduct in civil litigation and to work together to achieve a positive change in the civil justice system.

Reform process

Reform of the civil justice system was identified as one of the priorities in the Attorney-General's first justice statement. The government gave the Victorian Law Reform Commission a reference in September 2006 to undertake a review of the civil justice system and the commission presented its report in March 2008.

The commission's work was led by Peter Cashman and the report contains a comprehensive range of recommendations for reform of the civil justice system. The commission set strategic objectives for various reforms of the civil procedure rules, substantive law and case management. These objectives, now reflected in the bill, seek not only to change the formal rules for

the conduct of proceedings, but to change litigation culture itself.

Justice statement 2 in October 2008 restated the government's commitment to reforming civil justice using the VLRC report as a guide.

The government recognised that long-term change was not possible without first securing the agreement of the courts and the profession. Therefore, I established a civil procedure advisory group in November 2008 to consider the commission's recommendations. The advisory group is chaired by the Chief Justice of the Supreme Court and has representatives from the Supreme, County and Magistrates courts, VCAT, the Victorian Bar, the Law Institute of Victoria, the Federation of Community Legal Centres and the Department of Justice.

The results of the advisory group's deliberations are now proposed for inclusion in the Civil Procedure Bill and comprise the fundamental architecture for reform of the civil justice system.

I would like to thank the chief justice for her leadership of the advisory group and the members for their significant commitment of time and expertise. The reforms contained in the bill are proceeding with a high degree of support from these important stakeholders. The bill represents an outstanding achievement in collaborative law reform.

The bill is the first part of a major reform program that will continue until 2013, and is likely to involve at least one further piece of substantial amending legislation implementing the remaining recommendations of the commission's report to be agreed to by the government. The second phase will emphasise reviewing the costs rules for litigation, but will also include a review of the role of expert witnesses.

Summary of key reforms

The reforms will apply to civil proceedings in the three mainstream Victorian courts: the Supreme Court, the County Court and the Magistrates Court. VCAT is designed to offer flexible and cost-effective practices for determining specific types of disputes, and is not currently included within the scope of these general reforms.

With the exception of the prelitigation requirements, the bill will apply in a civil proceeding where a civil penalty is sought under a civil penalty provision. The bill will not apply to criminal or quasi-criminal proceedings, for example proceedings for contempt of court, or to the acts listed in clause 4.

Overarching purpose and duties of the courts

The bill will introduce a uniform statutory statement to define the overarching purpose of the courts, which is to facilitate the just, efficient, timely and cost-effective resolution of the real issues in dispute.

This might be achieved by determination of the proceeding by the court, agreement between the parties or any appropriate dispute resolution process agreed to by the parties or ordered by the court.

A similar provision introduced in the United Kingdom at the time of the Woolf reforms has been used as the driving force for cultural change in the United Kingdom civil justice system.

The courts will be required to give effect to the overarching purpose when exercising powers or interpreting their powers. When giving effect to the overarching purpose, a court must have regard to a broad range of objects. I have already mentioned proportionality, but other objects include the public interest in the early settlement of disputes by agreement between the parties and the efficient conduct of the business of the court.

The court may also have regard to the extent to which the parties have complied with the prelitigation requirements under this bill or any other prelitigation processes. This means that what the parties and their lawyers do before a proceeding commences may come under the scrutiny of the court later on, if it turns out that they have failed to take reasonable steps to resolve the dispute.

Overarching obligations — standards of conduct for parties

The bill contains new provisions prescribing standards of conduct in civil proceedings.

The overarching obligations will apply to parties, legal practitioners or other representatives of parties, law practices, any person who provides financial or other assistance to any party insofar as they exercise direct or indirect control, or any influence over the conduct of the proceeding or a party, for example, insurers and litigation funders. They will also apply, where relevant, to expert witnesses, but will not apply to lay witnesses.

The prelitigation requirements apply up until the commencement of proceedings. The overarching obligations commence as soon as a party files its first document in a proceeding and apply to all aspects of a civil proceeding, including appropriate dispute

resolution processes, interlocutory proceedings and appeals.

'Appropriate dispute resolution' is defined in the bill. The government prefers this expression to 'alternative dispute resolution', as 'ADR' should become the appropriate vehicle for dispute resolution, not an alternative to 'mainstream' litigation. In the future, as a result of these reforms, litigation in the courts should be the last resort when all other options are exhausted, or where the interests of justice require it.

The bill provides that each person to whom the overarching obligations applies has a duty to the court to further the administration of justice. There are 10 overarching obligations that are components of the paramount duty.

Some of these obligations are very familiar to lawyers, and include duties to:

act honestly;

not make any claims or responses that are frivolous, vexatious or do not have, on the material available, a proper legal and factual basis; and

act promptly and minimise delay.

Others are completely new and draw upon good dispute resolution practice and promote the cultural change that is at the centre of these reforms. They include duties to:

cooperate with the parties and the court in connection with the conduct of a civil proceeding;

use reasonable endeavours to resolve the dispute by agreement or using ADR processes, unless it is not in the interests of justice to do so, or the dispute is of such a nature that only judicial determination is appropriate; and

as I mentioned earlier, to ensure that the legal and other costs incurred in connection with the proceeding are reasonable and proportionate to the complexity or importance of the issues and the amount in dispute.

In relation to the duty to ensure costs are reasonable and proportionate, an example of a possible breach may be the practice of briefing two barristers (senior counsel and junior counsel) where the complexity of the case does not warrant it. I note that the obligation is worded so that resources are not unreasonably constrained for cases that might in themselves be for a small amount, but that have significant precedent or public interest value.

The bill clarifies any potential conflict that a person who carries the overarching obligations may have with other legal, contractual or other obligations that person may have. It provides that the overarching obligations will prevail to the extent of any inconsistency. However, this provision does not override the lawyer's special duty to the court, which is paramount.

Imposing equivalent duties on participants in litigation will address the conduct of some parties who sometimes are invisible to the court, but by their decisions inappropriately use the courts, to further their own interests.

Parties will be required to certify in their pleadings that they have read and understood the obligations and their lawyers will have to certify that the allegations they make have a proper basis.

There are examples in the United Kingdom, and interstate, such as in the Federal Court and in NSW, of overriding or overarching purposes for the courts. Victoria will be the first Australian jurisdiction to implement statutory conduct obligations that apply not only to lawyers, but to all participants who have the power to influence the course of civil litigation.

The chief justice has recently drawn attention to the ethical challenges faced by lawyers in light of the ever-increasing commercialisation of legal practice. This bill makes clear the fundamental ethical obligations of lawyers in conducting litigation, especially their duties to the court. It will assist them in resolving tensions between such duties and the demands of overzealous clients by also bringing clients and those who fund litigation within the orbit of the overarching obligations.

The court will be able to impose penalties for breach of the overarching obligations. In deciding if a sanction for non-compliance is appropriate, the court will be required to take into account whether or not a party has had legal representation.

A lawyer may be required to personally bear any costs order made by the court for breach of the obligations, and an order may be made that those costs are payable immediately and enforceable immediately.

General prelitigation requirements — background

The bill will introduce mandatory general prelitigation requirements for parties to use reasonable endeavours to resolve the dispute by agreement, or to clarify and narrow the issues in dispute in the event that civil proceedings are commenced.

The prelitigation requirements signify an important cultural turning point for the legal profession and potential litigants in that they will require persons involved in civil disputes to take reasonable steps, having regard to their situation and the nature of the dispute:

to resolve the dispute by agreement; or

to clarify and narrow the issues in dispute in the event that civil proceedings are commenced.

Each person involved in a civil dispute must exchange appropriate prelitigation correspondence, information and documents critical to the resolution of the dispute.

Each person involved in a civil dispute must also consider options for resolving the dispute without the need for civil proceedings in a court, including, but not limited to, resolution through genuine and reasonable negotiations or appropriate dispute resolution.

This bill does not make ADR compulsory, but persons involved in a civil dispute must not unreasonably refuse to participate in genuine and reasonable negotiations or appropriate dispute resolution.

Parties or their legal representatives will be required to certify that they have complied with the prelitigation requirements, and if they have not, to set out the reasons for such non-compliance.

It is at this stage that a party, if it regards that it would be unreasonable for it to comply with the prelitigation requirements, would set out the reasons why they have not. Examples might include where property is at risk of dissipation or destruction if advance notice of proceedings were given; where a party is terminally ill; where a limitation period is about to expire and a cause of action would be statute barred if legal proceedings were not commenced immediately.

A court may not prevent the commencement of civil proceedings in the court merely because of non-compliance with the prelitigation requirements, but where a party has failed to meet those requirements, they are at risk of adverse costs orders being made against them once they get to court.

Examples of a failure to comply might include an unreasonable refusal to participate in mediation or other ADR, or an unreasonable refusal to consider a reasonable offer of settlement.

The prelitigation requirements are less prescriptive than the general pre-action protocol recommended by the commission. The advisory group has given much consideration to achieving the right balance between providing enough guidance to the parties in the prelitigation stage, and avoiding creating a system that inadvertently builds in further layers of cost and delay.

The aim is to ensure that disputants have taken the opportunity to understand what is in dispute and to consider whether it can be resolved without resorting to litigation. In doing so, the prelitigation requirements only reflect current good practice.

It is recognised that there will be some disputes where it would be unreasonable to require the parties to go through a prelitigation process. There may be an urgent time limit that must be met, or the case is one in which only a judicial direction or decision will suffice. It is hoped that these types of cases will be adequately allowed for by the courts in considering the reasonableness of the parties' actions in individual cases where the prelitigation process has not been adopted.

To provide some guidance around what matters do not need to follow this process, there are some limited statutory exceptions, including appeals, proceedings under the Charter of Human Rights and Responsibilities, and proceedings in which civil penalties are sought. The bill contains an exemption for Corporations Law matters in recognition of the prescriptive nature of many such proceedings (for example, chapter 5 liquidation proceedings), but this exemption may be reviewed in the light of any developments at the commonwealth level. The existence of prelitigation protocols for claims under the Accident Compensation Act 1985 and the Transport Accident Act 1986 also qualify those claims for an exemption.

It is anticipated that most cases for which the prelitigation requirements would be inappropriate would be covered by the test in clause 34, which only requires reasonable prelitigation steps to be taken, having regard to the disputants' situation and the nature of the dispute. However, the bill also provides the courts with a general power to exempt civil proceedings or classes of civil proceeding from compliance with the prelitigation requirements. This will allow the courts to make rules that more clearly identify the classes of disputant who are not required to take the steps envisaged by clause 34 where the courts think that such clarification is necessary.

