PARLIAMENT OF VICTORIA

PARLIAMENTARY DEBATES (HANSARD)

LEGISLATIVE ASSEMBLY

FIFTY-SIXTH PARLIAMENT

FIRST SESSION

Thursday, 25 March 2010

(Extract from book 4)

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By authority of the Victorian Government Printer

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The Lieutenant-Governor

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Legislative Assembly committees

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

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

Joint committees

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Heads of parliamentary departments

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

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

Parliamentary Services — Acting Secretary: Mr C. Gentner

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:
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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
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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, 25 MARCH 2010

Thursday, 25 March 2010

The SPEAKER (Hon. Jenny Lindell) took the chair at 9.36 a.m. and read the prayer.

BUSINESS OF THE HOUSE

Notices of motion: removal

The SPEAKER — Order! I advise the house that under standing order 144 notices of motion 10 to 15, 102, 103, 144, 145, 190 and 225 to 232 will be removed from the notice paper on the next sitting day. A member who requires the notice standing in his or her name to be continued must advise the Clerk in writing before 2.00 p.m. today.

PETITIONS

Following petitions presented to house:

Phillip Island: health services

To the Legislative Assembly of Victoria:

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

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

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

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

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

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

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

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

By Mr K. SMITH (Bass) (100 signatures).

Rail: Mildura line

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

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

The petitioners register their request that the passenger service be suitable for the long-distance needs of the aged and disabled who need to travel for medical treatment, for whom travelling by coach or car is not a comfort option, and for whom flying is financially and logistically prohibitive.

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

By Mr CRISP (Mildura) (46 signatures).

Tabled.

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 Mildura be considered next day on motion of Mr CRISP (Mildura).

DOCUMENTS

Tabled by Clerk:

Parliamentary Committees Act 2003 — Government response to the Environment and Natural Resources Committee's Inquiry into Melbourne's Future Water Supply.

Safe Drinking Water Act 2003 — Drinking Water Quality in Victoria Report 2008–09.

BUSINESS OF THE HOUSE

Adjournment

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

That the house, at its rising, adjourn until Tuesday, 13 April 2010.

Motion agreed to.

MEMBERS STATEMENTS

Tourism: government performance

Ms ASHER (Brighton) — I draw to the attention of the house some alarming results revealed in the National Visitor Survey quarterly results dated December 2009 entitled *Travel by Australians*. In essence what these figures show is that Victoria has 'achieved' its lowest ever domestic tourism result since this government was elected to office. As at 31 December 2009 there were 15.74 million interstate visitors visiting Victoria and on page 11 of that survey we can see that there were 49.45 million interstate visitor nights.

This is particularly interesting, because the Minister for Tourism and Major Events issued a press release recently boasting about the international results, and the Premier in this chamber during question time boasted about Victoria's international results. But the fact of the matter is that on domestic tourism the government has failed throughout its entire term. It has not even achieved the figures of the Kennett government, and now, unfortunately for the Victorian economy, we have seen a shameful figure of the lowest domestic tourism result since the government was elected to office. I urge the Minister for Tourism and Major Events to lift his game.

Bellarine Landcare Group

Ms NEVILLE (Minister for Mental Health) — I am delighted that the Bellarine Landcare Group was recently awarded a state government grant to help with the recruitment of volunteers to assist with the elimination of pest plants and animals including foxes and rabbits.

The group covers the entire Bellarine Peninsula and was formed in 1992. Since that time it has undertaken some important projects with long-lasting, positive impacts, including an indigenous nursery in partnership with the Bellarine Secondary College, farm plantation and wildlife linkage corridors revegetation projects and pest plant and animal control projects.

Bellarine Landcare Group does a great job in our local community with volunteer members giving generously of their time and expertise to improve and enhance the natural beauty of the peninsula. My congratulations to Peter Berrisford and members of the committee. I wish them well in recruiting new volunteers to further develop the group's valuable work.

Clifton Springs Primary School: Bunyip festival

Ms NEVILLE — On Saturday I was pleased to again open the annual Bunyip festival at Clifton Springs Primary School. This is the 30th Bunyip festival. It was first started to celebrate the centenary of the Drysdale Primary School. It is a unique annual event that combines the efforts of the school communities across Clifton Springs and Drysdale primary schools, including parents, staff, students and community volunteers who pull this event together to raise funds to make these two great schools even better. I offer my congratulations to the Clifton Springs and Drysdale primary school councils and principals. I especially want to acknowledge Anne Brackley, whose enthusiasm for the event has ensured its success over the last few years.

School buses: route changes

Mr DELAHUNTY (Lowan) — School buses are vital to transport our country students many kilometres to our schools. Today I am calling for a review of the school bus policy as families have contacted me regarding the inflexibility of the policy, which disadvantages our country schools and is unreasonable for many country Victorians.

As an example, earlier this year I was contacted by two families at Natimuk who, with the support of the primary school, the bus driver and other users, were happy to support a change to their bus route to enable the first of three children from a stable farming family to catch the school bus. Changes to routes were previously made using local knowledge and approved regionally. In my 10 years representing the region, this has worked very well. However, this is no longer the case.

I made strong representations to the Department of Education and Early Childhood Development in Melbourne. In part I said that Natimuk Primary School is a small rural school with a total student population of 34, 17 of whom travel on the school bus. The change proposed is a minor one and seems to me to be a common-sense approach. It would also have the added benefit of taking the school bus off the main highway. I asked for consideration of this proposal and trusted that common sense would prevail. After two weeks and after making a number of phone calls, I finally received a short sharp response which said in part:

> The current school bus policy states that a route extension can only be approved if five eligible students require the extension.

…

Unfortunately I cannot support the families' request.

Many of the schools in Lowan have less than 30 students, and to deny this type of request puts at risk the viability of not only Natimuk Primary School but also many other schools.

Victoria University: scholarships

Ms THOMSON (Footscray) — I congratulate the Western Bulldogs Football Club on its 2010 NAB Cup win and wish it every success for the season ahead. I appreciate the work the club does in supporting communities in the west, particularly those communities that are disadvantaged. I want to take this opportunity to thank the club for its support for Victoria University's achievement scholars program, which is funding achievement scholarships across all the schools in the western suburbs. In this its first year it celebrated with a breakfast at Victoria University, which I was privileged to attend last Wednesday, where 66 students from the 49 schools received achievement scholarships for their first year of studies. They will receive $5000 for degree courses and $2000 for vocational education courses.

There are two scholarships on offer to each school, one for a degree course and one for vocational study. In total they will amount to about $20 000 worth of support for each school over the course of those students' studies. I congratulate the students who received those achievement awards and thank Victoria University and the Victoria University Foundation for looking after the people of Footscray and ensuring that students in the west are given the opportunity to undertake vocational and undergraduate studies. They already offer scholarships across the western suburbs, and I congratulate them for this.

Rail: government performance

Mr MULDER (Polwarth) — The Premier's third public transport minister has been caught out plagiarising opposition policy. It would appear that the third public transport minister has run out of ideas within months of being appointed. Instead of selling the government's phoney fifth transport plan, the third public transport minister has taken to embracing Liberal Party policy. On many occasions in this place and in public I have pointed to the problems with the metropolitan rail system being a lack of maintenance and the need to get the basics right. I have stated the need to renew the ballast rails and sleepers. The third public transport minister states in his media release of 22 March that the fundamentals of a safe and reliable network are the tracks, the sleepers and the ballast. It is one thing to plagiarise, but the minister will find out very quickly it is another to deliver. Just like the Brumby government's last train out of the blocks, the third public transport minister has proven he also lacks the spark and engine required to do the job.

The taxpayer-funded advertising splurge on the Monopoly-money fifth transport plan is misleading, deceptive and an utter con. The third public transport minister knows that the 161-page fifth transport plan is more than anything else a photo album littered with spin that lacks the fundamental understanding that the public wants a safe and reliable public transport system.

Just a single page devoted to an honest appraisal of the run-down network, rotten sleepers, lack of ballast, buckling rails, worn out points and crossings, ageing signals and cracking bridges would have given the document at least some credibility. But as it stands today the government's fifth transport plan is nothing more than a smokescreen touted by the Premier's third public transport minister.

Community cabinet: Geelong

Mr TREZISE (Geelong) — On 15 March I had the pleasure of taking part in the Brumby Labor government's community cabinet that was held across the greater Geelong region. Community cabinet is a great initiative established by this government back in 1999 and one that many governments across Australia have now copied. The day commenced with a cabinet meeting at the Torquay Primary School in the seat of South Barwon. From there cabinet members took the day to spread out across Geelong to discuss issues and ideas with locals throughout the region. Ministers held numerous meetings with local residents, community organisations, businesses and sporting clubs.

I had the pleasure of hosting an afternoon tea together with the Minister for Community Affairs, Tony Robinson, where we discussed with more than 100 local senior citizens the issue of scams that people can fall victim to. The afternoon tea and the minister were well received, and the message, 'If it's too good to be true, then no doubt it is' was taken on board.

The day concluded with an open forum with around 300 local residents. The Premier and ministers fielded many questions for close to an hour and a half, and people were appreciative of their giving of their time and interest. All in all this was a great day, well supported and received by locals, and a long way from the days when the Kennett government treated people

in communities such as Geelong's as the toenails of the state.

Police: Somerville

Mr BURGESS (Hastings) — Somerville skate park is a welcome facility that provides activities for the youth of Somerville; however, it has also unfortunately become the area's centre of lawlessness. Graffiti, vandalism, hoon driving and general petty crime have reached epidemic proportions in the area. Our overstretched Hastings police do a great job, given their drastically low numbers and huge territory, but they need help. I call on the Brumby government to immediately commit to building a 24-hour police station in Somerville with additional offices and resources, and not to simply take resources from other stations in the way it is doing for the Carrum Downs station.

Peninsula Link: Baxter overpass

Mr BURGESS — Baxter residents were supportive of the government's plans for Peninsula Link through all preliminary stages even though they knew the government's preferred route would go straight through their town and cause significant disruption to families and businesses. They were supportive because Baxter is a community-minded township and realises the importance of this new road infrastructure to Victorians and Mornington Peninsula residents in particular.

In the initial plans shown to residents the Baxter section was a relatively unobtrusive underpass. After another sham consultation process that dealt primarily with the route of the road, the government then imposed an unsightly overpass of 500 metres, up to 15 metres high, right through the middle of Baxter, which will divide this close-knit community forever. On behalf of the Baxter community I invited the Minister for Roads and Ports to attend the Linking Melbourne Authority and Abigroup information session held last week in Baxter. The minister did not even have the courtesy to respond in time; he just did not turn up. I call on the minister to meet face to face with the Baxter community as soon as possible and listen to why there should be no overpass in Baxter.

Crib Point: bitumen plant

Mr BURGESS — I have written to the Minister for Planning seeking a review of his decision to put a bitumen plant on the foreshore at Crib Point on the basis that the validity of his decisions has been called into question by recent allegations against him of sham consultation, community and media manipulation and corrupt practices. The minister has not responded, and I call on the Premier to immediately step in, sack the minister and overturn the Crib Point decision.

Wild dogs: control

Mr HELPER (Minister for Agriculture) — On 17 March I visited the electorate of Gippsland East to see firsthand the impact of wild dogs and to inspect the wild dog control efforts that are being made at the behest of property holders and the Department of Primary Industries. This is the fourth visit I have undertaken in wild dog areas in Gippsland and the north-east of Victoria. I again appreciated the frankness and engagement with landowners.

I thank the member for Gippsland East for making arrangements for a number of property owners with whom I met to discuss their issues and concerns. I also thank the Department of Primary Industries wild dog controllers I met up with — Jeff Hodge, Peter Lee, Jim Benton and Steve Laffey — all of whom do a terrific job along with the other wild dog controllers.

The key message I take away from this visit, as I have done previously, is the concern of landowners about the economic impact on them and the impact on the welfare of the livestock which are so brutally afflicted by wild dog attacks. I also undertook to look at a number of practical issues concerning the effectiveness of traps and baiting programs.

Furniture industry: red gum supply

Mr WALSH (Swan Hill) — I want to inform the house of the dramatic decline in the red gum furniture industry in northern Victoria as a result of the Victorian and New South Wales governments locking up the red gum forests along the Murray and Murrumbidgee rivers. It is a value-added industry that has been creating employment in the region — something that the Brumby government was originally encouraging the timber industry to do. The furniture businesses are built on the supply of good-quality red gum timber, which will now not be available to them. Also, because of the adverse publicity generated by the Brumby government about the decline of the red gum forests, furniture buyers are turning away from red gum furniture to imported furniture.

The spin the Brumby government has created to win city votes by forming national parks has actually cost country jobs — jobs that are now going overseas. Members opposite should hang their heads in shame that they have voted to close down country jobs and send those jobs offshore. Labor was once the party that

supported workers, but in country Victoria that is no longer the case. It is an out-of-touch, arrogant government that believes in spin over substance, does not care about working families, but just cares about staying in power to wreak more destruction on country Victorian jobs.

Tony Vangorp

Mr HARDMAN (Seymour) — I rise to give my condolence for Sergeant Tony Vangorp of Healesville. Tony will be sadly missed by his partner, Gail, family, friends, colleagues and people of the Healesville and district community. I know Tony earnt a great deal of respect in the Healesville community for his work with young people and that he had the safety and security of his community at heart. Tony also took a lead role in helping people in his community who suffered in the Black Saturday bushfires.

Yea Autumn Festival

Mr HARDMAN — I wish to congratulate the Yea Autumn Festival committee on organising a spectacular event on Sunday, 21 March. The Yea Autumn Festival has become a huge event, providing the town with a real boost. Last year around 5000 people visited Yea for this event; I look forward to seeing this year's figures.

The enthusiastic volunteers, supporters and sponsors are a testament to the resilience of a community that has had tough times as a result of the impacts of drought and bushfire. I encourage people to visit Yea, which is a very beautiful town, particularly at this time of year.

Racing: Yarra Valley

Mr HARDMAN — On Sunday, 21 March I also went to the Yarra Valley racecourse, where another successful Yarra Valley Cup meeting was held, which included great food and wine, fashions, racing and entertainment. The Attorney-General, who is also the Minister for Racing, attended the event and announced funding of $2 million for the Yarra Valley racecourse revitalisation project. I thank the Minister for Racing for getting behind this event with funding, as well as the Minister for Regional and Rural Development, the Minister for Sport, Recreation and Youth Affairs and Racing Victoria Ltd, as well as Yarra Valley Racing and the Shire of Yarra Ranges. They all got behind this very important project, which will provide a boost to the local community.