In addition, the bill provides the courts with a rule-making power to design specific prelitigation processes for certain types of cases. The experience in the United Kingdom of the use of specific pre-action

protocols has been very positive, according to Lord Justice Jackson in his recent final report on civil litigation costs.

It is expected that the development of any exceptions and specific protocols will occur in the consultative spirit that has characterised the reform process to date. The operation of the prelitigation requirements and any rules made to clarify their operation will be reviewed by the government to ensure that this new and innovative reform achieves its objectives.

Costs of compliance

Generally, there will be a presumption that each person involved in a civil dispute or party to a civil proceeding is to bear that person's or party's own costs of compliance with the prelitigation requirements, subject to the rules of court.

This presumption may be displaced where a court is satisfied that it is reasonable to do so, having regard to furthering the overarching purpose. A court may order that a representative of a party to a civil proceeding, rather than the party, pay some or all of another party's cost of compliance with the prelitigation requirements if the court is satisfied that, by the representative's conduct in relation to compliance with the prelitigation requirements, another party has unnecessarily incurred costs in complying with the prelitigation requirements.

Despite the general rule that each party will bear their own costs, where a party fails to comply with the prelitigation requirements, the court will be able take this into account in determining costs in respect of civil proceedings which are issued in respect of that civil dispute, or in making other orders.

Claims for personal injury under the Transport Accident Act 1986

Claims for personal injury under part 6 of the Transport Accident Act 1986 may be conducted in accordance with a voluntary prelitigation process. There are currently no sanctions for breach of the Transport Accident Commission's voluntary prelitigation scheme. The sanctions for breach of the prelitigation requirements under this bill will also be applicable to claims conducted pursuant to the voluntary pre-action process under the Transport Accident Commission regime. The bill will not, however, interfere with the fixed costs regime that applies to compliance with the TAC prelitigation regime.

For transport accident claims that are not conducted in accordance with the voluntary prelitigation process, those claims will be governed by this bill — that is, they are civil proceedings as defined in the bill and must comply with the prelitigation requirements.

Express case management powers for judges and magistrates

The courts already have broad, inherent discretion to manage their own proceedings. The primary objective of the case management reforms is to make it clear that the courts have express power to make appropriate orders and impose reasonable limits to enable them to better or actively manage the conduct of proceedings, thereby reducing costs and delay.

The bill provides clear legislative guidance to judges to proactively manage cases in a manner that will promote the overarching purpose — that is, the just, efficient, timely and cost-effective resolution of the real issues in dispute.

The bill provides that for the purpose of ensuring that a civil proceeding is managed and conducted in accordance with the overarching purpose, the court may give any direction or make any order it considers appropriate. This might include ensuring that the proceeding is conducted promptly and efficiently or encouraging the parties to cooperate with each other in the conduct of the civil proceedings, to settle the proceeding or to use ADR, or limiting the time for the hearing including the number of witnesses and the time taken for examination or cross-examination of witnesses.

The bill further provides that a court may make any order or give any direction it considers appropriate in relation to pre-trial procedures. This is an important power. The bill gives judges and magistrates powers to make orders in relation to setting timetables, time limits and time frames for completion of a proceeding and the use of ADR to assist in the conduct and resolution of all or part of the proceeding.

Further, the bill empowers judges and magistrates to make orders in relation to the conduct of the hearing in a civil proceeding, including: limiting the time to be taken in leading evidence, cross-examining or re-examining, not allowing cross-examination of witnesses or limiting the number of witnesses including expert witnesses and limiting the length of written and oral submissions.

Sanctions apply for breach of the case management orders or directions made by a judge or magistrate. These include costs orders, dismissal of the civil proceeding, striking out of parts of a claim or any other order that the court considers appropriate.

Liberalising the test for summary judgement

The bill reforms the procedure for the earlier determination of disputes, including liberalising the test for the summary disposal of unmeritorious claims and defences. This will help the courts to remove at an early stage cases where a party has no real prospect of success.

Improving appropriate dispute resolution

The bill provides that a court may make an order referring a civil proceeding, or part of a civil proceeding, to appropriate dispute resolution to resolve or settle the proceeding.

The provisions will be essentially facilitative and complement the legislation passed in 2009 in respect of judicial dispute resolution (the Courts Legislation Amendment (Judicial Resolution Conference) Act 2009). The courts are already empowered under their rules and legislation to make orders of this kind, but the purpose of the provision and the extensive definition of ADR is to encourage the courts to make more use of the variety of ADR processes that are available to litigants for resolving their disputes.

The bill also enhances the capacity of the courts to order that parties participate in non-binding ADR, with or without their consent.

There is an expectation that the courts will become, as the Supreme Court's Commercial Court has named itself, a true litigation laboratory and get some runs on the board, encouraging and in some cases requiring parties to engage with appropriate dispute resolution processes to achieve an early settlement of their dispute.

Narrowing the test of discovery

The commission recommended reform of the procedure for the compulsory production of documents in civil proceedings. The discovery procedure is a critical element of fact-finding in litigation and has become a very contested and costly process.

The main concerns with discovery revolve around issues of expense, scale and delay, as well as abuse of discovery obligations. It is identified by stakeholders as the most expensive aspect of the civil justice system. For example, it was reported that in one Supreme Court case, a party spent $40 million on the discovery process alone, and that 120 legal professionals worked on the discovery process.

At present, the respective courts' rules require the disclosure of all documents that are directly or indirectly relevant to issues in a case. In the United Kingdom and some other Australian jurisdictions, the discovery test has been narrowed to remove the requirement of indirect relevance. The advisory group recommended that the test in Victoria be similarly narrowed and the government understands that the courts are currently considering adoption of a test similar to that applied by the Federal Court.

The bill implements the commission's recommendations with respect to case management reforms and sanctions for discovery abuse. As with the case management reforms, it clarifies that a court may make any order in relation to discovery that it considers necessary or appropriate, including limiting or expanding a party's obligation to make discovery.

Further, the bill clarifies that a court may make any order or give any directions it considers appropriate if the court finds that there has been:

a failure to comply with discovery obligations;

a failure to comply with any order or direction of the court in relation to discovery; or

conduct intended to delay, frustrate or avoid discovery of discoverable documents.

Conclusion

This bill is a landmark reform in the way that civil disputes in Victoria are managed and resolved. It will strengthen the changes that are already occurring to develop a less adversarial approach to dispute resolution. It will promote a culture that focuses on achieving the best outcomes in a timely and cost-effective way for disputants, whether they are global corporations or individuals going about their daily lives. This government has already made great strides in promoting ADR. Now it is complementing those initiatives with a bill that provides the foundations for the comprehensive overhaul of civil litigation in Victoria.

I commend the bill to the house.

Debate adjourned on motion of Mr CLARK (Box Hill).

Debate adjourned until Thursday, 8 July.

JURIES AMENDMENT (REFORM) BILL

Statement of compatibility

Mr HULLS (Attorney-General) tabled following statement in accordance with Charter of Human Rights and Responsibilities Act:

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

In my opinion, the Juries Amendment (Reform) Bill 2010, as introduced to the Legislative Assembly, is compatible with the human rights protected by the charter. I base my opinion on the reasons outlined in this statement.

Overview of bill

The bill increases community representation on juries by amending schedule 2 of the Juries Act 2000. The bill reduces the categories of occupation groups, which are ineligible for jury service and reduces the period of ineligibility for jury service. In addition, the bill is to make funding for payment of juror remuneration more secure.

The bill amends the Juries Act by changing the jury service eligibility status of lawyers and people working in the legal profession, makes all departmental secretaries ineligible for jury service and makes the legal services commissioner and Legal Services Board ineligible for jury service. In addition, the bill halves the period of ineligibility for jury service for some occupations.

Under the bill lawyers who have not engaged in legal practice in the last five years will become eligible for jury service. In addition, people working in the legal profession who do not have a close connection to legal practice, such as administrative staff, will also become eligible for jury service. This will result in an increase of up to 28 000 additional Victorian adults being eligible for jury service.

Practising lawyers, including all government lawyers, remain ineligible for jury service. People working in the legal profession who are closely connected to legal practice remain ineligible for jury service. Trainee lawyers, including articled clerks and people undertaking practical legal training, remain ineligible for jury service. The bill also makes the legal services commissioner, Legal Services Board and their staff ineligible for jury service, replacing the legal ombudsman. The bill also makes all secretaries to government departments ineligible for jury service. These measures ensure juries remain independent and impartial.

Significantly, the bill also reduces the period of ineligibility for jury service from 10 years to 5 years. This includes for people involved in the justice system. People will become eligible for jury service much sooner than was previously possible.

Nonetheless, the bill retains the existing safeguards in the Juries Act, which ensure juries remain independent and impartial, including the safeguards that prevent people from serving on juries if they have pre-formed views based on occupational experiences.

In addition, the bill also includes a technical amendment to the Juries Act relating to special appropriation from the Consolidated Fund for payment of juror remuneration and allowances.

Human rights issues

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

Section 24 — fair hearing

Section 24(1) provides that a person charged with a criminal offence or a party to a civil proceeding has the right to have the charge or proceeding decided by a competent, independent and impartial court or tribunal after a fair and public hearing. An 'independent and impartial court' includes a jury. Juries, for example, render verdicts in criminal trials.

The bill makes changes to the potential composition of a jury and therefore engages the right in section 24(1).

The reforms are designed to increase community representation on juries by reducing the number of ineligible occupational groups and by halving the period of ineligibility from jury service.

For example, lawyers who have not engaged in legal practice in the last five years will become eligible for jury service. Other people working in the legal profession who do not have a close connection to legal practice, such as administrative staff, will become eligible for jury service. All practising lawyers as well as government lawyers remain ineligible for jury service. Trainee lawyers remain ineligible for jury service, as do people working in the legal profession who are involved in the conduct of litigation and provision of legal advice. The juries commissioner will continue to determine whether a person is eligible for jury service.

The bill maintains the ineligibility of occupations that are part of Victoria's justice system or political system. For example, judicial officers, practising lawyers, police, bail justices and members of Parliament remain ineligible for jury service. Those occupations, and all the other occupations listed in clause 1 of schedule 2 of the Juries Act, will become eligible for jury service five years after ceasing that employment. All secretaries to government departments will become ineligible for jury service. The legal services commissioner, the Legal Services Board and their staff will also be ineligible for jury service.

The bill does not alter the existing safeguards in the Juries Act that ensure juries are independent and impartial. Safeguards against bias, including peremptory challenges based on occupational experience, continue to apply. Potential jurors retain the right to seek to be excused from jury service.

The bill increases community representation on juries while ensuring they remain independent and impartial. The bill, therefore, does not limit the right to a fair hearing under section 24 of the charter.

Finally, an amendment, which is unrelated to jury service eligibility, provides that juror remuneration and allowances be paid by special appropriation from the Consolidated Fund. The special appropriation for these payments is to be $3.3 million annually. This is a technical amendment and does not engage any rights under the charter.

Conclusion

I consider that this bill is compatible with the charter because this bill does not limit any human right protected by the charter.

Rob Hulls, MP
Attorney-General

Second reading

Mr HULLS (Attorney-General) — I move:

That this bill be now read a second time.

The jury system reflects the belief in Australia that there is no stronger sanction than community sanction. Broad jury service eligibility is vital to ensure that a cross-section of community members are participating in the administration of justice.

In November 2009 I released a public discussion paper *Jury Service Eligibility*. The paper considered ways to increase community representation on juries.

My department consulted with key stakeholders including representatives of the Director of Public Prosecutions, the Law Institute of Victoria and the Victorian bar and with the juries commissioner.

The Juries Amendment (Reform) Bill 2010 aims to increase community representation in two ways. Firstly, by reducing the occupational groups which are ineligible for jury service and, secondly, by reducing the period of ineligibility for jury service. This will result in up to 28 000 additional Victorian adults becoming eligible for jury service. These reforms will commence on 1 January 2011.

In addition, the bill has a technical amendment, which makes funding for payment of juror remuneration and allowances more secure, commencing on 1 July 2011.

Reform of occupation groups

The bill amends the Juries Act by changing the eligibility status of the legal profession on juries, expanding the ineligibility of departmental secretaries and makes a consequential amendment due to the abolition of the office of the legal ombudsman in the Legal Profession Act 2004.

In relation to the legal profession, the bill provides that lawyers who have not practised in the last five years will become eligible for jury service. This increases community representation on juries by up to approximately 14 000 people. In all other Australian jurisdictions, except Western Australia and New South Wales, non-practising lawyers are eligible for jury service. Many people are admitted to the legal profession but do not actually go on to engage in legal practice. Similar reforms have been proposed by the Western Australian Law Reform Commission and by the New South Wales government under the Jury Amendment Bill 2010. This reform, therefore, achieves greater national consistency.

All practising lawyers, including all government lawyers, remain ineligible for jury service. Trainee lawyers, such as articled clerks and people undertaking practical legal training, remain ineligible for jury service.

In addition, the bill fixes an anomaly in the Juries Act, which renders all employees of lawyers ineligible for jury service irrespective of their connection to the legal practice. People who do not have a close connection to legal practice will become eligible for jury service. A close connection includes being involved in the conduct of litigation or provision of legal advice. This applies to people employed or engaged by practising lawyers, law firms, community legal centres, multidisciplinary partnerships, incorporated legal practices, corporate in house counsel or by government authorities. People such as administrative staff and human resources staff will become eligible. This increases community representation on juries by up to approximately 14 000 people.

The bill also makes the legal services commissioner, Legal Services Board and their staff ineligible for jury service. This replaces the legal ombudsman, which was abolished by the Legal Profession Act.

All secretaries to government departments will become ineligible for jury service. This ensures Victoria's most senior public servants do not sit on juries.

Reducing the ineligibility period

Significantly, the bill halves from 10 years to 5 years the period of ineligibility for occupation groups listed in clause 1 of schedule 2 of the Juries Act. There is a marked variation between Australian jurisdictions about the appropriate period of ineligibility including for judicial officers, lawyers and police. The majority of submissions to the government's discussion paper *Jury Service Eligibility* supported an ineligibility period of less than 10 years. This reform means people will become eligible for jury service much sooner than was previously possible.

Maintaining the independence of the jury system

Importantly, the bill does not alter the existing safeguards in the Juries Act 2000 to ensure juries are

independent and impartial. Potential jurors may still be challenged based on their past occupations or may seek to be excused on that ground.

Making funding for payment of juror remuneration more secure

Finally, the bill makes a technical amendment, which is unrelated to jury service eligibility. It provides that the juror remuneration and allowances be paid by special appropriation from the Consolidated Fund in the amount of $3.3 million annually for these payments.

Special appropriations are used to fund services that must be funded. Like judicial remuneration, juror remuneration and allowances are essential to the working of the justice system.

The special appropriation would not apply to other jury related payments and the Office of the Juries Commissioner. These continue to be funded by my department.

The amendment will have no net impact on the state's finances because annual appropriation funding for my department will be reduced by the amount of the special appropriation.

Conclusion

The community has not just a role but a duty to perform jury service. Jury service eligibility is vital to provide the opportunity to perform that civic duty. The bill broadens the jury pool by up to 28 000 people. The bill also makes funding for juror remuneration more secure.

The reforms are consistent with justice statement 2 (2008) initiatives aimed at modernising the court system. It is also consistent with the government's commitment to the independence of the jury system.

I commend the bill to the house.

Debate adjourned on motion of Mr CLARK (Box Hill).

Debate adjourned until Thursday, 8 July.

ENERGY AND RESOURCES LEGISLATION AMENDMENT BILL

Statement of compatibility

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

In accordance with section 28 of the Charter of Human Rights and Responsibilities, I make this statement of compatibility with respect to the Energy and Resources Legislation Amendment Bill 2010.

In my opinion, the Energy and Resources Legislation Amendment Bill 2010, as introduced to the Legislative Assembly, is compatible with the human rights protected by the charter. I base my opinion on the reasons outlined in this statement.

Overview of bill

The purposes of this bill are to:

amend the Electricity Industry Act 2000 to extend the application of provisions of the act designed to facilitate cost sharing between small electricity generators for suitably sized and designed augmentations to distribution networks, to require the Essential Services Commission to have regard to a ministerial direction given under part 6 of that act before revoking a licence, and to make further provision for the rollout of advanced metering infrastructure;

amend provisions of the Electricity Safety Act 1998 relating to the functions and powers of Energy Safe Victoria, the clearance of vegetation around electric powerlines, bushfire mitigation plans and electricity safety management schemes;

amend the National Electricity (Victoria) Act 2005 to disapply the smart meter rollout provisions under the National Electricity Law to prevent an overlap with the arrangements under the Electricity Industry Act 2000 and to provide for an economic incentive scheme with respect to fire starts to be established and administered by the Australian Energy Regulator in respect of electricity distribution companies operating in Victoria;

amend the Energy Safe Victoria Act 2005 in relation to Energy Safe Victoria's corporate governance arrangements;

amend the Mineral Resources (Sustainable Development) Act 1990 to improve the operation of that act;

to amend the Petroleum Act 1998 to improve the operation of that act;

repeal the Mines Act 1958;

amend the Gas Industry Act 2001 to require the Essential Services Commission to have regard to any ministerial direction under part 9 of that act before revoking a licence;

amend the Aboriginal Heritage Act 2006 to make further provision in relation to the interrelationship between cultural heritage management plans and area work plans under the Mineral Resources (Sustainable Development) Act 1990; and

make miscellaneous amendments to the Geothermal Energy Resources Act 2005; the Greenhouse Gas Geological Sequestration Act 2008; the Offshore Petroleum and Greenhouse Gas Storage Act 2010; the Pipelines Act 2005; the Victorian Energy Efficiency

Target Act 2007; the Victorian Renewable Energy Act 2006; and the Energy and Resources Legislation Amendment Act 2009.

Human rights issues

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

The bill raises a number of human rights issues.

The right to be presumed innocent (section 25(1))

Section 25(1) of the charter provides that a person charged with a criminal offence has the right to be presumed innocent until proven guilty according to law.

Clause 17 (which will insert the new sections 83B and 83BB into the Electricity Safety Act 1998), clause 23 (which will insert a new paragraph (c) into section 98 of the Electricity Safety Act 1998) and clause 26 (which will insert the new section 113C into the Electricity Safety Act 1998) create a number of new offences in the Electricity Safety Act 1998 which potentially, when read in conjunction with section 72 of the Criminal Procedure Act 2009, impose evidential onuses on a defendant to adduce or point to evidence that goes to an exception, excuse or defence (however, I note that section 25(1) would only be relevant in relation to these offences to the extent that they applied to an individual — section 25(1) of the charter would not arise if a corporation was a defendant to such a charge).

Courts in other jurisdictions have generally taken the approach that an evidential onus on a defendant to raise a defence does not limit the presumption of innocence.

Additionally, in my view, these provisions do not inappropriately transfer the burden of proof to a defendant in breach of section 25(1) of the charter, because once a defendant has adduced or pointed to some evidence, the burden is on the prosecution to prove beyond reasonable doubt the absence of the exception or defence raised. Furthermore, the burdens do not relate to essential elements of the offences and are only imposed on the defendant to raise facts that support the existence of an exception, defence or excuse.

However, even if these provisions did limit the right to be presumed innocent in section 25(1) of the charter, the limitation would be reasonable and justifiable under section 7(2) because the defences and exceptions provided relate to matters within the knowledge of the defendant.

Accordingly, I consider that the new sections 83B, 83BB, 98(c) and 113C are compatible with section 25(1) of the charter.

Freedom of expression (section 15) and the right against self-incrimination (section 25(2)(k))

Clause 31 will insert a new section 141AB into the Electricity Safety Act 1998 which provides that the Director of Energy Safety, by written notice, may require a person to give the director information in the person's possession that the director reasonably requires for the purpose of preparing the annual report in relation to the performance of distribution companies.

Section 141AB(3) provides that a person who is given notice must comply with the notice unless the person has a lawful excuse.

Section 141AB(4) provides that a person cannot be compelled to give information if the information might tend to incriminate the person of an offence.

Section 141AB(5) provides that the section does not require the person to give information that is the subject of legal professional privilege or client legal privilege.

To the extent that it applies to an individual as opposed to a corporation, section 141AB engages the right to freedom of expression. However, as section 141AB does not abrogate the common-law privilege against self-incrimination, section 25(2)(k) of the charter is not engaged.

Additionally, clause 17 and clause 19 will amend the Electricity Safety Act 1998 to insert the new sections 83BD, 83BJ, 83BK, 90B and 90C. Section 83BD provides that Energy Safe Victoria may require a specified operator to provide any additional information that Energy Safe Victoria thinks fit in relation to a bushfire mitigation plan submitted by the operator under section 83BA. Section 83BJ requires specified operators to obtain independent audits of the operators' compliance with its accepted bushfire mitigation plan and to provide a copy of the audit report to Energy Safe Victoria. Section 83BK provides that Energy Safe Victoria may conduct, or cause to be conducted, an audit to determine whether or not a specified operator is satisfactorily complying with its accepted bushfire mitigation plan. Sections 90B and 90C mirror the requirements of sections 83BJ and 83BK, but apply in respect of audits for compliance by a 'responsible person' with an approved management plan relating to compliance with the code of practice for electric line clearance. These sections will also engage section 15 of the charter to the extent that they apply to individuals.