Public transport: Sandringham

Mr THOMPSON (Sandringham) — At a time when it is important to promote the role of public transport in Victoria for environmental and ease-of-movement reasons, I find it remarkable that at the Sandringham railway station it is not possible to get your myki card updated. The only people being taken for a ride in my electorate in public transport terms are the Victorian taxpayers, who are subsidising a failed and flawed system.

Schools: Sandringham

Mr THOMPSON — The Brumby government has also underinvested in Sandringham electorate schools. Local parents are concerned at the inadequate infrastructure at a number of important schools in my electorate. It is imperative that, rather than school developments in marginal seats being subsidised, there be an equitable distribution of funding across all schools, noting the correlation between the built environment and student learning outcomes. The Brumby government has failed to do enough for the Sandringham electorate.

Cycling: Beach Road

Mr THOMPSON — Prior to any increase in cyclist traffic on Beach Road, the Brumby government must address the remarks made by the then state coroner, Graeme Johnstone, following the death of James Gould a number of years ago, when he stated there was an incompatibility between sports cycling through residential areas and the role of cycling overall and that while it is easy to respond to this matter in a general sense — —

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

Multicultural affairs: broadcasting

Mr LANGUILLER (Derrimut) — I commend the good work of the National Ethnic and Multicultural Broadcasters Council and its president, George Zangalis. The NEMBC is the peak body for ethnic community broadcasters. It develops policies, advocates on behalf of broadcasters, organises the annual national conference and provides networking opportunities and various resources to broadcasters.

I had the pleasure of attending the last conference, entitled, 'Ethnic community broadcasting in a changing world'. There were speakers and workshops to explore how ethnic community broadcasting can respond to the changing demographics in new and emerging

communities, an ageing population of people from culturally and linguistically diverse backgrounds, the role of gender in community broadcasting, changes in the economy in the context of the first global recession in 20 years, climate change, rapidly developing technology and the rollout of digital radio.

The first conference was held in Brisbane in 2007 and the recent conference was held in Victoria. Melbourne has been described as the home of ethnic radio because it was here that there was a strong drive to give multicultural communities a voice. I take this opportunity to commend the extraordinary work of George Zangalis who, as we all know, is a constant and committed stalwart of the industry. From the early days at 3ZZZ to 3CR and the development of SBS and 3ZZ, of which I am a member, and a whole range of other access stations, George has been a tireless and passionate champion.

Schools: building program

Mr HODGETT (Kilsyth) — On Wednesday, 17 March I participated in Ride2School day with 205 students of Tinternvale Primary School. On arrival at the school the 205 bikes were parked in the multipurpose room. This highlighted the need for a bike shed at the school, to encourage these children to continue to ride to school with a safe, secure place to lock up their bikes.

The discussion with a number of parents turned to the Labor government's incompetence in delivering value-for-money projects and Labor's failure to manage money. Under the Building the Education Revolution program, at Tinternvale Primary School funds have been earmarked for the construction of the government's template for a multipurpose and arts precinct, which incorporates a full-sized gymnasium, a music room, a multipurpose learning area, toilets, change rooms, a storeroom and a canteen at the cost of around $3 million worth of improvements to add to a terrific local school.

However, the construction activity on the gymnasium site came to a grinding halt when the project manager informed people that a new slab design is necessary due to the soil condition. This apparently became evident only during the excavation works and the cost blow-out will add $850 000 to the project.

The questions came thick and fast from the parents, who asked why this was not picked up at the soil testing stage. They want to know who will pay for the cost blow-out and why it is so expensive. They do not understand how these simple excavations can cost $850 000. You can understand the frustration of local parents when some of this money could go towards a new bike shed for Tinternvale instead of it being wasted by an incompetent Labor government that continually fails to deliver projects on budget.

Police: Croydon

Mr HODGETT — On another matter, I ask: what is happening to the local police resources in my electorate? I am reliably informed that the police roster at Croydon station for the current fortnight commencing 14 March has seven shifts without enough police to staff the van. I challenge the minister to produce the roster, or will he block an FOI request?

Soccer: Geelong cup

Mr EREN (Lara) — I comment on two very important developments in Geelong in relation to soccer. I am proud to say that Geelong's soccer community has once again and for the third year running secured funding through the Brumby Labor government's Go for Your Life campaign, providing continued support for the Go for Your Life Cup in Geelong for the 2011 soccer cup competition. I take this opportunity to congratulate this year's winner, Corio Sporting Club.

This funding not only supports the growing popularity of soccer in Geelong, but also promotes and embodies the Go for Your Life message, which encourages a healthy, happy and active Victoria. It is our commitment as a government to tackle concerns surrounding weight, eating habits and levels of physical activity in our community. In 2011 the competition will celebrate its 30th anniversary and this would make it one of the oldest soccer competitions, if not the oldest, in Victoria.

Soccer: World Cup

Mr EREN — Speaking of soccer events in Geelong, another very exciting prospect for me is the vision and real possibility that multitudes of people from various cultures around the world could descend upon our very own Skilled Stadium for the soccer World Cup. What a dream! And I think this dream can be a reality.

Recently I set up a Facebook group called 'Let's bring the World Cup to Geelong'. It gathered more than 1100 members in a little over 24 hours. This just goes to show to all concerned, particularly Football Federation Australia and FIFA, that we are very serious about showing them how much support there is from

the Victorian people to bring the World Cup to Geelong. So I say to anyone who has Facebook and has not signed up: get on board this campaign and let us get the World Cup to Geelong!

Rail: Shepparton station

Mrs POWELL (Shepparton) — There is growing concern in the Shepparton community that the Brumby government plans to close or relocate the Shepparton railway station. Many people inform me that they have heard that the station is to be closed and a new station built elsewhere. Recently the *Shepparton News* reported on this issue after Darren Linton, the journalist who wrote the story, spoke to a rail industry source. It was suggested to him that plans had been drawn up to either relocate the Shepparton station or close it completely and terminate all trains and buses at Mooroopna, but Department of Transport spokeswoman Kirsty Harvey Taylor said no plans existed.

Who are we to believe? If there are plans for the railway station, which is one of the busiest stations in regional Victoria, the government must publicise those plans and allow the community to have input before any decision is made. The Minister for Planning authorised the Greater Shepparton City Council to prepare a planning application to rezone land to allow for the disposal of surplus VicTrack land around the Shepparton railway station to allow for future development of the land for residential and commercial purposes. The public notice advising the amendment and calling for submissions to council was placed in the *Shepparton News* on 2 February. The closing date for submissions was 9 March. My office phoned the council and was advised that no formal submissions were received.

The Shepparton district community and rail and bus travellers have every right to expect to be consulted on the future of the railway station, and I call on the Brumby government to fully and properly consult with the community before any decision is made — and I advise the government that the community will not accept any sham consultation.

Eltham Lacrosse Club

Mr HERBERT (Eltham) — I rise to again acknowledge the outstanding achievements of members of the Eltham Lacrosse Club. I have spoken in the house many times about the fantastic achievements of members of this club. Again they have representatives in the Australian senior men's lacrosse team. I would like to congratulate defenceman Keith Nyberg and goalkeeper Steve Mackey on making the Australian team. They will compete in the 2010 men's world championships in Manchester in the United Kingdom from 10 July to 24 July. Competition will be very strong, with lacrosse being the national sport of Canada, and there is also very strong support in the United States. I am sure all our players will do us proud and I know that all in the house will join me in wishing the Australian Sharks, as the men's lacrosse team is known, all the very best in the world championships.

Lacrosse is thriving in Eltham. Last year we saw some of the world's best lacrosse players come from the United States for the national lacrosse league tour. The documentary of the tour recently aired on Melbourne television and the segment filmed right in the heart of Eltham was an absolute feature. The Eltham Lacrosse Club has a proud history as one of Australia's prominent lacrosse clubs and to again achieve representation in the Australian team is a fantastic achievement. Congratulations to Keith and Steve — and all our best as you take on the rest of the world!

Rail: Balaclava station

Mrs SHARDEY (Caulfield) — Commuters in my electorate are up in arms about the state of the Balaclava train station, reported to be the second busiest station on the Sandringham line, which is famous for its late and cancelled train services. This station, which our local paper called 'shabby', has apparently been labelled the 'worst in Melbourne' on a website which is the project of the Metropolitan Transport Forum. In summary, our local paper reported that 'commuters who fight for space on the narrow platforms have no way of knowing when the next train will arrive and have little shelter from the rain'. This is because there is no digital display board at Balaclava station. Residents have claimed that there is not enough cover when the station is full, with one commuter saying, 'During peak hour platforms get so full, I don't know how someone hasn't fallen onto the tracks'.

Passengers are demanding a widening of the platforms, better security and lighting, a lift and stairs and disability-compliant ramps, public toilets, improved tram connections and passenger information displays. I call on the Brumby government to publicly explain its plan for this station, whether it has budgeted for improvements and say when those improvements will be delivered.

Keran Howe and Helen Smith

Mr NOONAN (Williamstown) — I rise to congratulate Williamstown residents Keran Howe and

Helen Smith on their induction into the Victorian Honour Roll of Women as part of International Women's Day 2010. Both Keran and Helen are pioneers for women within their chosen fields and have demonstrated great leadership in strongly advancing their rights and equality. On 4 March, with 18 other women, they were honoured for their service to the people of Victoria. They now join a select group of 438 other women on the Victorian honour roll who have made a positive difference.

Keran Howe was recognised for her dedication in advocating for the rights of people with disabilities, particularly women. This has seen her campaign through the Victorian Women with Disabilities Network to prevent violence against women with disabilities.

Keran also helped set up the Women with Individual Needs Clinic at Melbourne's Royal Women's Hospital. This clinic has received international recognition for its unique approach to providing highly specialised services, in particular for women with intellectual disabilities.

Helen Smith was honoured for her lifelong involvement in the sport of fencing and has the distinction of being a triple Olympian, commonwealth champion and nine-time Australian champion. In what is traditionally a male-dominated sport Helen has been instrumental in promoting gender equality and counts among her proudest achievements the opening of all three fencing disciplines to female participation. I thank Keran and Helen for the invaluable and lasting contributions they have made to our community and I congratulate them on this latest honour.

Paragon Printing: closure

Mr TILLEY (Benambra) — The situation at Paragon Printing in Wodonga is deeply upsetting for many families in my electorate. Unfortunately a magic wand cannot be waved to fix this problem overnight. Administrators and authorities will be responsible for finding a solution to this problem and prosecuting any breach of law. Hopefully local jobs can be saved. However, this does not prevent community leaders from offering support. I know that local business through the Wodonga Chamber of Commerce is trying by way of a number of initiatives to promote job opportunities and it is to be commended, but yesterday on ABC Goulburn Murray the minister squibbed it and steadfastly refused to explain to Wodonga working families what, if anything, the government was going to do to assist or whether it actually supports them.

I find it amazing that, despite all their talk about working families, local Labor representatives Candy Broad and Kaye Darveniza, members for Northern Victoria Region in the other place, have been silent on the issue and have not indicated their support for the Paragon Printing employees. Labor members opposite love to talk about standing up for working families and love to claim credit for new jobs being created in regional Victoria, but at the first sign of trouble this government is the first to cut and run.

I would also proffer some advice to the Australian Manufacturing Workers Union: it should focus on its members instead of using its members' situation to play politics in an election year. Using a parliamentary sitting day to suggest I was not happy to meet with and support constituents could not be further from the truth. At the end of the day when it comes to working families, those opposite simply do not care.

Chile: earthquake

Ms GRALEY (Narre Warren South) — 'Fabulosa' is the best way to describe the recent fundraiser in Berwick following the earthquake in Chile. Almost immediately after the earthquake hit, the local Chilean community in my electorate got behind the survivors and was determined to do everything it could to assist with the recovery and rebuilding efforts. The dedicated and compassionate community members provided a night with great Chilean food and fabulous entertainment. We danced and danced and raised the extraordinary sum of $26 400. It was a lot of fun.

The success of the fundraiser relied heavily on donations from many people, organisations and businesses and I would like to acknowledge them all for their generosity. I especially make mention of the major sponsors Panaderia Condorito, A & L Windows, ASKO and Irwin Industrial Tools.

I would like to say a big thankyou to the terrific volunteers for their hard work, especially Nelly Nunez, Nichole Hayes, Nidida Medel, Lorena Paredes, Laura Fuentes, Frida Meyer, Patricia Gonzalez, Teresa Aranda, Linga Vargas, Veronica Mutis, Rafael Encina, Jackie Lara, Ximena Diaz and Yasna Mutis. I also thank the entertainers, Eyekan, Violeta Parra, Sauzal, JT, Banana 6, Ruben and Gladys, DJ Wacho, Karan and friend, Jahmakin' it Funky, Grupo Chaski, Pedro Ortiz and Luis Barra.

Felicitaciones a toda la comunidad Chilena y amigos de Chile por el extraordinario esfuerzo! Viva Chile!

I would also like to make mention of the Brumby government's generous donation of $250 000 to the cause — an extraordinary act of solidarity between the Victorian community and the Chilean community in their real hour of need.

Bennettswood Bowling Club: 50th anniversary

Mr STENSHOLT (Burwood) — I wish to congratulate the Bennettswood Bowling Club in celebrating 50 years of bowling in the local district. Last Friday I had the pleasure of joining the Governor of Victoria, the chair and deputy chair of Bowls Victoria, federal MP Anna Burke, Cr Sharon Ellis from the City of Whitehorse, local bowls leaders Roy Longworth, Cr John Frew and Don Walker, the master of ceremonies, as well as hundreds of members of the Bennettswood Bowling Club in celebrating this wonderful achievement of 50 years of supporting bowls in the local community.

LEGISLATION REFORM (REPEALS No. 6) BILL

Second reading

Debate resumed from 10 December 2009; motion of Mr CAMERON (Minister for Police and Emergency Services).