Clause 50 will amend the Mineral Resources (Sustainable Development) Act 1990 to insert a new section 77KA, which provides that the holder of an extractive industry work authority who carries out an extractive industry at a quarry must report a reportable event to the chief inspector in accordance with the regulations. However, as the obligation is placed on the holder of an authority, which will be a business rather than an individual, this clause will not engage section 15 of the charter.

Freedom of expression (section 15)

The compulsion to provide information engages the right to freedom of expression under the charter. Section 15 provides that every person has the right to freedom of expression, which includes the freedom to impart information and ideas of all kinds. The right has also been held to include the right not to impart information.

To the extent that the information gathering power in section 141AB imposes any restrictions on the freedom of expression of an individual (as opposed to a corporation), the powers are reasonably necessary for the protection of public order under section 15(3) of the charter because electricity is considered to be an essential service. The ability to acquire information through section 141AB will provide the director with an effective and transparent mechanism to gather the information required to prepare his or her annual report on the performance of distribution companies. This is an important

aspect of ensuring electricity safety, particularly in respect of monitoring potential bushfire risks. For these reasons, I consider that section 141AB is compatible with section 15 of the charter.

Similarly, the information gathering powers in sections 83BD, 83BJ, 83BK, 90B and 90C are also necessary for the protection of public order given that the powers relate to public safety. The ability to obtain information regarding bushfire mitigation plans and electric line clearance management plans will enable Energy Safe Victoria to ensure that the plans submitted are appropriate, so that Energy Safe Victoria can better address the risks posed by bushfires in Victoria. Therefore, sections 83BD, 83BJ, 83BK, 90B and 90C are compatible with section 15 of the charter.

Right not to be compelled to testify (section 25(2)(k)) and the right to fair trial (section 24(1))

Section 25(2)(k) of the charter provides that a person who has been charged with a criminal offence has the right not to be compelled to testify against himself or herself or to confess guilt. This right is also an aspect of the right to a fair trial protected by section 24 of the charter. The decision in *Re Application under the Major Crime (Investigative Powers) Act 2004 [2009] VSC 381* holds that this right, as protected by the charter, is at least as broad as the privilege against self-incrimination protected by the common law. It applies to protect a charged person against the admission in subsequent criminal proceedings of incriminatory material obtained under compulsion, regardless of whether the information was obtained prior to or subsequent to the charge being laid.

As section 141AB does not abrogate the common law privilege against self-incrimination, section 141AB is compatible with section 25(2)(k) of the charter.

The right to a fair hearing (section 24(1))

Section 24 of the charter provides that a party to a civil proceeding has the right to have the proceeding decided by a competent, independent and impartial court or tribunal after a fair and public hearing. This right has been broadly interpreted to encompass proceedings which are determinative of private rights and interests, which includes proceedings of an administrative character. 'Proceeding' is a word of wide connotation which can encompass both the initiation of a legal process and steps taken in their continuance. As a non-acceptance by Energy Safe Victoria of a bushfire mitigation plan can potentially lead to the imposition of penalties on natural persons, it is possible that the right to a fair hearing is engaged by clause 17, which will insert a new section 83BG into the Electricity Safety Act 1998. The right may also be engaged by the new section 83BH, which provides that Energy Safe Victoria may determine the bushfire mitigation plan which is to apply in relation to a specified operator's at-risk electric lines.

Sections 83BG and 83BH will apply to 'specified operators'. The new section 83A defines 'specified operator' as the operator of an at-risk electric line. An 'at-risk electric line' means an electric line, other than a private electric line, that is above the surface of the land and in a hazardous bushfire risk area. The exclusion of private electric lines from the definitions means that most private individuals, such as farmers, will not fall within the definition of specified operator in section 83A and so will not be subject to sections 83BG and 83BH. Section 83BG will mainly apply to electricity generation businesses, and also rail operators in certain circumstances.

The new section 113C in clause 26 will also apply these provisions to major electricity companies in respect of any part of a major electricity companies supply network that is an 'at-risk supply network'. The penalties for major electricity companies can theoretically also apply to natural persons.

Section 83BG contains a variety of procedural protections, including the requirement for Energy Safe Victoria to notify a specified operator of the non-acceptance and giving the operator an opportunity to modify and re-submit the bushfire mitigation plan. Additionally, Energy Safe Victoria must provide a statement of reasons for its decision. Section 83BH also contains safeguard, as it provides that Energy Safe Victoria must provide notice to a specified operator in writing if it determines the bushfire mitigation plan that is to apply. Additionally, specified operators are not prevented from submitting their own bushfire mitigation plans for acceptance under section 83BA.

A person would also be able to seek judicial review of such decisions.

Section 24(1) of the charter does not require the principal decision-maker to be independent and impartial or that a public hearing must be granted at first instance, rather, the whole decision-making process, including reviews and appeals, must be considered in its entirety.

In light of the limited application of the new sections 83BG and 83BH, and given the procedural safeguards and right to seek judicial review of any decisions made under these sections, in my view sections 83BG and 83BH are compatible with section 24(1) of the charter.

The right to privacy (section 13)

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

Clause 18 will insert a new section 86A in the Electricity Safety Act 1998 which will provide that, if Energy Safe Victoria is satisfied that it is necessary to do so in order to prevent future unsafe electrical situations, Energy Safe Victoria may, in writing, direct a specified person to restrict or cease the planting of a tree in the immediate area around an electric line, to clear trees from the immediate area around an electric line or to do any other thing necessary to minimise or prevent growth of trees in the immediate area around an electric line.

Section 86A(2) will provide that any such directions must be reasonable.

Given that directions will be issued for the purpose of preventing future unsafe electrical situations, and that the directions must be reasonable, the new section 86A is compatible with section 13 of the charter.

Additionally, clause 26 will insert a new section 113F into the Electricity Safety Act 1998, which provides that a major electricity company must cause an inspection to be carried out of private electric lines. The relevant company must provide notice to the occupier of the land in the prescribed form before such an inspection is carried out. The purpose of such inspections is to ensure electrical safety. Accordingly, the

inspections will not constitute an arbitrary or unreasonable interference with privacy. Consequently, section 113F is also compatible with section 13 of the charter.

Conclusion

I consider that the bill is compatible with the charter, as none of the clauses in the bill limit the rights in the charter.

Peter Batchelor, MP
Minister for Energy and Resources

Second reading

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

That this bill be now read a second time.

The government is committed to ensuring a safe, efficient and secure energy system and reliable delivery of energy services and to improved public safety, safety of infrastructure and protection of the environment, in relation to mining and quarry operations.

This bill will further those commitments. It will amend a number of acts and contains some significant reforms, together with changes of a more technical or statute law revision nature.

In particular, the bill includes the amendments foreshadowed in the government's response to the submissions of counsel assisting the 2009 Victorian Bushfire Royal Commission with respect to the electricity sector. The bill will amend the Electricity Safety Act 1998 to expand the role of the technical safety regulator — Energy Safe Victoria — in overseeing the mitigation and management of bushfire risks by the electricity industry. The bill will also amend the Energy Safe Victoria Act 2005 to enhance the independence of the director of Energy Safe Victoria.

The bushfire mitigation regime that applies to electricity businesses will be strengthened. Importantly, there will be an explicit duty to minimise bushfire danger, to which a substantial penalty will apply. The bill will also introduce a new penalty on electricity businesses that fail to have an approved bushfire mitigation plan in place by 1 November each year.

In addition to these improvements to the electricity safety regime, the bill will introduce an economic incentive scheme for reducing the number of fires started by electrical infrastructure. This scheme will form part of the economic regulatory framework managed by the Australian Energy Regulator. It will provide incentives for distribution businesses to minimise bushfire risks associated with their electricity assets.

The bill will make other changes in the electricity sector. It will amend the Electricity Industry Act 1998 to expand cost-sharing provisions that support efficient expansion of the electricity distribution network. It will also make further provision with respect to advanced metering: to regulate the transition of customers to time-of-use pricing structures; to disapply the national regime which is inconsistent with Victoria's scheme; and to clarify the grounds for appeal against cost-recovery determinations made by the Australian Energy Regulator.

The bill will also amend the Victorian Energy Efficiency Target Act 2007 to allow rounding to the nearest whole number in the creation of certificates under the Victorian energy efficiency target scheme. This will ensure appropriate incentives are available to create certificates for undertaking low-cost energy efficiency activities under the scheme.

The bill will make changes in the resources sector as well. It will amend the Mineral Resources (Sustainable Development) Act 1990 to make further provision in relation to the implementation of the government's response to the mining warden's *Yallourn Mine Batter Failure Inquiry* report. Holders of extractive industry work authorities for declared quarries will be required to include additional information in their work plans detailing how they will identify and treat stability risks for their operations. The bill will also require the holder of a mining licence or extractive industry work authority to notify the chief inspector of events that present a risk to the hydrogeological or geotechnical stability of the mine or quarry. The chief inspector will be empowered to request a detailed report into such events.

The bill will make consequential amendments to the Mineral Resources (Sustainable Development) Act 1990; the Geothermal Energy Resources Act 2005; the Greenhouse Gas Geological Sequestration Act 2008; the Offshore Petroleum and Greenhouse Gas Storage Act 2010; and the Petroleum Act 1998 to achieve consistency with the Occupational Health and Safety Act 2004.

The bill will make other changes in the resources sector to promote consistency in the legislation. It will amend the Geothermal Energy Resources Act 2005 and Petroleum Act 1998 to clarify the minister's powers in relation to granting exploration permits; and amend the Pipelines Act 2005 to expand the list of documents that may be listed in the pipelines register.

Finally, the bill will repeal spent provisions, including the now redundant Mines Act 1958, and make other amendments of an administrative and technical nature.

I commend the bill to the house.

Debate adjourned on motion of Mr O'BRIEN (Malvern).

Debate adjourned until Thursday, 8 July.

FIREARMS AND OTHER ACTS AMENDMENT BILL

Statement of compatibility

Mr CAMERON (Minister for Police and Emergency Services) tabled following statement in accordance with Charter of Human Rights and Responsibilities Act:

In accordance with section 28 of the Charter of Human Rights and Responsibilities, I make this statement of compatibility with respect to the Firearms and Other Acts Amendment Bill 2010.

In my opinion, the Firearms and Other Acts Amendment Bill, as introduced to the Legislative Assembly, is compatible with the human rights protected by the charter. I base my opinion on the reasons outlined in this statement.

Overview of bill

The bill makes amendments to a number of acts. The bill will:

amend the Firearms Act 1996 to make a number of technical changes to improve the operation of the scheme;

amend the Firearms Act 1996 to make residence in Victoria a precondition of holding a firearms licence and to improve the workability of residency requirements by allowing interstate residents to apply for licences for work purposes;

amend the Firearms Act 1996 and the Control of Weapons Act 1990 to remove the regulation of imitation firearms from the former and regulate them as prohibited weapons under the latter;

amend the Firearms Act 1996 and the Control of Weapons Act 1990 to provide health service workers with exemptions from elements of the regimes in those acts in situations where they take possession of a firearm or weapon from a client for public safety purposes;

amend the Graffiti Prevention Act 2007 to empower authorised transport officers to seize graffiti implements from persons on transport property who are suspected of having committed, or are able to commit, a graffiti offence, and also to allow notices relating to the removal of graffiti from private dwellings to apply on multiple occasions or until the owner/occupier withdraws consent; and

amend the Liquor Control Reform Act 1998 to allow for banning notices and exclusion orders to be issued for the offence of behaving in a disorderly manner.

Human rights issues

General discretion of chief commissioner to refuse a firearms licence

Part 2 of the bill makes a number of amendments to the Firearms Act 1996 which expand the chief commissioner's general discretion to refuse certain types of firearms licences on the grounds that the applicant is not ordinarily resident in Victoria. Accordingly, I considered whether the licensing scheme, as contained in the Firearms Act 1996, protects the right to a fair hearing in section 24 of the charter.

Section 24 — Right to fair hearing

Section 24 of the charter provides that a party to a civil proceeding has the right to have the proceeding decided by a competent, independent and impartial court or tribunal after a fair and public hearing. This right has been broadly interpreted to encompass proceedings which are determinative of private rights and interests, which includes proceedings of an administrative character. 'Proceeding' is a word of wide connotation which can encompass both the initiation of a legal process and steps taken in their continuance. As the application process for a licence determines a person's proprietary rights to hold a firearms licence, the right to fair hearing is probably engaged.

However, even if section 24 does apply, it does not necessarily mean that the principal decision-maker is required to be independent and impartial or that a public hearing must be granted at first instance. The whole decision-making process, including reviews and appeals, must be considered in its entirety.

Division 8 of part 2 of the Firearms Act 1996 sets out the application process for a firearms licence. Section 33A provides that if the chief commissioner is proposing not to issue a licence, the chief commissioner must give the applicant notice and reasons of this and invite the applicant to make a written submission. Section 33B provides for the further consideration of an application by way of a hearing after submissions have been received from the applicant within the specified time frame. Section 33C prohibits the chief commissioner from refusing a licence without considering any written submissions made by the applicant within the specified time frame or any oral submissions made by the applicant at hearing. Finally, section 34 provides that an applicant can apply for review of any decision not to issue a licence. Reviews are conducted by the Firearms Appeals Committee, established under part 9 of the act, which satisfies the requirements of an independent and impartial tribunal. Accordingly, I consider that the licensing scheme contained in the act and the amendments made by this bill do not limit the right to fair hearing in the charter.

Cancellation of licence held by non-resident

Clause 15 inserts new section 46A into the Firearms Act 1996 to require the chief commissioner to cancel a firearm licence if satisfied that the holder is not ordinarily a resident in Victoria and does not require the licence for work purposes. Clause 16 inserts new section 49A into the act that allows the chief commissioner to specify a time period not exceeding 12 months for which a person cannot apply for a licence

following a cancellation under new section 46A. These provisions engage the right to property under the charter.

Section 20 — Right to property

Section 20 provides that a person must not be deprived of his or her property other than in accordance with law. The right requires that the powers which authorise the deprivation of property are conferred by legislation or common law, are confined and structured rather than arbitrary or unclear, and are accessible to the public and formulated precisely.

Although 'property' may include statutory rights such as licences, the cancellation or alteration of a licence will not amount to a deprivation of property where the licence-holder did not have a reasonable expectation of the lasting nature of the licence. Division 9 of part 2 of the act makes it clear that licences are granted under the act on the basis that they can be suspended, cancelled, varied or have conditions imposed upon.

Even if it is arguable that some of these licensing decisions by the chief commissioner could result in the deprivations of property, it is clear that the process for cancelling, suspending or varying licences is precisely set out in the act and is not arbitrary in nature. Section 49 sets out the circumstances in which a licence may be cancelled. Section 47 provides that the chief commissioner must give notice to the holder of an intention to cancel a licence and give reasons. Section 48 provides for a holder to make written submissions in response to a proposal to cancel a licence and section 50 allows the holder of a cancelled licence to apply to the committee for review of the decision. Accordingly, these provisions do not limit the right to property under the charter.

Information required for an application for a licence

Clause 11 amends section 32(1) of the Firearms Act 1996 to insert subsection (1A), which provides that the chief commissioner may require a person, who is not ordinarily resident in Victoria and who applies for a longarm or handgun licence on the basis that the licence is required for work purposes, to provide evidence that the work purposes are genuine and that they require the person to hold a licence.

Section 13(1) of the charter provides that a person has the right not to have his or her privacy unlawfully or arbitrarily interfered with.

As any interference which occurs as a result of this amendment will be lawful, and also necessary and reasonable given that the purpose of the Firearms Act 1996 is to give effect to the principle that the possession of firearms is conditional on the need to ensure public safety and peace, clause 11 is compatible with section 13 of the charter.

Offences regarding serial numbers on firearms

Clause 4 of the bill inserts a new section 8A into the Firearms Act 1996 which provides that evidence that a firearm does not have a serial number, the serial number of a firearm has been erased, defaced or altered, or the serial number of a firearm is illegible is admissible to establish that the firearm is not registered and, in the absence of evidence to the contrary, is proof of that fact.

Clause 23 inserts a new section 134C into the Firearms Act 1996, which provides that it is an offence for a person to possess a firearm on which there is no serial number without reasonable excuse. The penalty for the offence is 240 penalty units or four years imprisonment. Section 134C(2) provides that in any proceeding against a person for an offence under this section, it is not necessary for the prosecution to prove that the person knew, or was aware, believed or suspected that there was no serial number on the firearm. Section 134C(3) provides that in any proceeding for an offender under this section it is a defence if the person charged had reasonable grounds for believing that there was a serial number on the firearm.

Section 25(1) of the charter provides that a person charged with a criminal offence has the right to be presumed innocent until proven guilty according to law.

In my view, clause 4 imposes an evidential onus on a defendant in relation to certain offences under the Firearms Act 1996 in which non-registration is an element of the offence, by requiring a defendant to raise evidence that a firearm is registered. I also consider that clause 23, read in conjunction with section 72 of the Criminal Procedure Act 2009 (Vic), imposes an evidential onus on a defendant to adduce or point to evidence that goes to an exception, excuse or defence. Consequently, these provisions probably do not transfer the burden of proof, because once the defendant has adduced or pointed to some evidence, the burden is on the prosecution to prove beyond reasonable doubt the absence of the exception or defence raised.

Additionally, the relevant offences are part of a statutory scheme which regulates firearms and persons who legitimately own and use firearms would be aware of the requirements of the scheme, and chose to be subject to such regulation through their firearm ownership or use.

Courts in other jurisdictions have generally taken the approach that an evidential onus on a defendant to raise a defence does not limit the presumption of innocence. However, even if these provisions limit the right to be presumed innocent in section 25(1) of the charter, the limitation would be reasonable and justifiable under section 7(2) because the defences and exceptions provided relate to matters within the knowledge of the defendant.

Seizure of graffiti implement

Clause 30 inserts new section 17A in the Graffiti Prevention Act 2007 which provides for the seizure of a graffiti implement by an authorised transport officer. This provision engages the right to property under the charter.

Section 20 — Right to property

As discussed above, the right permits the deprivation of property that is carried out in accordance with law that is precisely structured and not arbitrary in nature. The provision sets out that a graffiti implement may only be seized by an authorised officer who believes on reasonable grounds that the implement has been used, or will be used to commit a graffiti offence. The officer must comply with requirements under the Transport Act 1983 as well as notify and inform the person of their rights before seizure, and may only seize an implement that is fully or partially visible immediately before it is seized. Clause 31 inserts new section 25(2) into the act, which sets out the person's right to have the implement returned to them and provides for the return of seized items when no proceedings are brought. As the deprivation of property is undertaken under precise circumstances which

include a right of return of the property, I consider that the right to property is not limited.

Amendment to the Liquor Control Reform Act 1998

The bill amends the Liquor Control Reform Act 1998 to include disorderly conduct under section 17A of the Summary Offences Act 1966 as an offence for the purposes of banning notices and exclusion orders under the Liquor Control Reform Act 1998. The provisions relating to banning and exclusion orders in the Liquor Control Reform Act 1998 were the subject of a previous statement of compatibility and were found to be compatible.

Conclusion

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

Bob Cameron, MP
Minister for Police and Emergency Services

Second reading

Mr CAMERON (Minister for Police and Emergency Services) — I move:

That this bill be now read a second time.

The bill makes a number of important technical amendments to Victoria's firearms regulatory scheme. In addition, the bill also makes some important amendments in relation to the prevention of graffiti and the mechanisms relating to cleaning graffiti from properties that have been attacked. Finally, the bill will add a recently created offence to those offences under liquor legislation that trigger the application of banning notices and exclusion orders.

Victoria's firearms regulatory scheme arises out of national agreements. This government believes in the importance of firearms regulation as a means to safeguarding the community from the inappropriate use of firearms. The regulatory scheme also recognises the legitimate use of firearms for a range of reasons, from hunting to sport and recreational uses.

Firearms regulation is always a case of striking the appropriate balance between the legitimate use of firearms and the community's legitimate concern that regulation be effective and recognise the potential danger that can flow from the use of a firearm.

The government is committed to engaging with the firearms community in order to seek advice and strike that appropriate balance. The Victorian Firearms Consultative Committee provides advice to me, as the minister responsible, in relation to a range of issues of importance to that committee and firearms stakeholders. I would like to thank the chairman and the committee members for their valuable contributions to the development of this bill.

This bill will make a significant amendment to the Firearms Act 1996 to make residence in Victoria a precondition of holding a firearms licence. At the same time, it will also make changes to improve the workability of residency requirements by allowing interstate residents to apply for licences for work purposes if the nature of their work requires them to use a firearm in Victoria, even though they may not be resident in Victoria. The bill adds the residence requirement to all of the different types of firearms licences and provides the Chief Commissioner of Police with the necessary power to cancel a firearms licence where the holder of that licence no longer resides in Victoria.

The purpose of the residence amendment is to clarify who is entitled to a licence and to ensure regulation of licence-holders can be carried out effectively. There are a number of interstate persons who hold a Victorian licence; they create significant difficulties for Victoria Police in enforcing the requirements of the Firearms Act and the conditions that are placed on licences. The amendment reinforces the requirement that it is only appropriate for Victorian residents or persons who might work in Victoria to hold a licence.