Mr WAKELING (Ferntree Gully) — It gives me pleasure to rise to speak on the Legislation Reform (Repeals No. 6) Bill on behalf of the Liberal-Nationals coalition. At the outset I wish to state that the coalition will not be opposing this bill. This is the sixth in a series of bills introduced during the current Parliament by the Bracks and Brumby governments in an effort to reduce the level of redundant legislation currently operating on the Victorian statute book. The first repeal bill removed 15 principal acts from the statute book. The second bill removed an additional 7 principal acts and a further 48 amending pieces of legislation. The third bill removed 9 principal acts, 13 amending pieces of legislation with either transitional or substantive provisions and 61 amending pieces of legislation which are now wholly in operation. That bill also introduced transitional application provisions into the Road Safety Act 1986. The fourth bill repealed 45 principal acts and 5 amending pieces of legislation with either transitional or substantive provisions. The fifth bill, which was introduced late last year, repealed 3 principal acts and 5 amending pieces of legislation, and this bill, the sixth bill, which was introduced in December last year, seeks to repeal 23 principal acts, 30 amending pieces of legislation with transitional or substantive provisions and 10 spent acts.

As I said, the Liberal-Nationals coalition is not opposed to the removal of redundant legislation. There has been a history in this house over many years of governments of both political persuasions removing redundant legislation from the statute book. It is important that legislation is current and relevant to meeting the needs of the Victorian community.

The coalition will also not be opposing this bill on the basis that, in good faith, we rely on the work of parliamentary counsel and the Scrutiny of Acts and Regulations Committee. Certainly we are not questioning the work that either parliamentary counsel or SARC has done with regard to the legislation and the number of acts this bill is removing, but we understand that it is always unclear whether there are going to be unforeseen circumstances regarding the future removal of relevant legislation. On that basis we will be following a position of not opposing the bill.

I put on record my thanks to the staff at the minister's office for their assistance at the bill briefing and for providing answers to questions that were put forward. Providing briefings on repeal bills is difficult because they often cover such a swag of legislation; however, I would like to place my thanks on the record.

As has been mentioned, this bill repeals a number of acts. I will not seek, as I have in the past, to speak on all of those acts. I know some time has been allocated to me, but it is very clear that there are many members in this house who want to speak on this very important piece of legislation, so I will limit my contribution to the debate.

There are three particular acts to which I would like to draw the attention of members. The first is the BLF (De-recognition) Act. I am sure some of my parliamentary colleagues will wish to speak about that act. As we know, the BLF (Builders Labourers Federation) was a militant union that was very prominent in the state of Victoria during the 1970s and 1980s. Its militancy led to its de-recognition, which stands as a mark of some of the worst aspects of the union movement, and I am sure there would be members on both sides of the house who would see that some of the actions of the BLF were not appropriate. I dealt with the BLF in its current form — it still operates in Queensland as the BLF. Some of that union's industrial officers wish their organisation would resurface in other states but I am pretty sure it is fairly

clear that the BLF will not be operating in its own right again here in Victoria.

As we know, Victoria still has some elements of militant unionism, in particular some people who have become members of other unions such as the Construction, Forestry, Mining and Energy Union and the AMWU (Australian Manufacturing Workers Union). One only has to remember Craig Johnston who, as a leader of the AMWU, was actively involved in raids at Johnson Tiles and Skilled Engineering. His actions were reprehensible, and I am pleased that members on both sides of the house have made it clear that that sort of behaviour is clearly un-Australian.

I remember meeting with Craig Johnston and negotiating an agreement in his office at the AMWU. It was one of the more interesting meetings that any industrial officer would have to engage in.

Mr O'Brien — Was he wearing his balaclava?

Mr WAKELING — Funnily enough, he was not wearing his balaclava at the time, but it was interesting to see that it resurfaced, as we all know, during the West Gate Bridge dispute. It is interesting that poor old Craig did not get the message and is still hanging around. I can only hope that those on the other side of the chamber who have far more influence than we do can start providing some advice to Mr Johnston and his friends.

The other act I would like to refer to is the Local Government (Further Amendment) Act. Interestingly, that act led to the sacking of Glen Eira City Council. When we had a debate on the Brimbank City Council some members on the other side forgot that it was their government that had sacked councils, particularly the Glen Eira City Council. We have seen that issue resurface recently in regard to the actions of the Brimbank City Council.

Another act that is being repealed is the Construction Industry Long Service Leave (Amendment) Act. The construction industry long service leave scheme, which has operated in Victoria for many years, is commonly known as CoINVEST. I was actively involved with the CoINVEST scheme for many years in my previous life as an industrial adviser. CoINVEST is set up as a portable long service leave scheme for employees in the construction industry. It was set up on the basis that many people in the industry were never afforded long service leave because they generally never worked for 10 years for one particular employer; their employment was generally project based.

While I was working in the labour hire industry there was a push in other industries for an expansion of the rules of CoINVEST. That coverage was expanded in the heavy industrial labour hire industry. For many years CoINVEST was a self-funded scheme, because there was enough money in its bank to provide for its members. But five years ago the scheme required contributions from employers. I refer to this act because there has been a push by some to expand the operation of portable long service leave schemes. We read about that in last year's statement of government intentions in regard to the community service sector. Others are seeking the expansion of such schemes in a whole range of other occupations. I alert those who are seeking the expansion of portable long service leave into other areas to ensure that we look at the implications of such schemes on those most affected — particularly industry — and the ways in which the schemes will affect business, particularly small businesses, in the state of Victoria.

I put on the record and will ask the minister for an explanation about this issue when he is summing up. A number of the acts that are set for repeal are listed on the parliamentary website — that is where the legislation we are talking about today is listed — but some acts are not. For example, the Williamstown Temperance Hall Act and other pieces of legislation are not currently listed. I ask that the minister when summing up to provide an explanation of why some of those pieces of legislation are not listed. The explanation could be about the chronology of the acts.

When it was elected in 1999 the government set a target of reducing the number of principal operating acts by 20 per cent. In the second-reading speech on the Legislation Reform (Repeals No. 4) Bill, the Premier stated:

> This government has already made significant progress in its efforts to consolidate and modernise the Victorian statute book. The bill before the house, namely the Legislation Reform (Repeals No. 4) Bill 2009, is the fourth bill in the government's legislative reform program. Once passed, the bill will repeal a number of spent and redundant acts and contribute to the government's ambitious target of reducing the statute book by 20 per cent.

By our reckoning, in January 2000 there were 544 principal acts on the Victorian statute book. That information was provided to us by the parliamentary library. The 2008 statement of government intentions indicated that as of 1 January 2007 there were 579 principal acts. Firstly, between January 2000 and January 2007 the number of principal acts in the state of Victoria had increased by 35; it had not decreased during that period. In terms of repealing redundant

legislation and achieving a target of 20 per cent, the government had artificially inflated its own figures because of the number of pieces of legislation it had enacted.

Since January 2007 there has been a collection of six legislation reform bills. The bill before the house is the sixth. It seeks to reduce the number of principal acts. The first bill bought the number of principal acts to 512; the second bill brought the number of principal acts down to 505; the third bill brought the number of principal acts to 496; the fourth bill brought the number of principal acts to 451; the fifth bill brought the number of principal acts to 448; and this sixth bill will reduce the number of principal acts to 425. That will enable the government to achieve the target of reducing the number of pieces of legislation by 20 per cent from 1 January 2000.

In this year's statement of government intentions we are advised that the government is seeking to introduce a further bill, the seventh legislation reform bill, which will further reduce the number of bills in the statute book. At this stage we are unaware of how many pieces of principal legislation the bill will seek to repeal.

Whilst the number of acts may well have been reduced, the volume of legislation, in terms of the number of pages, and the level of regulation have significantly increased. An analysis of the legislation enacted by the government has shown that more than 12 000 pages of new laws had been introduced but only 6100 pages of old laws had been repealed. I must stipulate that that was during 2009. Whilst that figure has not been updated, it demonstrates the volume of legislation this government has enacted.

But members should not just take the word of the opposition on this, they need only look at what independent commentators have said on this important issue. In August 2006 the Australian Labor Party published a small business document entitled *Time to Thrive.* In a chapter titled 'More time for business' under 'Action 2: Reducing the regulatory burden', the government stipulated that it would seek to:

> … cut the existing administrative burden of regulation by 15 per cent over three years, with a target of cutting 25 per cent over the next five years …

The Victorian Competition and Efficiency Commission, which is charged with the responsibility of looking at Victoria's overall regulatory burden, highlighted this point in its 2009 report entitled *The Victorian Regulatory System*. It said that:

> As at 1 January 2009, Victoria's business regulators administered 188 acts comprising 26 096 pages. While the number of acts had decreased since 1 January 2008 (from 191), the number of pages had increased (from 25 617). In addition, these regulators administered 218 regulations (up from 209 in 2008) comprising 8561 pages (up from 8311) and over 370 codes of practice (up from 352 in 2008). The codes of practice are made up of over 100 legislative codes and over 260 voluntary codes.

I wish to place on the record that whilst the opposition supports action to reduce redundant legislation and is not opposing the bill before the house, clearly a lot more needs to be done by this government with respect to the level of regulation that is burdening this state and, in particular, businesses in Victoria. We need to have a system in place that makes Victoria an efficient place in which people and businesses can operate. There is certainly work ahead for this government to achieve that target.

Mr DONNELLAN (Narre Warren North) — It is an honour today to speak on the Legislation Reform (Repeals No. 6) Bill 2009. As we know, this government is continuing to reduce the burden of red tape, as indicated by both the opposition and many other commentators outside. As has already been mentioned, the first four bills in the series have repealed 200 principal amending acts in the statute book. The no. 5 bill has taken this further and now no. 6 provides a valuable contribution to the ongoing review of legislation on the Victorian statute book and the repeal of acts that are no longer required. These reviews will make the task of consulting our legislation much easier for the community and other interested parties.

This bill will repeal another 63 spent and redundant acts which have been identified as part of the ongoing government-wide review of legislation. The Department of Premier and Cabinet along with the parliamentary counsel has consulted with the department of each minister who is responsible for the acts to be repealed to ensure the legislation is no longer required. Each department has advised the Department of Premier and Cabinet that no human rights implications will arise from the repeal of these acts. The repeal of redundant legislation has no financial implications for the budget.

As mentioned by the previous speaker, one of the acts to be repealed is the BLF (De-recognition) Act 1985. This bill highlights the fact that former industrial affairs minister Steve Crabb and others took on this militant and thuggish union at the time, dealt with its behaviour and took the matter to the industry. It was absolutely necessary, and they did a marvellous job. They did the hard things, which would not have been easy for a Labor government. The government made the hard

decision and dealt with that inappropriate behaviour in the building industry and worked very hard to do so.

It is a bit like the situation with the hoons. We make the difficult decisions, such as imposing the banning orders in the city, but often we do not get the support we require from the opposition, and some people say you do not want to hurt the little hoonies. The last time we had that discussion the member for Mornington, I think, expressed his concern about hurting the little hoonies, but if people are going to behave like thugs in the streets, the legislation is appropriate.

This repeal bill continues the reform agenda of this government by completing legislative reviews. Some time ago we indicated that we were looking for a third wave of national reform, which is very much what this government is keen on. There is a statement from US Federal Reserve chairman Alan Greenspan at the start of the government's proposal in relation to reform, repeals and red tape, which says:

> Time and again through our history, we have discovered that attempting merely to preserve the comfortable features of the present — rather than reaching for new levels of prosperity — is a sure path to stagnation.

That is very true. We cannot sit still; we need to keep the reform agenda going. This is not particularly riveting reform, but it is absolutely necessary. After many years of stagnation and sitting still as occurred in the 1970s and early 1980s, the Keating and Hawke government was elected and it really shook the place apart. It needed a shake-up, because there had been many sleepy years when nothing had happened. We saw the floating of the Australian dollar. These were decisions that had been dreamt about by the Liberal government at the time, but it did not make them. This is where this government or the previous Labor governments federally came in and did the things that were required to regulate the financial markets and end the tariff barriers which protected Australian industry. These were not easy decisions because a lot of the time our own people were affected by these reforms in the industrial sector. However, we knew that without that reform, in the long run if we did not remove those tariff barriers, job opportunities would be diminished.

In 1995 a Council of Australian Governments agreement was reached to implement the national competition policy, and that was done by the Keating government. To give credit to the Kennett government and the then Treasurer, Alan Stockdale, they agreed to it. The agreement continued the necessary reform agenda for the Australian economy and brought about substantial dividends. Our living standards have increased dramatically since then: income per head has risen from 18th in the Organisation for Economic Cooperation and Development in the early 1990s to 8th today, which is a substantial improvement. This reform today is a small contribution along that path.

The government's reform proposal goes on to say:

> Greater prosperity requires a continued focus on building the competitiveness of our businesses, and a new focus on building our most important economic resource, our human capital.

We need a healthy, skilled and motivated population. The government has introduced initiatives such as WorkHealth Victoria. Without a healthy workforce we cannot be productive. The $11.5 billion we are spending in this year's budget on infrastructure will bring with it substantial productivity dividends.

The repeals bill, which is not particularly exciting, will make it easier for people to conduct research and see whether particular acts of Parliament apply to whatever they are up to. Another initiative is the back-to-work grants, which are $1000 grants for mothers that provide a small incentive to enable them to upskill their abilities and get back to work. There are other little bits along the way like the changes to the TAFE system and so forth and the introduction in Hallam in my electorate of technical training at a local school. I think this is absolutely essential. It is very important for young people to have skills when they leave school so they do not end up unskilled and having to undertake unskilled work. We need them to be technically trained. This issue has been looked at by both the state and federal governments and is a great benefit in upskilling our younger people. I do not want to see them at Fountain Gate shopping centre, hooning around and carrying on; I want them to be working productively.

As I mentioned earlier, the WorkHealth initiative in the portfolio of the Minister for Finance, WorkCover and the Transport Accident Commission is a good initiative. Health checks are offered in the workplace to detect the early onset of diabetes, cholesterol problems and the like, because at the end of the day it is much cheaper to nip these things in the bud than to have people ending up in our public health system with heart attacks and other conditions.

This bill and other legislative reform, along with that of the federal government, is all about successful implementation of national reform. It requires a shared agenda, agreed principles and objectives. It is a bit like health services: it requires a shared acceptance of what we want to do, where we want to go and how we want to deal with our public hospitals. We are not there at the

moment, but let us hope that we get there very soon, because at the end of the day we absolutely need it.

The Legislation Reform (Repeals No. 6) Bill 2009 very much fits into the broader agenda of this government of looking at reforming the economy, making things easier for business and community, upskilling our workforce, improving productivity, increasing participation and the like. This bill goes one small step towards making the economy more productive. I very much commend the bill to the house.

Mr JASPER (Murray Valley) — In joining the debate on the Legislation Reform (Repeals No. 6) Bill 2009 I confirm for the house that the bill was introduced on 8 December 2009, and on 10 December 2009, on the motion of Minister Cameron, the Legislative Assembly resolved to refer it to the Scrutiny of Acts and Regulation Committee for inquiry, consideration and report.