The bill does recognise, however, that some interstate persons might be required to work in Victoria and use a firearm as part of their duties, even though they are not resident in Victoria. It gives the chief commissioner the ability to grant a licence to a person if they can provide evidence that a licence is required for work purposes and those purposes are genuine. The bill inserts a definition of work purposes in Victoria. It includes persons required under a contract of employment or a contract for services to hold a firearm licence as well as a person who, in the normal course of business, is required to hold a firearm licence. The definition is intentionally broad so that it captures persons employed as well as persons who are self-employed (such as farmers, vets et cetera). Despite its broad terms, the discretion of the chief commissioner in assessing an application for a licence will ensure only genuine applications are approved.

Another important aspect of the bill is to remove the regulation of imitation firearms from the Firearms Act and place it in the Control of Weapons Act 1990. In simple terms, an imitation firearm is one that, when looked at, appears to be a firearm but which is not designed to fire a projectile and cannot be modified to do so. Re-enactment groups regularly use such imitation firearms for the purposes of their organisation

and in the conduct of public displays. Many members of the public and the Parliament will have had direct experience of enjoying re-enactment displays on such occasions as Anzac day.

The change in the regulation of imitations firearms results from a national agreement between all of the states and the commonwealth. Ultimately, all jurisdictions will regulate imitation firearms, based on the definition that this bill inserts into the Control of Weapons Act 1990.

Under the Control of Weapons Act 1990, imitation firearms will be treated as prohibited weapons. This means a person can only use and possess them if they have sought and obtained a specific approval from the Chief Commissioner of Police or their use and possession is subject to an exemption issued by the Governor in Council. Either way, there will still be adequate controls on the display, use and storage of such weapons.

Another important amendment in this bill is to provide health service workers with exemptions from elements of the regimes in the Firearms Act 1996 and the Control of Weapons Act 1990. Under both schemes, the possession of a firearm or weapon (whether it is controlled or prohibited) may attract a criminal penalty if a person does not have a licence (firearms), does not have a lawful excuse (controlled weapons) or is not covered by an approval or an exemption (prohibited weapon). Health service workers such as doctors, nurses and ambulance officers sometimes come across firearms or weapons when responding to persons in need of medical attention. In these situations they may take possession of a firearm or weapon for safety purposes to allow medical treatment to be delivered. They should not be at risk of criminal prosecution for doing so and this bill makes it clear that they can take possession when it is in the course of their duties at a relevant medical service. For example, if a person is brought unconscious into a medical service and staff find a firearm amongst their belongings, they will be able to take possession of it to facilitate the delivery of medical treatment. The police will be contacted and can attend to take possession of the item and return it to the person if they are entitled to its return or take other action if they are not.

The bill makes amendments to the Firearms Act 1996 in relation to prosecutions where a person is found in possession of a firearm with a defaced or altered serial number. The registration of a firearm is a key element of the regulatory scheme. Victoria Police maintains a register of firearms that records, amongst other things, the serial number of a firearm. Sections 6A, 7B and 7C of the act contain offences in relation to possessing an unregistered firearm. Section 134C of the act provides that a person must not possess a firearm on which the serial number has been defaced or altered, if the defacing or altering is not in accordance with the act. The penalty is 240 penalty units or four years imprisonment. The Office of Public Prosecutions has advised of difficulties in prosecutions because they have not been able to prove that a firearm with an altered or illegible serial number was not registered. In addition, the act does not, and never has, prescribed a method of altering or defacing a serial number. The bill makes amendments to rectify that situation by including a new section 8A which contains a rebuttable presumption that a firearm with no serial number or a serial number that has been erased, defaced, altered or which is illegible is evidence that the firearm is not registered. Prosecutions may still require proof that the accused knew the firearm was not registered. The bill also replaces section 134C with a new section 134C that makes it an offence to possess a firearm with no serial number. The new offence contains safeguards where a person reasonably believed the firearm had a serial number.

The bill amends the Firearms Act 1996 to confer the power on the Chief Commissioner of Police to permit the use and possession of firearms by persons from interstate for a limited period of up to three months. This amendment has been designed following the experience in the aftermath of the Black Saturday bushfires when it was necessary to allow firearms users from interstate to assist in wildlife and stock destruction. The power is limited to situations where there is an emergency or a natural disaster.

The bill amends the Firearms Act 1996 to allow for a person's participation in an interstate handgun shooting match to count for the purposes of participation requirements that attach to a Victorian handgun licence. This amendment was originally sought through the Victorian Firearms Consultative Committee to end the frustration of handgun shooters who cannot have their participation in interstate matches count towards local participation requirements.

The bill also makes some technical amendments clarifying the operation of certain powers of the Chief Commissioner of Police in relation to varying a handgun licence where the holder of the licence fails to fulfil the participation requirements. The new provisions will make the scheme fairer whilst still allowing Victoria Police flexibility in responding to breaches of conditions appropriate to the seriousness of the breach. Other technical amendments will clarify that where the chief commissioner has cancelled a

licence, a new licence cannot be obtained for a period of 12 months and, once that period has expired, the application for the licence is to be taken as a new application, rather than a renewal of an existing licence. Further technical amendments will require and facilitate the recording of a firearm's model or model variant. This is expected to assist in the proper recording and identification of firearms.

The bill amends the Graffiti Prevention Act 2007 to empower authorised transport officers to seize graffiti implements from persons on transport property who are suspected of having committed, or are about to commit, a graffiti offence. The provision authorises authorised officers to use reasonable force in the exercise of the power where that becomes necessary. It is important to recognise, however, that experience indicates the majority of interactions are resolved voluntarily and the use of force is rarely necessary. Nonetheless, it is important that authorised officers have sufficient powers to respond effectively in any given situation.

The powers of authorised transport officers were originally contained in the Transport Act 1983. When the Graffiti Prevention Act 2007 was enacted, bringing together graffiti related matters in the one piece of legislation, the powers were largely reserved for police. We now know, however, that to respond to graffiti effectively and to deter those who damage public transport property, it is essential to provide authorised officers with adequate powers in addition to the police. The amendments are important given the damage that is caused to public transport property and the consequent effect that has on how safe patrons of the system feel. The amendments are a positive step towards containing and controlling vandals who choose to damage property, creating costs in repairs and clean-up, as well as affecting the operation of the public transport system.

The bill will also make amendments allowing notices relating to the removal of graffiti from private dwellings to apply on multiple occasions or until the owner/occupier withdraws consent. Whilst a technical amendment, it is nonetheless important in cases where a property is subjected to repeated graffiti attacks. The bill will do away with the need to obtain consent every time graffiti appears. Of course, an owner or occupier can always elect to provide consent on every occasion. The amendment will facilitate a more efficient and effective response to cleaning up graffiti.

Finally, the bill amends the Liquor Control Reform Act 1998 to allow for banning notices and exclusion orders to be issued for the offence of behaving in a disorderly manner. The disorderly conduct offence was inserted into the Summary Offences Act 1966 in late 2009 as part of a suite of measures to address weapon-related violence and disorder and public order concerns. Banning notices, which may be given by a police member, and exclusion orders, which may be ordered by a court, apply within an area designated by the director for liquor licensing when certain criteria are satisfied.

In particular, these notices and orders may apply where a person is suspected of committing a specified offence in the area. The Liquor Control Reform Act 1998 already contains a number of specified offences and it is now appropriate that disorderly conduct be included as a relevant offence.

I commend the bill to the house.

Debate adjourned on motion of Mr McINTOSH (Kew).

Debate adjourned until Thursday, 8 July.

Remaining business postponed on motion of Mr WYNNE (Minister for Housing).

ADJOURNMENT

The ACTING SPEAKER (**Ms Munt**) — The question is:

That the house do now adjourn.

Apollo Bay Golf Club: lease

Mr MULDER (Polwarth) — The matter I wish to raise is for the Minister for Environment and Climate Change and concerns the Apollo Bay Golf Club and its security of tenure under its Crown land lease at Point Bunbury. I ask that the minister direct members of the Otway Coast Committee, who were appointed by the Department of Sustainability and Environment, to work with the Apollo Bay Golf Club committee to secure a new 25-year lease over the Crown land at its present site.

The golf club has occupied its current site for over 80 years and is an integral part of the community, with membership now standing at over 400 people. It also caters for the large number of visitors who holiday at Apollo Bay each year. In 1992, following a meeting with the then Department of Conservation and Environment, the golf club was offered a 21-year lease with one of the conditions being that the club continue with a policy of relocation. In 1993 the then Minister for Conservation and Environment renewed the lease until 2016. Importantly the minister stated at that time

that it was not intended to make this lease conditional upon the club moving to another site, as he believed this was unreasonable in light of the club's long and accepted use of the site.

There the matter rested until 2000, when the golf club committee took the right decision to purchase a property near the Barham River with the intention of securing the club's future beyond 2016. Negotiations with a development company proceeded to the point of submitting a rezoning application; however, the whole development was subsequently rejected by the planning minister in June 2009. At the same time the club was approached by Barwon Water, which wanted to acquire a larger portion of its land to build a 250-megalitre water-storage dam. At this point the club's only remaining option was to seek a new 25-year lease on its current site. Its original lease was held with the Department of Sustainability and Environment. However, its management has now been transferred to the Otway Coast Committee, which appears to be more sympathetic to camping grounds than golf courses being on coastal Crown land; indeed relocation is still consistent with stated departmental policy. Before any application for renewal of its lease can even be considered, the process demands that the golf club gain the support of the Otway Coast Committee.

The Apollo Bay Golf Club has adhered to the conditions set down under its current lease. It has attempted to secure its independent future on private land to no avail and, given the geography of Apollo Bay itself, would find it difficult to relocate in the foreseeable future. It is for these reasons that I ask the minister to intervene in this matter and echo the common-sense decision made in 1993 that the golf club should remain on its current site and in doing so grant the extension of 25 years sought by the club on its current Crown land lease.

Roads: Footscray tunnel

Ms THOMSON (Footscray) — The matter I wish to raise tonight is for the Minister for Roads and Ports. The action I seek from the minister is in relation to the WestLink tunnel. Last week I raised the issue of consultation on the WestLink tunnel and the need for genuine contributions from locals and time for them to participate in the ultimate outcomes for the WestLink tunnel.

This tunnel is important to the constituents of Footscray because of the traffic that is mounting in the area. We need to remove the traffic from the inner streets of Footscray to ensure that the amenity and lifestyle of people in Footscray is maintained and protected. The tunnel is necessary for the development of Melbourne, because we need to have a second crossing over the Maribyrnong River. It is also important that when we are narrowing down the options, which is what is occurring now, we look at the potential for a longer tunnel, which I have been seeking on behalf of my constituents for some time. This longer tunnel would go into the industrial estate. Constituents who have knocked on my door about this issue would like the tunnel to be longer.

The action I seek from the minister is that he take into consideration the concerns of local constituents, that as the options are narrowed down and made public they include the potential for a longer tunnel and that constituents are listened to during the consultation process.

There is great activity in Footscray. It is a great community to represent; it is a diverse community that I represent. I hope all of those communities will have an opportunity to participate in the consultation. I seek that as we get to the final options we make sure that we are communicating with all the people in Footscray, no matter what language they speak or their economic and social backgrounds. We have to make sure that there is an opportunity for them to fully participate in the consultations so we get the best possible outcome for the people of Footscray and also for our long-term economic future. It is crucial that we have these links between the west and the rest of Melbourne.

This is a forward agenda under the Victorian transport plan. I look forward to the outcomes. I ask the minister to make sure that there is provision for the longer tunnel.

Housing: Latrobe Valley

Mr NORTHE (Morwell) — I raise a matter for the attention of the Minister for Planning. The action I seek is for the minister to provide specific and detailed information as to how the Latrobe Valley community will benefit from the government's Victorian integrated housing strategy.

In recent times the government has spoken about its intention to grow the population in our regional areas. That has been reinforced recently by the government's blueprint for regional Victoria. However, of great concern to the Latrobe Valley and the wider Gippsland community is that there has been absolutely no mention at all of the Brumby government's integrated housing strategy in our region. Geelong, Ballarat and Bendigo are referred to but not the Latrobe Valley despite significant planning challenges across our region and in

some areas a recognised shortage of available land ready for development.

This was reinforced by a quote from a local developer in response to the government's blueprint, which appeared in the *Latrobe Valley Express* of 17 June. The article states:

> Kirway Constructions director Wayne Hough said his company was looking to develop outside the Latrobe Valley due a shortage of land.
>
> 'We've told there is currently land that is available that needs to be rezoned or made available, that's not happening fast enough', Mr Hough said.
>
> 'It's at least a two-year process before developers can get on that land and at the moment the take-up of blocks demand is far exceeding the supply'.

Whilst Latrobe City Council might contest that to some degree, that is the sentiment of a local developer.

Many of the challenges we face in our region relate to the brown coal reserves and how we balance the growth of our region with the utilisation of this valuable resource. However, this government has itself created some challenges, particularly in relation to the Traralgon bypass decision. The route that this government determined took away a lot of potential housing development between Traralgon and Morwell. At the moment we have a number of projects on the table in our region. The Morwell north-west housing development is, unfortunately, going nowhere at the moment. We have a shortage of land in Traralgon. There are opportunities in Churchill. The member for Narracan would know the challenges around Lake Narracan.

On page 9 of the *Victorian Integrated Housing Strategy* reference is made to refocusing VicUrban. Given that there is a refocus for VicUrban, the question that many people have posed to me is: will the Latrobe Valley be a beneficiary of any of VicUrban's work?

In closing, it is imperative that the Minister for Planning provide some specific and detailed information as to how the Latrobe Valley might benefit from the Victorian government's integrated housing strategy.

Ashwood College: fire damage

Mr STENSHOLT (Burwood) — My adjournment matter is directed to the Minister for Education. The action I ask of her is to support the Ashwood College community to the maximum extent possible following the disastrous fires there the other day.

The fires at Ashwood College on the evening of 16 June — they have been extensively covered in the press and on television — were simply a tragedy for the local community. The fires were allegedly deliberately lit, and a youth and young man have been apprehended and charged by police in relation to them.

I want to thank on behalf of the community the emergency services for their prompt and thorough action. The Metropolitan Fire Brigade was there. The first fire was reported at about 8.00 p.m., and the brigade was at the scene quickly. While it was trying to put out that one its officers noticed there was a second fire at the back of the school and then put out that one. The police also reacted promptly and undertook their investigations quickly and thoroughly.

I was able to visit the college at first light the next morning to see the damage and support the principal, Kerry Croft, who is an excellent principal; she is thorough, measured and sensible in her approach, supportive of the rest of the staff and students and shows strong leadership, as good principals do. When we were there we noticed that in one building the VCE (Victorian certificate of education) centre was totally burnt out, along with the VCE coordinator's office. The lifetime work of some of these teachers was burnt. Some classrooms were burnt as well. The VCE teachers and students lost everything. In the technology building crucial areas such as the art room, the print room and the graphics area were burnt right up to the edges of the ceramics area.

The school community was appreciative that the minister was able to visit Ashwood College early on the Thursday morning after the fire. Her pledge to rebuild and her promise that the department would accelerate action to combine the rebuilding with Building Futures planning was much appreciated by the school.

Recovering from the fire is a big task, and the VCE students in particular will need every support both immediately and for the rest of this year at least. I commend the department for its quick action in providing counsellors and acting to restore power and water as quickly as possible. I also commend the Ashburton Community Bank for immediately providing a grant of $5000 to assist the VCE students, as well as the principal of Malvern Valley Primary School, who provided morning tea the next morning, having recently been through a school fire herself.

Ongoing support will be required for the school, and I ask the minister to continue her best efforts to support the school, students, teachers and the school community

so they can make the best possible recovery from this tragedy.

Bass electorate: health services

Mr K. SMITH (Bass) — I raise a matter for the attention of the Minister for Health in regard to the lack of health facilities in the Bass Coast area. I ask the minister to ensure that people — that is, my constituents and visitors to the area — have adequate health facilities and resources to treat them without their having to be taken to metropolitan hospitals for serious health issues, including cardiac arrests, strokes, cancer treatment and paediatric care.

Let me explain to the minister and to the house that we have no private hospital facilities in Bass Coast. Bass Coast Regional Health at Wonthaggi is a great hospital that offers great service to patients, but it is not able to offer some acute and high-dependency care in its facility because the minister will not provide sufficient finance for specialist care to allow it to become a subregional hospital, as he promised to do some two years ago.

The only other hospital in the area was Warley Hospital at Cowes, from which this government withdrew funding for the accident and emergency department, which started the decline of the hospital, including the withdrawal of services by local doctors and the ultimate demise of the hospital. The nearest acute care hospital to Bass Coast's 30 000 to 100 000 permanent residents and visitors is the Casey Hospital, which is nearly always on bypass, Dandenong Hospital, Monash Medical Centre or even Frankston Hospital, which is also regularly on bypass. Ambulances then have to go to the city hospitals. This is not good enough for an area with a population the size of Bass Coast.

Governments, both state and federal, have not seen fit to fund more rural doctors to work in the medical practices in the Wonthaggi, Cowes, San Remo and Inverloch areas. It is often a matter of having to wait up to two or three weeks for a doctor's appointment. The local Phillip Island doctors run an after-hours service from 6.30 p.m. until 10.00 p.m., and at weekends they try to service the local community but find the facilities they have are not big enough to cater for the growing population of visitors. These doctors wish to expand their practice to be a proper accident and emergency clinic that could cater for all emergency cases except critical care, but they need assistance, and this may be where the government could assist through its regional blueprint, which would take some of the pressure off the Wonthaggi hospital.

We also have an underresourced ambulance service in Wonthaggi and Cowes, and we have a very good community emergency response team up in Grantville. There are four qualified mobile intensive care ambulance (MICA) paramedics in Bass Coast, but they are not being utilised properly as there is no dedicated MICA vehicle. Therefore those paramedics are rostered on and have to perform normal ambulance duties, including transporting patients to city hospitals, taking them away from the area, which is causing grief to patients who are in need of MICA care. The minister was in Grantville recently to announce a part-time ambulance service, which is not good enough for the area.

Kambrya College, Berwick: fire damage

Ms GRALEY (Narre Warren South) — I raise a matter for the attention of the Minister for Education, and it concerns important school facilities at Kambrya College in my electorate that were destroyed by a recent fire. The action I seek is that the minister ensure that these facilities are replaced as soon as possible. Last Monday night a fire destroyed four classrooms at Kambrya College, including the science block. Members of our local community have praised the work of fire crews, including the members of the local Country Fire Authority brigade, who were quickly on the scene and put out the fire as quickly as possible. The fire, which is believed to have been deliberately lit, constitutes a senseless attack on the educational opportunities of our young people. Yesterday I received an email from the school principal, Mr Michael Muscat. I attempted to contact him and left a message, and I had my staff contact the school to see what assistance we could provide. His email says:

> Thank you and Judith for your message. It is upsetting. It is a terrible waste. We are pleased, however, by the way our college community pulls together at these times.
>
> Today the police have charged a 14-year-old girl with arson.
>
> Our main concern now is to replace the two science rooms as soon as possible and get the clean-up/repairs under way as soon as possible. DEECD —

the Department of Education and Early Childhood Development —

> has been most helpful, and we are hopeful this will continue. Thank you for your interest, and I will certainly keep you informed about our progress.
>
> Best wishes.

Kambrya College is a school that has looked after its facilities. The school council members have worked hard to get extra facilities, including the college

gardens, which are very attractive and most welcoming. The college principal and his wonderful staff do a terrific job in nurturing the academic and community engagement of their students by involving them in local activities in the community, especially in causes that are dear to my heart, such as Pink Ribbon Day. The school has had some very important facilities destroyed by these fires — facilities that need to be replaced as soon as possible, particularly for Victorian certificate of education science students. Only last Friday night I was at the Kambrya College debutante ball. It was a lovely event. The students were very excited and nervous but feeling proud of themselves. It was also a touching time for their parents. Some of the teachers and students were on their way to a camp the next day, and now they will be coming home to a school where their lockers have been destroyed, their books have gone missing and lots of learning materials have gone up in the blaze.

The students at Kambrya College do not deserve this disruption to their studies. We need to make sure there is as little further disruption as possible. I will be supporting the school in every way I can. I ask the minister to ensure that the facilities at Kambrya College in Berwick that were destroyed by fire are replaced as soon as possible.

Freedom of information: Heather Osland

Mr CLARK (Box Hill) — I raise with the Attorney-General the long struggle by Mrs Heather Osland to obtain access to the legal advice provided in relation to her petition for mercy, which VCAT (Victorian Civil and Administrative Tribunal) ordered be given to her on 16 August 2005. I ask that the Attorney-General provide a written apology to Mrs Osland for the time, cost and distress he has caused to her and an apology to the people of Victoria for the taxpayers money he has wasted in his attempt to conceal and deny access to a legal opinion on the issue provided by Mr Robert Redlich, QC.

The facts and history of the issue are set out in the High Court's judgement delivered yesterday, 23 June, at [2010] HCA 24.