The Scrutiny of Acts and Regulations Committee, of which I am a member, investigated the bill, and the report was issued in February 2010 in regard to the 63 bills dealt with in the legislation. Regarding the recommendations of the committee, it should be put on the record that firstly, the committee considered that the repeal of the 23 spent principal acts listed in the schedule is appropriate. Secondly, the committee considered that the repeal of the 30 amending acts in the schedule with transitional or substantive provisions is appropriate. And thirdly, the committee considered that the repeal of the remaining 10 amending acts in the schedule with no savings or transitional provisions is appropriate.

However, I note that the latter part of the report from the committee mentions unproclaimed acts. I indicate that the committee had some concerns about bills that become law and do not come into commencement within one year. I will quote from the committee's report, which states:

> The committee considers that without reasonable justification a commencement by proclamation provision or a lengthy delay in the commencement of an act exceeding one year may constitute an inappropriate delegation of legislative power.

That refers particularly to the Footscray Land (Amendment) Act 1990. The committee referred this matter to the Department of Planning and Community Development, and the minister advised that the act would not be proclaimed. As a consequence the committee expects that this act will be repealed in the future.

The committee is becoming more stringent in looking at bills which become law within the state of Victoria and are not proclaimed within 12 months. It finds also that regulations must be reviewed within a 10-year period. On occasions when the 10-year period for the review of the regulations is reached, departments write to the committee seeking an extension of 12 months for the review of the act or regulations concerned. After the first extension some departments seek a further 12 months for review.

The annual report for 2009 of the Scrutiny of Acts and Regulations Committee was presented to Parliament this week. I spoke on it yesterday and brought to the attention of the Parliament concerns I have about the increasing workload of SARC. The committee now reviews all the bills that come before the Parliament, which is a huge task in itself, and all the regulations that come before the Parliament as well. As I see it there will be a need to separate the committee into two parts in the future because an expanded range of regulations and associated items will be brought to its attention. There is a proposal for a bill to be brought before the Parliament in this session to extend the capabilities of the committee to look at additional regulations and associated activities.

I also bring the attention of the house to the Equal Opportunity Bill which is before the house. I spoke on it yesterday evening but refer again to a part of the bill.

At page 12 of *Alert Digest* No. 4, relating to the Equal Opportunity Bill, it was stated:

> The committee notes that part 17 (extension of the coverage of the act to volunteers) —

which has now been removed from the bill in an amendment moved by the Attorney-General —

> (other than section 215, an unrelated consequential amendment) comes into operation on 1 July 2012 and some other provisions may commence by proclamation but not later than by 1 August 2011.

SARC believes that when bills come before Parliament and are enacted they should be brought into operation within 12 months, but here we have a bill introduced yesterday being debated in the Parliament with an extended period of time for proclamation of the total act beyond the 12-month period. We believe this situation needs to be reviewed and that the government needs to fall into line in relation to that.

In relation to all of these issues, I also bring to the attention of the house the report before us and the Legislation Reform (Repeals No. 6) Bill 2009 about which the committee has made representations to the

Minister for Public Transport relating to the Transport Integration Bill 2009. It queried the delayed commencement of the bill by more than 12 months. In response the minister said a lead time of more than 12 months was necessary due to the far-reaching effects of the bill and the extensive implementation program required before commencement. Here again the minister was indicating that he would need more than 12 months before proclaiming fully the Transport Integration Bill 2009. This is an area of great concern to the committee. I believe the government needs to take that on board in relation to legislation proceeding through the Parliament. The Scrutiny of Acts and Regulations Committee must review the bills, hopefully before they are debated in the Parliament, but that is proving difficult as well. I spoke on the matter yesterday evening in relation to the Equal Opportunity Bill.

In terms of the legislation we are debating today, it is interesting to note some of the comments made by earlier speakers, particularly with respect to a number of the acts being repealed. A comment was made about the BLF (De-recognition) Act 1985. The current Clerk would recall that under that act an annual report had to be prepared and provided to the Parliament, and on many occasions there was little to report because no assets were left in the BLF (Builders Labourers Federation). The Clerk will be pleased he no longer has to report to Parliament that the BLF has no further funds.

The other area I wanted to mention was in relation to Reid Murray. I was not in the Parliament at that time, but the Reid Murray Acceptance Ltd (Scheme of Arrangement) Act 1966 was interesting because arrangements were made to assist the creditors and over a number of years some of the assets that remained were able to be sold off. Major payments were made to people who had had funds in Reid Murray Acceptance Ltd. It was interesting that after that there were more stringent regulations in relation to companies raising funding without providing any guarantees.

The bill is therefore interesting. There are a number of issues relating to the legislation but from the point of view of the Scrutiny of Acts and Regulations Committee we have reviewed the 63 acts that were brought to our attention for review and the recommendations are now being discussed and debated in the Parliament. I believe the bill should be passed. We will continue to have bills brought before the Parliament over time dealing with acts that do not need to exist any longer and have become redundant. From the Scrutiny of Acts and Regulations Committee's point of view, we need to make sure these acts and regulations come before us to be reviewed. Additional work is required, particularly now that we have the Charter of Human Rights and Responsibilities as an added feature of the work that is done by the committee.

The bill before us, which has been reviewed by the committee, is an excellent move forward in removing legislation that is no longer required.

Ms KAIROUZ (Kororoit) — As there are other speakers who wish to contribute to the debate today, I will make only a brief contribution on the Legislation Reform (Repeals No. 6) Bill 2009. This is a fairly simple and straightforward piece of legislation, and it is good to see that members of the opposition are supporting it and that it excites them!

The objective of this bill is to repeal a number of redundant and unnecessary acts of Parliament. In 2006 the government made a commitment to improve the efficiency of government, and this bill demonstrates the Brumby Labor government's commitment to its election promise. The first four acts in this series repealed approximately 200 principal and amending acts on the statute book, the fifth act repealed 63 acts and now this bill will take that further and make a valuable contribution to the significant progress that has been made.

This bill is a valuable contribution to Parliament's ongoing review of legislation on the Victorian statute book, repealing acts that are no longer required. The bill is compatible with the human rights protected by the Charter of Human Rights and Responsibilities. It is wonderful to see this government modernising legislation and repealing bills that were introduced way before I was born, and even before my parents were born. I am glad to see there is reform and that it is positive and that we are modernising legislation.

It is also heartening to see that acts, such as the Melbourne Orphanage Act 1940, that are now redundant are being repealed. That act is no longer required because of the work of good governments in the past that have supported families and children. It is also heartening to see we no longer have many orphans or orphanages out there.

As I said, this is a fairly simple and straightforward bill, and I note the opposition is not opposing it. I commend it to the house and wish it a speedy passage.

Ms ASHER (Brighton) — I wish to say a few words on the Legislation Reform (Repeals No. 6) Bill 2009, which repeals 63 acts. As a point on the side I make the comment that the government still cannot spell

'principal', which is scarcely surprising; Hansard has corrected it on the record.

On the substantive point of regulation review and reduction, the government has three approaches to the reduction of red tape. The first is this one that we see before the house: a reduction in the number of acts relative to 1999. I know the government wishes to approach this as a numbers exercise, but one can ask oneself, if one looks at the schedule, whether repealing the Williamstown Temperance Hall Act 1928 or the Melbourne Orphanage Act 1940 will actually assist business to cope with red tape. Reducing the number of laws is perhaps not quite the right call.

I am happy to give an example of a range of land tax amendment acts that have been repealed under this process, but I think business might quite like to see a bill before the house which, for example, reduces land tax. This approach does not always follow logically. I suggest a better approach would be to look at the number of pages of legislation business has to deal with in terms of the regulatory burden.

The second strand of government policy on this issue has been its *Time to Thrive* policy statement, released in August 2006, and the Reducing the Regulatory Burden policy. The second-reading speech also refers to that policy, which in essence provides for a 15 per cent reduction of red tape in three years and a 25 per cent reduction by five years. The fundamental problem with this approach is that the government will not disclose to either the Parliament or the Public Accounts and Estimates Committee, the starting point for these so-called percentage reductions. Therefore this is a ridiculous and useless measure, because the government has not been honest. Even under questioning from PAEC, even when ministers have said they will get back with information, the government will not reveal the starting point in the actual number of regulations. It is ludicrous to make a claim that it is reducing something by X per cent over whatever number of years, when it cannot be verified.

I want to return to the reports called *Reducing the Regulatory Burden*, which are progress reports put out by the Treasurer. The Minister for Small Business was so bad at handling this government initiative that it has now been handed over to the Treasurer. In 2007–08 he put out a progress report claiming that the government had reduced the regulatory burden on business by $162 million per annum. Lo and behold, in his 2008–09 progress report he claimed that the government had reduced regulation in the order of $246 million per annum. He got so excited about this information that he announced a new policy, that the government would be aiming for a $500 million reduction in the regulatory burden by July 2012, which is upping the ante from the previous policy of a $256 million per annum reduction by July 2011.

I refer the house to the 2008–09 annual report of the Victorian Competition and Efficiency Competition which at page 4 makes some commentary on the Reducing the Regulatory Burden initiative. VCEC reports as follows:

> The government reported an acceleration of many regulatory review activities as a result of the initiative, and forecast a net reduction in administrative burdens of $246 million per year by July 2009. Most of these savings are yet to be formally verified by the commission.

So the government and the Treasurer's annual reports make a raft of extravagant claims, and VCEC states at page 4 of its annual report the obvious and what we knew — because the government would not reveal starting points to PAEC — that these savings are yet to be formally verified. They are government rhetoric.

In its statement of government intentions the government has also flagged some changes to the way regulations are made. We look forward to seeing those and to examining whether they will have any appreciable impact on business. That is really what reducing the regulatory burden, this red tape, is meant to be all about, and not simply wiping out an act here or there, which is commendable in its own end. We need to see a reduction in the burden on business. That is what the government should be turning its mind to.

Mr SCOTT (Preston) — It gives me great pleasure to rise to support the Legislation Reform (Repeals No. 6) Bill 2009. As I have stated in debate on legislation reform repeal bills introduced previously, this bill represents a step forward in simplifying the statute book to ensure that it is more intelligible for electors. It is an important part of the democratic process that the law is as simple as possible, to ensure that citizens of our state can understand the law, and repealing redundant acts is an important part of that process.

This follows with what has been described as the law of succinctness, otherwise known as Occam's razor, which relates to ensuring that solutions are as simple as possible to meet the ends that are required. That does not mean simplifying things beyond their requirement to achieve their intended purpose.

I will touch on two acts for their historical relevance and because they highlight the great traditions in our society. The Australian Mutual Provident Society's Act of 1864 provided for the establishment in Victoria of

the Australian Mutual Provident Society, which had originally been established in the colony of New South Wales. It was later known as AMP, which in recent times has been demutualised. The mutual society and friendly society movement of the 19th century was one of the critical areas of development in Australia that helped shape our society.

Many aspects of Australian society were shaped by mutualism. Mutualism often allowed services to be provided where there was a market failure. People in the community would form cooperative societies to provide services that were needed, typically in areas such as insurance or income support, in the case of the AMP, but the great tradition of the Australian trade union movement was also part of the mutualist movement. The AMP, as a mutual society, provided an important part of mutualism in Victoria for a very long period, particularly in areas such as insurance. Mutualism was a great tradition, and I draw the attention of members to the story called *The Union Buries Its Dead*, which highlights mutualism in Australian society in the late 19th century. It was a very important factor in shaping our society.

Another act I refer to is the Grace Joel Scholarship Act, which highlights the role that philanthropy had in the artistic tradition in Melbourne and Victoria. Artists often required support, and that was and still to this day often is provided by scholarships and other forms of philanthropy which allow our society to have the flourishing artistic sector it has today.

To return to the bill, this is excellent legislation which again simplifies the statute book, allowing it to be more intelligible; it removes redundant elements and seeks to bring the statute into the 21st century.

I would like to note also, as I do in my contributions on such bills, the complexity of bills of earlier periods. I marvel at the ability of parliamentary counsel in drafting bills in those times to fit as many words into a single sentence as was often common. This led to bills which were often unintelligible to the uninitiated and did not allow the law to be easily understood by the layperson. Drafting legislation which is intelligible to laypersons is a very difficult task. Modern bills are a lot more intelligible and easier to understand than bills that were drafted earlier, particularly in the 19th century, which often are very difficult to follow. They have hundreds of words in single sentences, making them hard even for a trained mind to follow.

I commend the bill to the house. It will make an excellent contribution to reducing redundant legislation in our community.

Mr R. SMITH (Warrandyte) — I rise to make a few comments on the Legislation Reform (Repeals No. 6) Bill 2009. The focus of my contribution will be on just one of the acts repealed by that bill, the BLF (De-recognition) Act 1985. It is important that members of this house and other Victorians learn the lessons that can be learnt from letting a union run rampant. Back in 1985 I was just a teenager, and I have to say that I was not particularly attuned to political affairs, but at that time the stark images and actions of the BLF (Builders Labourers Federation) and its secretary, Mr Gallagher, made an impact on me. There was a lot of media coverage and it was clear that union members, including Mr Gallagher, were acting inappropriately — and that may be the understatement of today's contributions.

It is interesting to look back at the debate surrounding that legislation. The then opposition contended that former Premier John Cain's motives were very clear and that he talked very tough ahead of the infamous Nunawading by-election, where the current Leader of the House obtained his notoriety. The contention was that the Premier was out there making sure that Victorians thought he was going to be tough on the unions. The fact is that Premier Cain had form in this. He talked very tough just after the 1982 election as well, when he responded to the report on the activities of the Australian Building Construction Employees and Builders Labourers Federation of the Royal Commission into the Building and Construction Industry.

Shortly after the then Premier made those tough comments following the 1982 election, he actually dropped deregulation proceedings which had already been instigated by the former Liberal government and supported by the federal government of the day. That left Victorians open to two and a half more years of problems. It was interesting to hear the member for Narre Warren North say that the government of the day had made a tough decision, when the reality is that the government of the day had left Victorians open to the rampant behaviour of the BLF for an extra two and a half years.