On 5 July 1999 Mrs Osland petitioned the then Attorney-General seeking a pardon for the murder of her husband, of which she had been convicted. On 6 September 2001 the current Attorney-General issued a media release stating that he had appointed a panel of three senior counsel, that he had received that week a memorandum of joint advice recommending on every ground that the petition be denied and that after carefully considering the joint advice he had recommended that the petition be denied. However, the Attorney-General did not disclose that prior to the panel's advice he had received differing advice from Mr Redlich, QC. Mrs Osland sought, but was denied, access under FOI to all the advices received. However, on 16 August 2005 VCAT ordered that Mrs Osland be given access on public interest grounds. The Attorney-General did not accept that ruling and took the case to the Court of Appeal, which overturned the decision. Mrs Osland then appealed to the High Court, which on 7 August 2008 upheld her appeal and returned the case to the Court of Appeal, which again rejected access. Mrs Osland returned to the High Court, which yesterday ordered of its own decision that she be given access. As the court said in its judgement on the first appeal, as quoted at paragraph 27 on page 8 of yesterday's judgement:

> … Regardless of whether the advice given by the Attorney-General to the Governor was legally unexaminable, the conduct of the Attorney-General was not unaccountable. The very exercise in which the Attorney-General was engaged in putting out his press release assumed political accountability.

At paragraph 48 the court said in part:

> When the Attorney-General received the advices which he did from various members of the legal profession, he did so on behalf of the public and not as a private citizen.

At paragraph 58, in relation to Justice Stuart Morris in VCAT, the court states that Justice Morris:

> … expressed concern that the public might be misled if told that a decision had been made on the basis of one specified advice, without reference to the fact that there was also different advice.

The Attorney-General should have accepted VCAT's decision. Instead he has dragged Mrs Osland through the courts at great length. He has certainly not shown himself to be a model litigant in the way he urged others to be when he brought in the civil procedure bill earlier today. We have seen similar behaviour by the government in relation to opposition FOI cases. We do not know the full timing, but it gives every indication that, as with the Minister for Energy and Resources and the Nunawading by-election, the government has sought repeated advice until it has got the advice that it wanted. Whatever happened there, the fact is that it has caused Mrs Osland enormous effort to gain access to opinions which the Attorney-General should have provided earlier. He has also caused huge cost to taxpayers in his attempt to cover up his cover-up of the legal advice that he had received from Robert Redlich, QC.

Road safety: multifunction stroller

Mr SCOTT (Preston) — I raise a matter for the attention of the Minister for Roads and Ports. It concerns a device called a Taga, which the makers describe as a multifunction urban vehicle. The action I seek is that the minister ask his department to investigate what safety standards and regulations apply to vehicles of this nature and whether the Taga meets those standards. Taga Australia has recently begun promoting its multifunction urban vehicle in the Australian media, on Facebook, at baby shows and similar events. The target market is parents with young children. According to the company the Taga is supposed to combine the benefits of a premium stroller and a carrier bicycle to create a new transport modality. A Taga can be rapidly converted between stroller mode and tricycle mode. When used as a tricycle it has a child seat at the front where the handlebars would be on a conventional bicycle. I was somewhat alarmed when informed that in the promotional video on the Taga site neither the rider nor the child being carried is wearing a helmet. Further, at one point the rider is shown chatting on her mobile phone while nonchalantly pedalling along.

I would like the minister to have his department clarify whether normal bicycle regulations apply to multifunction devices such as the Taga. If so, does the child seat provided comply with the acceptable regulations? Would riders and passengers be required to wear helmets, and would it be legal to use a mobile phone while pedalling a Taga? The Taga is being marketed to families with children, and I think it is important to clarify the safety standards that apply to it.

City of Boroondara: squash courts

Mr McINTOSH (Kew) — I raise a matter for the attention of the Minister for Sport, Recreation and Youth Affairs. It concerns the loss of all public squash courts in Boroondara as a direct result of the redevelopment of the Hawthorn Aquatic and Leisure Centre by the Boroondara City Council. The action I am seeking from the minister is to undertake a feasibility study, perhaps in conjunction or partnership with Boroondara council, to look at the best way of providing replacement public squash courts in Boroondara.

Recently the Boroondara council decided that the redevelopment of the Hawthorn Aquatic and Leisure Centre would mean the removal of the public squash courts from the current plan. The courts are the last remaining public squash courts in Boroondara, and they will have to be removed to make way for other sporting facilities. These public courts are used for social matches, for pennant competition and, most importantly, by a variety of schools for both training and competition. The plan to remove the squash courts is contrary to the wishes of some 376 people who signed a petition seeking their retention. It is also contrary to the wishes of a significant number of the total users of the Hawthorn recreation centre, either to play squash or to use other facilities there. As a consequence of the removal of the squash courts many people who are involved in playing either social or competitive squash or using the courts for training purposes, particularly students from some schools who might not be able to use other private facilities in Boroondara, will have to travel out of the area to train and compete.

Initially Boroondara council committed to replacing the lost facilities, but that has regrettably not yet eventuated. It has been pointed out to me by a very disappointed squash player that the only real alternative public venue in Boroondara is perhaps the Hawthorn Squash Club. This is a private club, and it is probably quite inappropriate for kids, particularly those who attend schools that may use the facilities, as I understand that the club has poker machines.

As I said, the removal of the last remaining public squash courts in Boroondara is deeply regrettable. Accordingly I ask the minister to undertake a feasibility study, perhaps in conjunction with the Boroondara council, to look at the best way to replace these public squash courts to enable squash players in Boroondara to have adequate facilities for this important and significant recreational activity.

Diamond Creek: shopping centre speed limits

Ms GREEN (Yan Yean) — Tonight I wish to raise a matter for the attention of the Minister for Roads and Ports. The action I seek is for him to have VicRoads examine the appropriateness of speed limits in the Diamond Creek shopping precinct. The Diamond Creek Traders Association, which is ably led by its president, Andrew Gillard, and very well supported by its marketing coordinator, Heidi Crundwell, has provided me with a copy of its submission to the Nillumbik major activity centre transport study and strategy. The Diamond Creek Traders Association has proposed that when the transport issues around the shopping precinct are being considered for this study, the speed limits be reduced to 40 kilometres per hour and 50 kilometres per hour respectively for specific sections. A reduction in the current 60-kilometre-per-hour speed limit would not only address safety concerns but also bring speed limits in

the shopping precinct into line with those in neighbouring shopping centres such as Hurstbridge, Warrandyte Village and Eltham, providing greater clarity for local drivers and pedestrians alike.

Members of the Diamond Creek Traders Association are a very community-minded bunch who did amazing work in supporting the bushfire recovery effort, many of them putting their own businesses on hold to help those who were in terrible need. Recently all the cafes in Diamond Creek collaborated to hold a Biggest Morning Tea function. I am very committed to working with the Diamond Creek traders on this and other matters they have raised. I also look forward to working with the newly elected Ellis ward councillor for the Diamond Creek area, Cr Peter Perkins, and I take this opportunity to congratulate him on his recent win. Cr Perkins's passion for the Diamond Creek community is longstanding, and I know him to be a man of integrity and ideas. I know he will also work very well with the traders and the whole community.

I commend the Diamond Creek Traders Association for its commitment to road safety and to improving the shopping precinct in Diamond Creek. I urge the minister to support its calls for speed limit changes.

Responses

Mr WYNNE (Minister for Housing) — The member for Polwarth raised a matter for the Minister for Environment and Climate Change seeking his support for the extension of a new 25-year lease over Crown land at Apollo Bay for the Apollo Bay Golf Club. I will make sure the minister is aware of that matter.

The member for Footscray raised a matter for the Minister for Roads and Ports seeking the minister's support for broader consultation with the community in the Footscray region around the development of proposals for the WestLink tunnel. I will make sure the minister is aware of that matter.

The member for Morwell raised a matter for the Minister for Planning seeking clarification on and support for the Latrobe community in relation to the application of the integrated housing strategy for the Latrobe region, particularly land release. I will make sure the minister is aware of that matter.

The member for Burwood raised a matter for the Minister for Education seeking the minister's support and intervention in relation to the refurbishment of Ashwood College following a devastating fire. The minister is already aware of that issue because she has visited the site, but I will make sure she is also aware of the member's request.

The member for Bass raised a matter for the Minister for Health advocating for specialist health care at the Koo Wee Rup hospital. I visited that hospital with the member for Bass, and it is a wonderful hospital with great facilities. I will make sure that matter is brought to the attention of the Minister for Health.

The member for Narre Warren South raised a matter for the Minister for Education in relation to Kambrya College, again a college which was unfortunately affected by a fire and therefore requires extensive rebuilding. I will make sure that matter is brought to the attention of the minister.

The member for Box Hill raised a matter for the Attorney-General seeking that he write a formal letter of apology to Ms Osland, and I will make sure that matter is brought to the attention of the Attorney-General.

The member for Preston raised a matter for the attention of the Minister for Roads and Ports seeking clarification of whether a new multifunction urban vehicle, which I believe is called a Taga, is subject to current road use regulations, particularly as they pertain to bicycle regulations, and I will make sure the member gets an answer to that question.

The member for Kew raised a matter for the Minister for Sport, Recreation and Youth Affairs in relation to the closure of public squash courts in Hawthorn as a result of the redevelopment of the aquatic centre. He is seeking the support of the minister for a feasibility study, perhaps in concert with the Boroondara council, to develop a new court proposition. I will make sure the minister is aware of the question.

The member for Yan Yean raised a matter for the Minister for Roads and Ports seeking his support for some speed limits in the Diamond Creek shopping precinct, and I will make sure the minister is aware of that.

Speaker, on this historic day in two contexts, I will get on.

The SPEAKER — Order! I would like to express the appreciation of all members of the Legislative Assembly to Bill Schober, who retires from the Parliament tomorrow. Bill has been with the Parliament for over 25 years, having started in the catering unit where he was the specialist bartender. After a lengthy period with the catering unit — that both the member for Bass and the member for Box Hill fondly

remember — Bill moved to his next customer service role in the car park. His ethic of first-class customer service has been an invaluable asset to us all. He has demonstrated it daily as the first face of Parliament seen by members, staff and visitors. It is little wonder that he is so well known and held in such great affection by members and staff alike.

Bill has worked tirelessly to ensure that the needs of all who pass through the gate are met, whether it is parking them as close to the door as he can if they have parcels to carry or reminding them to turn off their headlights as they arrive so their car will start when it is time to go home. Bill's last day is tomorrow. We wish him the very best for the future, and we hope he has many years of a wonderful retirement.

Honourable members — Hear, hear!

The SPEAKER — Order! The house is now adjourned.

House adjourned 5.56 p.m. until Tuesday, 27 July.