One of the other arguments surrounding the bill related to the fact that the de-recognition act actually seemed to penalise rank and file members rather than those at the top. The contention was that much of the industrial action taken by the BLF workers were driven by those at the top who had their own agenda. Many accepted that the workers of the BLF were intimidated into toeing the Gallagher line. It is interesting that members of the government get very upset with opposition members and say we are prone to union bashing, but

the fact of the matter is that we on this side of the house rarely criticise workers who are members of unions and the finger we point is usually at the union bosses and their behaviour. It is important for members to recognise that it is not the workers with whom the coalition parties have a problem, it is the way the union hierarchy and those at the top of the hierarchy act.

It is also very interesting to note that despite the fact there was widespread support for the BLF (De-recognition) Bill in the Parliament, there were members of the upper house who said the bill was completely against Labor values. Three members of the Labor Party said the bill was not a bill that really encompassed Labor values, and it was interesting to read those contributions. It certainly makes you wonder. Had the Liberals been in power at the time and brought in such a bill, I think the outcry from the Labor Party would have been absolutely enormous.

As I said at the outset, we need to learn lessons from that period. We would hope that Labor has strayed far away from the view of a former Minister for Employment and Industrial Affairs, Steve Crabb, who said that unions have an obligation to be militant. Most Victorians would be very upset with that statement if it were made today.

Finally, regarding the lessons that can be learned, there are Labor members, especially federal Labor members, who get upset with the actions of the Australian Building and Construction Commissioner. The commissioner has made some great forays into curbing some of the more violent and intimidatory acts of many of the unions — the Construction, Forestry, Mining and Energy Union in particular seems to figure largely in cases brought to the federal court by the ABCC. I have a list of a number of penalties handed down by the Federal Court in relation to cases brought before it involving the CFMEU. Time does not permit me to go through this list but just in the last few months there have been a number.

This side of the house supports workers, we will assist workers who are used as pawns in the power plays of the union hierarchy and we will certainly in the future support employers who seem to be routinely intimidated by the standover tactics of unions.

Ms RICHARDSON (Northcote) — I am pleased to rise to speak in support of the Legislation Reform (Repeals No. 6) Bill. This bill will repeal a number of acts of Parliament that are merely sitting on the books and are no longer required. This Parliament passes a vast array of bills, as we all know, and from time to time we need to clear the decks to ensure that redundant acts are put to one side, thanked for their service and put to bed. There are 63 acts in this bill that fall into this category. I am pleased our government is taking this step as part of its ongoing program to reduce redundant acts and thereby make the Parliament more relevant and up-to-date.

I am pleased the government is taking this step as part of its broader initiatives with respect to reducing the regulatory burden placed on business and the not-for-profit sector. These measures are part of a broader program that we have initiated since coming to government.

The member for Brighton likes to highlight these measures as some sort of small part of the government's program. In fact they are a very small part indeed, but there are a range of other initiatives that we have taken on board in terms of streamlining the regulatory burden for businesses working across various states in terms of payroll tax and the like. All this is part of a very targeted initiative for which we have, I think, a target to reduce the burden across the board for businesses and the not-for-profit sector by $500 million by 2012. This is a very small part of what we are trying to achieve, but nonetheless a very important part in putting 63 pieces of legislation to one side. I therefore commend the bill to the house.

Mrs POWELL (Shepparton) — I am pleased to speak on the Legislation Reform (Repeals No. 6) Bill 2009. The coalition does not oppose this legislation. The purpose of the legislation is to repeal 63 spent acts of Parliament. These acts are no longer required because they have taken effect and are now spent or redundant. I will focus on the three local government acts in this bill: the City of Melbourne and Docklands Acts (Governance) Act 2006, the Local Government (Further Amendment) Act 2005 and the Local Government (Rating) Act 1991. I will speak briefly on these acts.

The Local Government (Further Amendment) Act 2005 dismissed the Glen Eira City Council. The provisions in this act have now taken effect, all the issues have been complied with and the act is now redundant. The Liberal Party and The Nationals did not oppose the original legislation when it was introduced or when it was debated on 6 September 2005. The then Minister for Local Government, Candy Broad, suspended the councillors on 9 August 2005 and appointed an administrator.

The bill to dismiss the Glen Eira City Council was rushed through Parliament. Council elections were held on 26 November 2005. There is a criticism that this

government continues to treat local government with absolute contempt when at the end of the day it brings in a bill to dismiss a council after having been told for many years that that council was having problems. A report was presented by Merv Whelan, inspector of municipal administration, in July 2005. It was a very damning report on the council but also damning of the Labor government, which did nothing to stop the bad governance and infighting or to support the councillors.

There are penalties in the Local Government Act for breaches of the act. This government does not like to impose penalties for those breaches, which usually involve Labor councillors. I call on the government to make sure that where there are problems in councils it tries to work with those councils before it is necessary to take the final step of dismissing a council. Had the government worked with Glen Eira over the years there may have been a different outcome.

With regard to the City of Melbourne and Docklands Acts (Governance) Act, its purpose was to amend the City of Melbourne Act to return the Docklands area to the City of Melbourne and to provide for the establishment of the Docklands Coordination Committee. Docklands separated from the City of Melbourne in 1998, and the Docklands Authority was put in place for the transitional period, with an advisory committee to speak to the state government and the Docklands Authority on issues affecting people involved with Docklands.

The former coalition government always intended to return Docklands to the City of Melbourne, but Docklands was, in effect, a building site for many years with the construction of apartments, businesses, shops and restaurants but not many people living there. It was fair that the Docklands area was not part of the City of Melbourne, but there was always the intention to restore democracy to the Docklands area, which we have now done. Docklands is now part of the City of Melbourne; that happened in July 2007. The residents and businesses receive services from the City of Melbourne and people now pay rates for those services to the City of Melbourne and can vote in council elections. All of the issues dealing with that act have now been dealt with, the transfer has been completed and that act can now be repealed.

Finally, and very briefly, I turn to the Local Government (Rating) Act 1991. The main purposes of this act are to require that rating valuations be based on occupancy rather than ownership and to vary the procedure for changing the names of councils. That is the local government amendment that allowed councils to be referred to by their standardised names — for example, a city council, a rural city council, a shire council or a borough. Those amendments to acts have taken place and this act can now be repealed.

Mr SEITZ (Keilor) — I rise to support the Legislation Reform (Repeals No. 6) Bill and also to congratulate the people who have been working on the committee looking at some of these acts that we need to be repealing. The government has a great interest in reducing the number of redundant acts that exist and are registered, particularly because in years gone by we had land bills and we had trust bills. Everybody wanted to have legislation if there was Crown land involved, to have security of tenure of the land and issues like that. A lot of these acts are now part of the modern-day operation of this country and state.

I want to address the BLF (De-recognition) Act, and I am pleased that I am still here in Parliament to see this happen because I was here when it was introduced into and passed by this Parliament. Having listened to previous speakers, it is important to note that it was the Liberal government at the time that really vilified the building construction workers union and the builders labourers union, but it was those unions that saved a lot of the heritage buildings, not only here in Melbourne but also in Sydney, that today's society is enjoying.

It needs to be remembered that the building industry was going through a modernisation period with the implementation of new machinery and equipment and there was a big argument about who would have access and who would have the right to operate this equipment and machinery at the time.

It was an era of change, and as the member for Shepparton said when talking about councils, sometimes the government bureaucracy needs to work with unions and develop. I think since the BLF (De-recognition) Act was passed there has been a better understanding, in working with trade union movements, of the aims and objectives that the government has and a better philosophy of looking after the workers, particularly when we come to superannuation, which did not exist. Portable long service leave and all of those issues that were fought for in those days have meant that people today are the beneficiaries of the issues that those unions took up at that time.

For me it is pleasing to see that that act is being repealed. Somebody mentioned the Construction, Forestry, Mining and Energy Union. The building workers and construction unions will always be at the forefront because they always have new experiences and they always have difficulties, because it is not like

an assembly line where you have normal regulations and rules applying. In the building industry there are all sorts of problems at all times and these unions are then picked out and vilified. Yet we see that the construction work is finished before contract times are over. We are very proud of this because a lot of the work is achieved ahead of time and projects are completed on time and on budget. This will happen with the desalination plant, as I was reading in the paper this week. So let us take it easy on the unions where they are exposed to this sort of work, because they provide that vital infrastructure for this country. I commend the bill to the house.

Mr KOTSIRAS (Bulleen) — I too wish to briefly speak on the Legislation Reform (Appeals No. 6) Bill that this government is introducing in an attempt to improve the efficiency of government and remove redundant legislation. In particular I would like to make a few points in relation to the Equal Opportunity and Tolerance Legislation (Amendment) Act 2006 that is being repealed by this legislation.

In the second-reading speech for the Equal Opportunity and Tolerance Legislation (Amendment) Bill in 2006 the Premier, in introducing this legislation, said:

> When the act was introduced … it was emphasised how education plays an important role in promoting tolerance and mutual respect …
>
> There is a widely held expectation amongst faith leaders and the broader community to work in partnership with the government to promote racial and religious tolerance.

Unfortunately after 11 years this government has failed to deliver a consistent and coherent education program highlighting the advantages of our cultural diversity. It has undertaken an ad hoc and one-off program of self-promoting media ads, but not the sustained and continuous education program that is desperately needed, especially in our schools.

This government reacts only to outside stimuli — only when things go wrong does it pretend to do something. It is all about media spin, with one eye on the election!

We are all aware of some of the difficulties facing many migrants. All members would be aware that growing up in a new country, living with other people, being faced with new rules, attending a new school, trying to find a job is tough for many migrants. Add to that the culture clashes that sometimes occur between different groups and you can begin to see why such inclusion and social harmony is a challenge for some.

Australia is one of the most religious, culturally and linguistically diverse nations in the world. While many agree that our cultural and religious diversity is one of our greatest strengths, others see it as divisive and dangerous. They point to overseas conflicts and isolated violence on our streets as reminders that multiculturalism does not work. These types of attitudes are misplaced and wrong and do not lead to social inclusion for culturally and linguistically diverse communities.

The challenge for us is to see our differences as a uniting force that enables us to live peacefully with our neighbours and also enables newly arrived migrants and refugees wishing to live here the opportunity to do so.

But sometimes this Labor government does not deliver. It has not delivered on this legislation. Ad hoc programs do not work. Let us not simply introduce legislation and blame others and rely on others to overcome some of the challenges we face in Victoria while ministers and governments take absolutely no responsibility. We must keep in mind that there will be no peace amongst our communities unless this government promises action and ensures that its promises are delivered.

Education programs have not been happening in our schools. The government only does these education programs at the time of an election — once every four years — and then forgets about them for the remainder of the four years. It is all about spin; it is all about buying votes. It is a shame that the government is not consistent in educating the wider community about the advantages of living in a culturally diverse society.

Debate adjourned on motion of Mr BROOKS (Bundoora).

Debate adjourned until later this day.

JUSTICE LEGISLATION AMENDMENT BILL

Second reading

Debate resumed from 11 March; motion of Mr HULLS (Attorney-General).

Government amendments circulated by Mr ROBINSON (Minister for Gaming) pursuant to standing orders.

Opposition amendments circulated by Mr O'BRIEN (Malvern) pursuant to standing orders.

Mr CLARK (Box Hill) — The Justice Legislation Amendment Bill 2010 is a bill to make a range of

amendments, including to the Sentencing Act 1991, the Corrections Act 1986, the Children, Youth and Families Act 2005, the Criminal Procedure Act 2009 and the Gambling Regulation Act 2003. It is an omnibus bill that covers not only multiple topics but four separate portfolios, despite the fact that when the Labor Party was in opposition it took exception to this sort of omnibus bill.

The bill contains a wide range of provisions. It expands the home detention program, including by allowing an offender to be put on the program when in the past they had committed drug offences that would currently disqualify them from it. It allows a court to declare that an offender is not eligible for home detention. It repeals offences for breach of community-based orders of various types, providing instead for the re-sentencing of persons who breach such orders after they have been brought before the court by a procedure set out in the bill, and it reduces the time lines within which proceedings for breaches can be commenced. It amends provisions relating to aggregate sentencing by the Supreme Court and County Court for summary offences to bring those arrangements into line with the arrangements for the Magistrates Court in order to address the situation raised in the case of *DPP v. Felton*.

The bill allows the Children's Court to impose a less severe sentence on a juvenile, having regard to undertakings to assist law enforcement agencies, and allows the Director of Public Prosecutions to appeal against a sentence so imposed if the offender fails to fulfil such an undertaking. It makes a number of other procedural changes in relation to juvenile offenders and repeals some redundant provisions.

The bill amends provisions that specify the point in time at which a person is found guilty of an offence, including abolishing the common-law process of allocutus. It makes changes in relation to the giving of evidence in various sex offence cases and a number of cases that may in some sense be said to be similar to sex offence cases, including increasing the range of cases in which alternative arrangements can be made for the giving of evidence.

The bill makes various other amendments to procedures under the Criminal Procedure Act 2009. It removes the sunset on the sentence indication schemes in the Supreme Court and County Court. It abolishes the position of executive commissioner of the Victorian Commission for Gambling Regulation, with the intention that a full-time CEO will be appointed, apparently — as far as the opposition is able to ascertain — by the departmental secretary, to whom the CEO will be answerable.

The bill also amends the race field publication and use provisions of the Gambling Regulation Act 2003 to make clear that the specification of a fee authorised under that act can include a formula, and that provision is retrospective to the date of the original legislation.

A number of the bill's provisions are unexceptional, but there are also a number that raise concerns on the part of the opposition. As I said, the bill expands the home detention program, in some respects making it more complicated and certainly making it much more of a patchwork than it currently is. Despite the changes made by the bill, the legislation will continue to treat home detention imposed by a court under the nonsensical charade that it is a term of imprisonment. The coalition parties have made it clear that in our view home detention ought to be scrapped altogether.

Home detention can operate in two ways. Firstly, it can be imposed by a court, which can provide that a sentence of up to one year can be served as home detention. Secondly, after two-thirds of the sentence has been served, the Adult Parole Board can release a prisoner for a period of up to six months less than the minimum sentence that has been imposed by a court. We consider the latter to undermine the whole notion that sentences should be determined by a court and that the minimum sentence imposed by a court should be served. This was an important reform in ensuring truth and public confidence in sentencing that was introduced by the previous coalition government, but it is undermined if a body such as the Adult Parole Board can release a prisoner ahead of the minimum sentence specified by the court.

The government claims this was introduced to encourage and facilitate the reintegration into the community of low-risk offenders, but there are circumstances where quite violent offenders can be eligible for home detention. On top of that, the parole period was intended to allow for the reintegration of offenders into the community. That parole period is the period beyond the minimum sentence when a prisoner is eligible for parole. We support the availability of parole in appropriate circumstances, but early release should not subvert the minimum sentence that has been set by the court. The government tried to cobble up a partial solution by allowing a court to stipulate that certain offenders are not eligible for home parole, but that is an ineffectual, convoluted and half-baked way to try to fix the fundamental problem, which should be fixed by scrapping home detention altogether.

In relation to a court, the problem with the home detention regime which is perpetuated by the bill is that it pretends to be a prison sentence when in fact the offender is serving their sentence in the comfort of their own home. Our view is that if a court believes it is appropriate in a particular case that an offender not be put behind bars but be allowed to serve a sentence in the community, then that should be done openly in the form of a community-based sentence, not through a charade of pretending an offender is serving a jail term when they are not.

Just to reinforce that point we have the statement of compatibility in the name of the Attorney-General himself, which discusses whether or not home detention might impact on the Charter of Human Rights and Responsibilities Act. He makes an extraordinary statement, and I quote:

> In summary, home detention is clearly a less restrictive and socially isolating alternative to a prison sentence. In my view, home detention in these circumstances may not even engage the liberty right and even if it does, there is no unlawful or arbitrary detention.

Believe it or not, what the Attorney-General is saying is that home detention imposes so little restriction on liberty that in some circumstances it might not even engage the liberty right in the Charter of Human Rights and Responsibilities Act. That shows that either the charter or home detention, or both, are a farce. I suspect the latter is in fact the case.

The bill also proposes to remove the sunset period on the sentence indication schemes that were introduced some years ago. The intention of those schemes was to enable persons charged with offences to have greater certainty as to what sentence they may receive if they plead guilty and therefore encourage offenders to plead guilty in appropriate cases and thereby reduce the time taken up by the court and reduce the strain on victims, witnesses and so forth. Those are laudable objectives, but when the bill was debated to establish the sentence indication scheme we raised concerns on the other side of the equation — namely, the risk that because of the huge pressures on the court waiting lists in Victoria that had developed under the Bracks and Brumby governments, courts would be tempted to offer unduly lenient sentences to offenders in order to induce accused persons to plead guilty and avoid the courts' time further being taken up and help the courts reduce their waiting lists in a way that would be quite inappropriate.

As a result we in opposition pressed for a sunset period to be included. That was the upshot. The government has since commissioned the Sentencing Advisory Council to prepare an evaluation report, which it has done. I do not think it is one of the better reports of the Sentencing Advisory Council. The council seems to have felt constrained to consider only the data that was available to it up until July of last year, even though I would have thought that the report could have at least taken into account a further six months of data. Accordingly the council has been forced to make an assessment based on relatively little information, but there has been a range of feedback that the council has taken.

One striking feature of the Sentencing Advisory Council's report is that at the end of chapter 1, where it refers to the right of persons charged with criminal offences to be tried without unreasonable delay, which has been a longstanding principle of English and thus of Australian justice and which has been repeated in the Charter of Human Rights and Responsibilities Act, it states:

> This right recognises that when proceedings are not finalised within a reasonable time, their sheer length can impose a burden over and above the burden arising from the crime and/or the sentence. A lengthy period between charging the suspect and the hearing of the charges may result in:
>
> > a less 'just' outcome, if the evidence (material exhibits or witnesses' recollections) becomes contaminated, lost or confused with the passage of time;
> >
> > the defendant being remanded in custody or released on bail for longer than would otherwise be regarded as appropriate in the circumstances; and/or
> >
> > the victim remaining 'in limbo', unable to move on from the offence and its impact.

These words from the Sentencing Advisory Council give strong support to the position the coalition parties have been putting forward for a long time about the seriously adverse consequences being caused to the Victorian justice system, to the ability to get convictions where convictions are deserved, or indeed acquittals where those are appropriate, and trauma is being caused to victims' families and witnesses by the huge delays that are building up in the Victorian court system. The latest figures from the Productivity Commission show that Victoria now has the worst waiting lists in Australia at every level of court jurisdiction, for Supreme Court appeals, for County Court trials in the Magistrates Court and in the Children's Court.

The old adage is 'justice delayed is justice denied'. That is certainly what is happening in Victoria under the current Attorney-General, who is spending far too much of his time tied up in the esoteric pursuit of abstract rights and in attacks on freedom of belief and

freedom of association and not enough time attending to the pressing needs of ordinary Victorians to get timely justice.

The Sentencing Advisory Council, after considering the various factors that it was able to take into account, has recommended that the sentence indication schemes be continued. The coalition parties are prepared to go along with that recommendation, but we will be closely watching how sentence indication schemes continue to operate, and if evidence emerges that they are in fact resulting in unduly lenient sentence indications being offered, then we will be looking to amend the legislation should we be elected to office in November, and in any event will be pressing the Attorney-General to take action.

The Law Institute of Victoria has raised a further point in relation to this bill. I commend the institute for its engagement in recent years in providing expertise in relation to legislation. The institute expresses a range of policy views from time to time with which we would not necessarily agree. However, it made a couple of useful observations on the drafting of this bill, including in relation to an apparent redundancy in section 26U(m) of the Sentencing Act 1991.

More significantly, the Law Institute of Victoria says:

> The LIV objects to those offences under s 17(1) Summary Offences Act 1966 being eligible for the alternative arrangements of giving evidence, proposed in s 66 Judicial —

that is, Justice —

> Legislation Amendment Bill 2010.
>
> Section 17(1) Summary Offences Act 1966 includes offences of singing an obscene song … writing an indecent or obscene word, figure or representation … using profane or indecent language … or behaving in a riotous indecent offensive or insulting manner …

The institute legitimately raises the question of whether it is appropriate for that range of offences to be covered by the alternative evidence-giving arrangements and whether it would be appropriate to confine that provision in some respects, and I would welcome the response of the government on that issue.

In relation to the Victorian Commission for Gambling Regulation and the race field provisions, I hope that time will allow my colleagues the relevant shadow ministers to address these issues in more detail. However, the coalition is concerned at the move to abolish the executive commissioner of the Victorian Commission for Gambling Regulation and replace that position with a full-time chief executive officer who seems to be intended to be appointed by and answerable to the departmental secretary.

Time and again expert bodies that advise on appropriate gambling regulation, the Productivity Commission and others, make clear there needs to be a clear separation between the regulator of gambling and the government. For there to be a suggestion that the government will in a sense subvert the Victorian Commission for Gambling Regulation by having the chief executive officer answerable to the government rather than to the commission is a cause of serious concern for us, hence the amendments that the member for Malvern has circulated seeking to continue the status quo unless and until the government can satisfy us that the alternative arrangements it intends to put in place will result in a chief executive officer who is appointed by and answerable to the commission rather than to the government.

In relation to the race field provisions, I hope my colleague the member for South-West Coast will have opportunity to speak to those, but this shows yet again, amongst other things, how incapable the government is at getting this legislation in this area right, in that it has now had to come back following court litigation to clarify a poorly drafted provision that has caused grief to all parties concerned and to the industry.

In conclusion, the coalition parties do not oppose this bill. We have a range of reservations about it, which I have outlined. In particular we propose that the bill should be amended to remove the provisions relating to the executive commissioner of the Victorian Commission for Gambling Regulation.

The ACTING SPEAKER (**Mr K. Smith**) — Order! I call on the member for Footscray, and I remind her and other members that they are speaking on the bill and on the circulated amendments.

Ms THOMSON (Footscray) — I rise to support the Justice Legislation Amendment Bill and the government amendments. I will speak to the government amendments to start off with. The purpose of amendment 4 circulated by the government is to effect two technical changes. Clause 76 of the bill inserts a new section 440 into the Criminal Procedures Act 2009 to deal with transitional arrangements in relation to particular proceedings commenced under the Criminal Procedures Act 2009 but not determined before the commencement of this bill. Clause 76 is cross-referenced to rule 2.03.1 of the Supreme Court (Criminal Procedure) Rules 2008, which refers to certain powers that may be exercised by a single judge of the Court of Appeal. The proposed house

amendment to clause 76 refers instead to section 582 of the Crimes Act 1958, which sets out the power of a single judge of the Court of Appeal in relation to sentencing appeals, which is the subject matter of this transitional provision.

Clause 43 of the bill inserts a new section 611 into the Children, Youth and Families Act 2005 to deal with transitional arrangements in relation to proceedings commenced under that act but not determined before the commencement of this bill. Due to a numbering clash with transitional provisions being inserted by the Health and Human Services Legislation Amendment Bill 2010, the new section number must be amended. The first three proposed house amendments seek to renumber the section inserted by clause 43 so that instead of inserting new section 611, clause 43 inserts a new section 616 at the end of part 8.6 of the Children, Youth and Families Act 2005.

As we have heard, the Justice Legislation Amendment Bill is an omnibus bill that deals with a number of matters, and I am going to concentrate on a couple of those in the limited time I have available to me. I know that other members will cover other aspects of the bill. At this stage I also indicate that the government will be opposing the amendments put forward by the opposition, and members will turn to them later on in the debate.

I want to concentrate on a couple of areas, one being the home detention provisions that have been raised. I know that in general opposition members are opposed to home detention. They do not think it is a tool that should be utilised, and yet overseas experience in Canada and New Zealand shows that home detention acts as a valuable tool for the courts. It enables courts to broaden the sentencing options available and helps people who may benefit from a lesser punishment than a prison sentence to have a detention program in place. This enables the courts to deal with crime in a much better and more productive way. Home detention enables a person to still participate in society and play an active and ongoing role once that obligation has been met. Home detention is an important tool, and we have given some discretion to the courts to enable them to make judgements as to when it is an appropriate tool to use. This bill goes some way to increasing the opportunity for the courts where necessary to veto access to home detention. It also enables the courts to use that tool where it would be of most benefit.

We already know that home detention is ruled out as a tool in cases of sexual assaults, sexual violence and violent acts and assaults. Up until now home detention has been ruled out for cases involving drug and other offences in that vein, which will now be at the discretion of the court. It is very important that discretion be given to the courts to determine whether or not home detention might be a better mechanism of ensuring that someone achieves full rehabilitation back into the community. Those citizens who are put on home detention are either still able to be gainfully employed or must serve within the community. An important aspect of the bill is to ensure that people really are being rehabilitated and are benefiting from the offer of home detention as it may be used at the discretion of the court.

As I have said, we have continued to rule out of home detention those who have committed sexual assault offences and those who have been convicted of criminal offences relating to violence. However, this legislation will broaden the discretion of the court to impose a sentence of home detention.

It is also important that we understand the separation of powers between the courts and the Parliament. We make the laws and we put judges and court systems in place to allow them to put in place sentencing regimes that meet individual crimes. No two crimes are the same, and no two circumstances are the same. Discretion must be left to those who hear the details of those crimes to make decisions in relation to sentencing. I am pleased to be able to support that aspect of the bill.

I turn to matters relating to the Children's Court and the power of the Director of Public Prosecutions to seek lesser sentences for children who assist in helping to solve crimes. That is an asset the DPP has in his armoury for adult crimes committed, but it has not been available at his discretion when a matter relates to those who are before the Children's Court, and this provision will enable that to occur. It will also bring with it some flexibility around how we treat young people who are being sucked into criminal activity so that we can help them redress the circumstances they find themselves in. That is an important tool that has been added to the armoury.

We are restricting the time available to members so we can get through the bill and discuss the varied components that make up this legislation, so I will leave my contribution there. I support the bill in its totality and the amendments circulated by the government.

Dr SYKES (Benalla) — I rise to contribute briefly to the debate on the Justice Legislation Amendment Bill. I will be supporting the amendments proposed by the member for Malvern.

I will focus on changes to the Corrections Act regarding, amongst other things, home detention. I want to go back to basics — that is, jail means jail and minimum sentencing should mean minimum sentencing. In recent times the government has, in an attempt to grapple with its failure to control violent crime in the streets and houses of Melbourne, created a smokescreen by talking about increasing maximum sentencing when the problem is the failure to implement existing sentences, including the failure to implement existing maximum sentences and the failure, many times, to implement existing minimum sentences.

As has been pointed out by the member for Box Hill, there are situations where home detention or, in some cases, the apparent misuse of the parole system enables a softening of the sentences that the community thinks should be administered to those who currently should be given minimum sentences, if not, heavier sentences.

If the crime justifies people who committed the crime going to jail, they should go to jail. If the crime does not justify people going to jail, we have options such as community-based orders to deal with those situations. As we know, when used properly community-based orders can be very helpful for the community and also for offenders. In recent times we have seen not only the use of community-based orders but the use of orders for people to serve time and do community activities. For instance, inmates from various correction centres in northern Victoria have done an absolutely fantastic job in bushfire recovery work, particularly through fencing work. That is an example of where people can get out, they can work in the community, they can do a productive job, and at the end of the day they can sit down and say, 'I have made a contribution to the wellbeing of an individual or community'. That makes them feel good; that helps to build their self-esteem. Building self-esteem is often what is needed and what helps to get these people up and going again.

The community is grateful for that assistance. That is good because it means the community is more receptive to offenders being able to return and become contributing members of the community rather than being a cost to it if they are detained either in prison or — and this is less costly — in the home detention system.

One of the key features of the government's argument about the merits of home detention is the lower cost to the public purse. The cost is something like $41 000 per year for someone in home detention versus $108 000 per year for someone in a prison. There will also be 40 more jobs, half of which will be located in country Victoria. When they stand alone, those arguments have some appeal, but they are based on a fundamentally wrong premise. I say, 'Do the crime, do the time; minimum sentence equals minimum'. So often we see the Labor government's trickery; it has more spin than substance. Its starting premise is fundamentally wrong, then it weaves an argument which appears to make sense. You have to take the Labor Party back to its initial premise and expose the lack of logic of that premise.

The implementation of this program and many other programs often falls short of basic sound management. The monitoring systems for people serving home detention have been a joke and are botched. People who are supposedly being electronically monitored may have their monitors on, but no-one is monitoring the monitoring process, so people are left being where they should not be, are failing to comply with the conditions of their detention and are not being detected. If you are going to do something, it has to be done properly.

Ms Thomson — Don't let the truth get in the way.

Dr SYKES — I take up that interjection of 'Don't let the truth get in the way' which came from a member of the Labor Party whose basic premise is that it is not important whether it is the truth or not but whether it is saleable or not.

The ACTING SPEAKER (**Mr K. Smith**) — Order! The member should ignore interjections and return to the bill.

Dr SYKES — Returning to the bill, the point I was making was — —

Mr Noonan — In conclusion, Bill!

Dr SYKES — I will continue using up my time if I keep getting interjections that I will not take up.

There is merit in a number of the intentions of the bill. The question is: can the government deliver on its stated intentions about the smoother processing of cases and not tying up court time by allowing people to understand the implications of pleading guilty in relation to having issues being dealt with more quickly and efficiently? We have seen good examples regarding the Koori Court and other court systems where that approach works. There are aspects of this bill that reflect good intentions and are therefore commendable. But there is the basic issue that the Labor Party is more about spin than substance. The Labor Party cannot manage. With those few remarks I reaffirm my support for the proposed amendments of the member for Malvern.

Mrs MADDIGAN (Essendon) — I am pleased to rise and support the Justice Legislation Amendment Bill 2010, but I will not be supporting the amendments proposed by the member for Malvern.

I was a little surprised to hear that the opposition does not intend to vote against this bill, considering the many comments opposition members have made, particularly about home detention and particularly considering some of the comments just made by the member for Benalla.

I want to clarify exactly what this bill does about the home detention scheme, because there seems to be a little misunderstanding about this. As members know, the bill makes a range of amendments to the Sentencing Act and the Corrections Act. The purposes of these amendments are firstly, to make home detention available as a stand-alone sentencing order. That is significant, as was said in some of the points that have been raised by the opposition. I am not quite sure if opposition members understand that this is changing the way that home detention orders can be made, that they can be a penalty in themselves, not a substitution for some other order.

The bill broadens the eligibility for home detention orders by allowing some discretion around the type of past offences that are acceptable. It confers a judicial veto power on a court, so that when sentencing an offender to a term of imprisonment, the court may also order that the offender is not eligible for back-end home detention and it ensures that the home detention provisions interact appropriately with the Family Violence Protection Act 2008. They are provisions designed to make home detention work better, and to have it applied in a manner which is useful for the community.

Some of the things said about home detention tend to assume that every offender who gains home detention is a huge danger to society. That is not at all the intention of the home detention orders program. It is to ensure that someone who has broken the law in some way is given a penalty but can operate in a way which is probably to the benefit of that person and their community.

What are the community benefits of an expanded home detention program? We really need to go through these, because we need to remember that we are dealing with people. They may have made a mistake or a severe error in judgement, but they are not necessarily hardened criminals who are a danger to the community. The benefits of home detention are an increased likelihood that offenders will maintain employment and contribute to the economy; improved family relationships amongst offenders subject to home detention; reduction in the demand for prison beds and reduced cost to the community; increased long-term employment in regional areas; more appropriate sentencing by the courts that may result in reduced breach rates by offenders subject to home detention and increased public safety; increased judicial confidence in the ability of the Department of Justice to manage offenders through supervision and monitoring; and increased likelihood that judges and magistrates will use home detention as an alternative to suspended sentences and imprisonment.

There are some significant benefits to the community that arise from the home detention program, so it is really important for people to take them into account when assessing how it is used. That is not to say that it can be used in any way; obviously it has to have very clear guidelines about the use of it and this is what this bill improves.

What are the benefits for offenders? Improved outcomes for offenders underpin the expanded home detention program as well. Firstly, it will assist offenders to achieve behavioural changes by providing improved community-based opportunities to cease offending and reoffending. In 2008–09 the successful order completion rate was 97.7 per cent, and anyone would have to say that is a fairly successful completion rate. Secondly, it will provide offenders with the opportunity to maintain or improve family cohesion while maintaining or improving vocational opportunities. It will also limit the adverse impacts of imprisonment while providing protection to the community and it will act as an incentive for good behaviour for imprisoned offenders.

When the member for Benalla was speaking on this bill, he spoke strongly about improving the self-confidence of people and their self-esteem. Obviously someone going through a home detention program is much more likely to achieve those goals than if they are imprisoned. If you look at all the work on imprisonment you would have to say that the benefits of it are very doubtful for a large part of community, particularly for young offenders.

I am pleased to support this bill. I think the changes to the home detention scheme will make it better and I look forward to the introduction of these changes and the bill passing through both houses.

Dr NAPTHINE (South-West Coast) — I rise to speak exclusively on clauses 78 and 79 of this bill, which deal with race fields legislation, with due respect

to my role as shadow Minister for Racing. The amendments made by clauses 78 and 79 in particular are now the third attempt of the Labor government to get this legislation right. I refer back to May 2005, when the then Minister for Gaming, who was also the Minister for Racing, said in his second-reading speech:

> This bill creates a new offence prohibiting the publication of race fields by unauthorised wagering service providers.
>
> …
>
> This new offence adds another brick to the wall of protection for the Victorian racing industry and all its related revenues.

The minister said that back in May 2005 when he thought he had the race fields legislation right. Then on 1 November 2007 the current Minister for Gaming introduced amendments to that legislation and he said in the second-reading speech:

> The amended legislation clarifies the right of a controlling body to charge a fee and should prevent the threat of legal action by interstate and overseas wagering providers over the imposition of charges for the use of Victorian race field information.

Indeed, on 22 November, the current Minister for Racing, in a speech in that debate, said:

> It also makes it absolutely clear that the days of free riding on Victorian racing by interstate and overseas bookies are finished.

He said the amending legislation 'should now be 100 per cent crystal clear'. That was in 2007. Then there was a significant court case, which I will refer to later. As a result of that court case, on Thursday, 20 August 2009, Michael Duffy, the chairman of Racing Victoria Ltd (RVL), sent a letter to all industry participants in which he said:

> However, deficiencies were revealed in the legislation which RVL will seek to have rectified.

That is what we are seeking to do, to rectify the legislation. This is the third attempt of the Labor government to get this legislation right.

It is interesting to note that on 3 February, the Minister for Racing, in announcing this legislation, said:

> The legislation I intend to introduce will make it crystal clear that the racing industry can charge pursuant to a commercial formula for its race fields and that will clarify any doubt that has arisen as a result of this Supreme Court decision.

I think we have heard the words 'crystal clear', '100 per cent crystal clear' and 'guarantees' before from the Minister for Racing, the previous Minister for Racing and the current Minister for Gaming. We are now on the third attempt to get this legislation right.

In the second-reading speech on this bill, the Attorney-General, who is also the Minister for Racing, said:

> These provisions will remove any doubt about the capacity of the Victorian racing industry to charge and collect fees for the use of race fields data …

We hope that is right, but given the track record, there is a certain doubt that this horse, which has failed at three attempts and is in the barriers will get it right this time. Certainly we hope that we have got it right for the sake of the racing industry and all those involved in the industry.

The reason we need this legislation is, as I said, as a result of a court case and a judgement delivered on 13 August 2009 by Justice Jennifer Davies in the Supreme Court of Victoria in the case of *TAB Ltd v. Racing Victoria Ltd* and *TAB Ltd v. Greyhound Racing Victoria*. In the judgement, Justice Davies said:

> TAB Ltd ('TAB') is the licensed totalisator for New South Wales and also operates a totalisator in Victoria. It has approval to publish race fields from Racing Victoria Ltd ('RVL') and Greyhound Racing Victoria ('GRV'), the controlling bodies for thoroughbred horse racing and greyhound racing in Victoria respectively. TAB obtained these approvals before division 5A of the Gambling Regulation Act 2003 (Vic) ('the GRA') was legislated. After division 5A became effective, both RVL and GRV imposed fees on TAB as a condition of their approvals, relying on division 5A as the source of power. In these proceedings, TAB challenges the validity of the fee conditions. I have concluded that RVL and GRV were authorised under division 5A to impose fees on TAB as a condition of their approvals, but find that neither RVL or GRV exercised that power validly.

She went on to say further in paragraph 31:

> The fees charged by RVL and GRV were not stipulated as quantified sums but as fees determinable by the application of a formula. In my view, the imposition of fees in that way was not in compliance with the authority conferred on the controlling bodies under section 2.5.19D(7), as limited by section 2.5.19D(4) in relation to a fee condition. Accordingly, I conclude that section 2.5.19D(7) did not authorise RVL and GRV to impose fees determinable by the application of a formula. This conclusion is sufficient to hold that neither RVL or GRV validly exercised the variation power under section 2.5.19D(7) because neither body stipulated 'an amount', that is a quantified sum, as the fee payable.

Further, in paragraph 31(d) Justice Davies said:

> In my view, it is an implicit requirement for the valid exercise of power that an actual amount can be determined from the expression of the fee, if expressed other than as a quantified sum. In other words, as the fee condition creates the liability to pay an amount, there must be certainty about the amount which must be paid.

The legislation fundamentally got knocked over. Now we need to look at what is being sought to remedy that.

Clause 78 seeks to substitute certain new words which make it clear that these can be an amount or amounts specified in the approval or calculated in accordance with the formula to seek to overcome that issue.

Clause 79 introduces a series of provisions that cover a period from 4 September 2008 under the old legislation to when new section 78 commences which provides for fees to be paid. It is a retrospective provision, but I am advised that both the TAB and the racing bodies, Racing Victoria Ltd and Greyhound Racing Victoria, have agreed on those matters and settlement of the funds accordingly. I quote from Amanda Lean, general manager, government relations, at Tabcorp Holdings:

> Thank you for consulting Tabcorp regarding the proposed amendments to raise the legislation that will be made through the justice legislation amendment bill 2010.
>
> Tabcorp has undertaken a detailed review of the bill. Whilst we do not have any substantive comments on the bill before Parliament, we continue to welcome any move to ensure all wagering operators make a fair economic contribution to the industry on which their businesses are based.

TAB supports that, and we trust and hope this will fix the problem. However. I believe this is only a short-term solution as state-based laws in this area are under scrutiny across Australia. There was the Betfair case in Western Australia in 2008, the Betfair and Sportingbet cases currently in New South Wales and the TAB case in Victoria in 2009. This highlights what I believe is the need for a national approach. On 2 September 2009 I said in this house:

> … what we need from this minister is leadership at a national level to get a national agreement about the future funding of racing so that all participants, the corporate bookmakers, the betting exchanges and the totalisators — wherever they operate in Australia and whichever jurisdiction they are in — make a fair and reasonable contribution back to racing in Victoria, New South Wales and every other state and territory. We want a national approach.

I think that is the way we should be going, and this minister needs to lead the charge on a national approach. If we are elected to government in November this year and I become racing minister, I will certainly lead the charge for a national approach. Indeed I am supported in that by the New South Wales minister. In a press release from December 2008 headed 'NSW calls for a national approach to wagering regulation', the New South Wales Gaming and Racing Minister, Kevin Greene, said:

> It is becoming increasingly problematic for any state to try operating independently with the entry of corporate bookmakers and the cross-border 'leaking' of revenue.

Indeed in the Productivity Commission report there is person after person for the organisations, Racing Victoria, Greyhounds Australasia, Harness Racing Australia, Australian Internet Bookmakers Association, Tabcorp and Tattersall, also calling for a national approach. One of the reasons is that, as the TAB said to the Productivity Commission in 2008, Victoria is losing at least $600 million a year to the Northern Territory. That is less money for Victorian racing industries and less money for state taxation that is all going to the Northern Territory and now increasingly through Betfair to Tasmania. We need to stop the leakage and get a fair product fee back to the racing industries. That can only be done in the long-term by a proper national approach.

Mr NOONAN (Williamstown) — I rise to make a brief contribution in support of the Justice Legislation Amendment Bill 2010. I too will be supporting the housekeeping amendments put by the government and will oppose those amendments put by the opposition. I do that because in my view the amendments are inconsistent with the findings of the independent capability review into the future management functions of the Victorian Commission for Gambling Regulation.

This bill is an omnibus bill, as other speakers have said, that makes a series of changes across a collection of acts, including the Sentencing Act, the Criminal Procedure Act, the Children, Youth and Families Act, the Corrections Act and the Gambling Regulation Act with consequential amendments to the Casino Control Act.

I think the Attorney-General has made it relatively clear that the amendments in this bill are designed to increase the sentencing options within the state's courts and further protect victims. These changes are part of our government's overall commitment over a long period of time to modernise our justice system and to make our courts more accessible and less stressful for those who are impacted by crime.

The bill will provide a range of options to target and address offending and reduce crime. The bill will also give courts a veto on home detention, as mentioned by other speakers, and ensure that the court which hands down the sentence will determine whether home detention is an appropriate mechanism for an offender to serve out their sentence. The courts will be able to rule out home detention as a punishment option. This move recognises that home detention could be used by the courts for low level offences and perhaps serve as an alternative to suspended sentences if appropriate.

I just want to return to the amendments to the Children, Youth and Families Act 2005, which are contained in part 3 of the bill, and I will make a few brief comments

about the sentencing provisions. The Attorney-General in his second-reading speech said:

> Currently, under the Sentencing Act 1991 a court may, at the time of sentencing an offender, impose a less severe sentence because of an undertaking by an offender to assist the authorities after sentencing in the investigation and prosecution of another offence. This provision —

currently —

> does not apply to children.
>
> There may be instances where a child is able to assist the authorities in the prosecution of offences against others, such as an adult co-accused.
>
> Where this occurs, a child may not receive the benefit of a reduced sentence despite any assistance they provide to authorities after sentencing. The bill addresses this by amending the Children, Youth and Families Act 2005 to ensure that a court may at the time of sentencing a child, impose a less severe sentence because of an undertaking to assist the authorities after sentencing.

The bill also makes a number of other technical amendments to the same act. I support the common-sense approach and provisions, which will aid our youth justice system. We should take all opportunities to provide the courts with a level of discretion when sentencing youth offenders. I have spoken a number of times in Parliament on youth offending in this state and the need for a holistic approach to break the common cycle of reoffending amongst young people. Most recently I spoke on the *Inquiry into Strategies to Prevent High Volume Offending and Recidivism by Young People* report tabled by the Drugs and Crime Prevention Committee in July of last year. That report makes it absolutely clear that the majority of young people in this state will never come anywhere near a court, but it also makes clear that:

> … for a minority of young people this is not the case. These young people often have had a troubled childhood; mental or intellectual disabilities; little education and, in some cases, a lack of adult mentors. This group is highly represented in the juvenile justice system.

This statement does not excuse young people for offending, but it indicates that there are circumstances which can lead to an offender taking the wrong course in life. That creates a very challenging situation for the state. The report also highlights that around one in five offenders apprehended by police in the 2007–08 period were under the age of 18.

Clearly, these statistics demonstrate there is a problem. There is further statistical evidence to indicate a pattern of reoffending exists. I am pleased the government has responded to that report by supporting in principle 33 of the 41 recommendations. Coupled with the amendments proposed in this bill, they are essentially designed to provide additional tools across our youth justice and general justice and court system in Victoria.

The courts are in a unique position, particularly with youth offenders, to determine whether such discretion in the sentencing arrangement can make a real difference in terms of reducing reoffending rates. With those brief comments, I commend the bill to the house.

Mr O'BRIEN (Malvern) — I rise to speak on the Justice Legislation Amendment Bill 2010 and in particular in support of the amendments I will move, which have been circulated in the house. I do so in my capacity as the opposition spokesman on gaming matters.

This bill alters the constitution of the Victorian Commission for Gambling Regulation to abolish the position of executive commissioner. The executive commissioner of the VCGR is the person responsible for the day-to-day operations of the commission in conjunction with a chairperson of the commission and the other commissioners and, of course, the staff. We on this side of the house are gravely concerned that it would be a retrograde step to move from having an executive commissioner to what the minister in his second-reading speech has flagged as the appointment of a chief executive officer. Our concerns about this have been heightened by the advice we received at the bill briefing, where it was flagged that the CEO would not be appointed by the members of the VCGR but by the Secretary of the Department of Justice. This would be a clear diminution of the independence of Victoria's gambling regulator. Proposing the creation of the position of a CEO who will be appointed by the minister's departmental secretary is a clear attempt to undermine the independence of Victoria's gambling regulator. For that reason I have circulated amendments seeking to delete those provisions of the bill.

Gambling is a very sensitive subject in our community, and rightly so. For the good that there is in gambling — and I say that as a person not averse to a flutter on Tattslotto or the races from time to time — we have to acknowledge that negative social consequences also flow from gambling. Problem gambling is a terrible thing. It affects many, many people. The Productivity Commission's report on gambling suggests that something along the lines of 40 per cent of money spent on pokie machines is spent by problem gamblers or people regarded as being at risk of having a gambling problem. That is an extraordinary amount of money. You see the social dislocation that problem gambling creates and hear of some of the community concern it creates.

I see the member for Macedon is in the chamber. She would be aware of exactly how passionate the people of Romsey were on the question of whether the Romsey Hotel should be given permission to have gaming machines.

Gaming is an area of policy where governments need to be seen to be beyond reproach. It beggars belief that the government wants to move to undermine the independence of the gambling regulator by replacing an executive commissioner, who is appointed by Governor in Council for a fixed term with a CEO appointed by the departmental secretary, and presumably removable by the departmental secretary.

There is support for our position from the Productivity Commission itself. I refer to the draft report on gambling that was released on 21 October 2009. Just a few sentences from aspects of that report will show the importance of maintaining the independence of the gambling regulator.

In chapter 14, under 'Key points' paragraph 14.1 states:

> But against well-recognised standards for best practice, significant deficiencies remain.

It goes on to say:

> … there is a need for:
>
> > greater independence of gambling regulators

Paragraph 14.2 states:

> … the key ingredients of a best practice regulatory environment for gambling include:
>
> > …
> >
> > governance structures that limit political discretion and separate the independent activities of regulators from the parliamentary accountability of policy-makers.

Box 14.1 states:

> … a best practice institutional setting for gambling would involve:
>
> > an independent statutory regulator with responsibility for monitoring and implementing all gambling regulations …

I am conscious of the need for other members to speak on this bill so I will shortly conclude my remarks, but there is a lot more material in the Productivity Commission's report that I could put on the record. The point I wish to make is that this move to abolish the position of executive commissioner of the VCGR and replace it with a CEO appointed by the department and responsible to the department and the minister is a retrograde step. It is undermining the independence of gambling regulation in Victoria. It is going the wrong way from what has been identified as best policy practice. While the government's motives may or may not be pure in attempting to undermine the independence of the VCGR, this side of the house does not support that move. I therefore seek support from this house, and if not from this house, then certainly from the Council, in relation to the amendments I have circulated.

Mr CARLI (Brunswick) — I have great pleasure in rising in support of the Justice Legislation Amendment Bill and the amendments circulated by the government and to oppose the amendments circulated by the member for Malvern. This is an omnibus bill. What is common about the various pieces of legislation it amends is that they fit within the justice portfolio. I want to comment particularly on the sentencing element of the reforms.

Basically the bill is about increasing the options available to courts in terms of protecting victims and sentencing. The bill will expand the range of offences under which alternative arrangements for giving evidence can be made, which will add to the protection offered to complainants and witnesses in sexual offence cases. This is a further example of the commitment of the Brumby Labor government to make court processes easier and less traumatic for victims.

I want to focus a little on home detention. The bill increases the use of home detention. That came out of work done by the Sentencing Advisory Council. It made a number of recommendations to the government about recasting the home detention system to ensure it is a stand-alone alternative to jail sentences. But there should be strict restrictions or conditions around it so that people are confident about its use. For example, the bill provides for a veto for courts in relation to the use of home detention. What the bill really says is that home detention has a legitimate role and should be expanded not as an alternative to jail sentences but to be used appropriately by courts as a stand-alone measure to provide offenders who have been involved in low-level offences with an alternative to other options, including suspended sentences. The bill expands the use of home detention.

The expansion of home detention has a number of benefits. It will ensure that offenders maintain employment and contribute to the community. It is obviously better for families and family relationships for those offenders who have been involved in low-level crimes. It will reduce the demand for prison beds and the costs for prisons. It will provide the public with greater confidence about the people who end up in

home detention. It will increase the likelihood that judges and magistrates will use home detention as an alternative to suspended sentences and imprisonment. Basically home detention will sit between suspended sentences and imprisonment. We know it has benefits for many offenders, but obviously the key is being able to choose the offenders appropriately and at the right time.

Home detention assists offenders to achieve behavioural change by providing approved community-based opportunities to cease offending and reoffending. The success rate in 2008–09 was 97.7 per cent. It provides an opportunity for offenders to maintain their family and community environment. It also ensures that they have employment and vocational opportunities. It certainly takes out the adverse elements of imprisonment, particularly for young offenders who have committed low-level offences. If they end up in prison, the prison experience is detrimental to them. This is about protecting them and protecting the community. It also provides imprisoned offenders with an incentive for good behaviour.

I believe the expansion of the home detention model will work. It will work because the community can have confidence in the way it has been established and the protections in it. Allowing home detention to be a stand-alone sentencing order, instead of what happens now, which is that it is a direct substitute for imprisonment, will ensure that the courts make very overt decisions to use home detention. It is not a substitute; it is actually a stand-alone option, and in the case where an individual is found to not be suitable for home detention, the court can veto any use of the option.

The bill broadens the eligibility for home detention orders and it allows some discretion around the types of offences that are acceptable, and that includes low-level crime offences. The judicial veto power by the court on the use of home detention ensures that it cannot be tacked on the back end by the Adult Parole Board. It is an important adjunct or reform in our criminal justice system that provides further options for courts. It is a very important and positive reform made by this bill. I realise there are other speakers, so I limit my contribution to those remarks.

Mr CRISP (Mildura) — I rise to make a contribution to debate on the Justice Legislation Amendment Bill 2010. I intend to concentrate mostly on clauses 78 and 79 in part 6 of the bill. This is an omnibus bill that covers a whole range of areas. The section I comment on deals with gambling and race books. This is yet another attempt to fix problems in this area for the racing industry. Time and again we have been told this has been fixed, but it has not and it had better be fixed this time. People who bet on Victorian races are not contributing as much as they could or should to our economy. The leakage of dollars to the Northern Territory and Tasmania has been well documented by the member for South-West Coast. This affects the amount of money available for country racing, including harness racing and adds pressure to take some country race meetings elsewhere.

One such meeting is at Ouyen. I have been contacted by Geoff Kay on behalf of the Ouyen Harness Racing Club to say that, without the club having been given any choice, one of its harness racing meetings which was conducted at Mildura has now gone to Tabcorp Park. This is against the club's wishes. It harms the community's strength and pride to have that race taken away. It is yet another example of this government being city-centric and starving out country racing in order to take it to the city where it perceives there may be better benefits.

The botched effects of that decision and the leakage of these dollars is causing harm in the country. Hopefully these gambling regulations will at last fix that problem and country communities that are proud of their race meetings and events can sleep easy at night knowing that they will not wake up in the morning and find another race has gone.

Similarly with regard to gambling regulations I am supporting the amendments moved by the member for Malvern to deal with replacing the executive commissioner of the Victorian Commission for Gambling Regulation with a chief executive officer appointed by and answerable to the secretary of the department rather than commissioners. This is ridiculous governance, an erosion of the independence of the commission and of the way gambling is administered in this state. It makes people more suspicious of gambling and the way in which it is regulated.

The Nationals are not opposing this bill, but are strongly supporting the coalition's amendments.

Ms DUNCAN (Macedon) — I rise in support of this bill before the house and will make a few comments about the contributions from previous speakers. Mostly I will focus on home detention because I have had some dealings with the way in which this operates and I believe it is a very good option for the courts. As a government we want to provide courts with more, not fewer, options for sentencing. I hear from judges and magistrates time and again that they need a range of

options so that they can structure sentences in a way that is likely to reduce the chances of people reoffending rather than structuring sentences in a way that is likely to increase the chances of reoffending.

One of the things that we know does not work particularly well, which is not to say that we do not need them or use them, is jail sentences. We know that for some people and some offences a penalty of imprisonment can actually make it more difficult for the person to ever be assimilated back into society. They may lose all ties with family and friends, which often increases their chances of reoffending. We have seen this happen again and again and there is a general view among some people that a period of time in jail only enables them to become better criminals.

That is not to say we do not need and should not use jails — we certainly need and use jails as well — but we need to make sure that a range of options will be available to the courts so that they can look at the offending behaviour and structure sentences in a way that reduces the chances of people reoffending. We know that no two offences or offenders are exactly the same and so it is a nonsense to suggest that one size fits all in sentencing and that discretion should not be used.

That brings me to the contribution by the member for Benalla in which his first statement was, 'Jail is jail'. That is a very simplistic mantra: one can say it again and again, it does not change the fact that sentencing is a very complex process. I point out to the member for Benalla that for those people — I presume he means that people who are sentenced to jail should spend time in jail — this legislation is about providing home detention as an alternative to jail, not instead of jail, where a magistrate or a judge believes home detention is a more appropriate sentence for that person. It is not the case that jail should be jail for these people if the courts have determined they should not go to jail, because there are better options available for them.

We often hear from the opposition — and I dread to think what some of the arguments will be in the lead-up to the next election — that it is always tough on sentencing issues, and all that is good. However, when people are informed of the details of a case — that is, when they know all about the case, not just what is printed on the front page of a daily newspaper, but they are privy to all the details and information about the offender, the offending behaviour and the relevant issues — they often say they would impose a lighter sentence than what was actually imposed by the court.

We have seen this again and again, and I point out that Professor Arie Freiberg, the chair of the Sentencing Advisory Council, had a seminar program called 'You be the judge' which was taken to various people. The people who were privy to that information were asked to impose a sentence — in other words, they were asked to be the judge on a real case and to impose a real sentence. I think on each and every occasion the sentences imposed by the community, by those groups of people who were party to that seminar program, were lighter sentences than what the courts had imposed, so this notion that judges live on another plane, on another planet or in another world is absolute nonsense.

People only get the bare bones of a case and do not know the details of it so it is very difficult for them to make judgements. We often jump to the conclusion that a sentence sounds very light. We do not know the details. Only the courts have heard all of the information. It should be left to the courts to make these decisions, not for politicians to stand on the sideline, again from a position of ignorance, not understanding and not knowing what was involved in the case, and try to make judgements about information they have not been privy to. With those few comments, I commend the bill to the house.

Mr DELAHUNTY (Lowan) — I rise on behalf of the great electorate of Lowan to speak on the Justice Legislation Amendment Bill 2010. I also say that I will be supporting the amendments circulated by the member for Malvern. I want to talk about a few components of the bill, and they are the provisions relating to the Sentencing Act 1991, the Children, Youth and Families Act 2005 and also the Gambling Regulation Act 2003.

The opposition has led the government on many things in relation to law and order, and the community knows that this government has been continuously soft on crime. We have seen that in polls that have been taken; we have seen it in research that has been done — this government has been soft on crime. It is even getting to the stage where we are seeing it on the TV and in the community. If you read the letters to the editor, people out there know that this government has been soft on crime.

However, we have some amendments to the Sentencing Act. I will jump to the first one, which is the amendments to the Children, Youth and Families Act 2005. We know that the amendments made by the bill will ensure that the court may at the time of the sentencing of a child impose a less severe sentence because of an undertaking to assist authorities after sentencing, and we would have to support that.

The amendments to the bill also provide that the Director of Public Prosecutions may appeal a sentence imposed where a child receives a lesser sentence and subsequently fails to fulfil that undertaking. I believe this is a good move forward. I am a member of the Drugs and Crime Prevention Committee and it has produced a report on youth recidivism. It is unfortunate that there is a very small percentage of people who are reoffending, who are very antisocial in the way they operate, but importantly I think we should be putting young people in jail only as a last resort. There are other ways. There are deferral programs — a lot of programs — to try to assist people, but if they do not do the right thing, unfortunately we have to get tougher on them, because at the end of the day with antisocial behaviour, particularly some of the offences that have been committed by people — and it does not matter whether they are young teenagers or adults — we need to ensure that people out there in the community feel safe, and at the moment, because of the approach of this government, many people across my electorate do not feel safe.

One of the things I am often asked is: what are the big issues that get debated in Parliament? I say for the metropolitan area it is education, health, law and order, and planning. These are equally important to us, but on top of that we have natural resource management, water, agriculture — a lot of those types of things. Law and order has not normally been a big issue for us in country Victoria, but it is becoming a bigger issue because of the inability of this government to provide sufficient police numbers to ensure we have police resources in country Victoria.

Last week I was at a public meeting in Jeparit which came about because they have had a single-person police station for over two years and people are getting anxious about it as they do not feel safe in their community. We have over 100 police stations across Victoria that are single-person stations. I am fearful that we are getting to the stage where we will have police stations where you will walk in the door and there will be no-one on the other side of the counter. We will have good facilities, good houses, but no police presence.

We need to ensure that people feel safe. I support the changes to the Children, Youth and Families Act from the point of view that I think it is a step forward in relation to that, but if a young person does not comply with the undertaking they have given, the Director of Public Prosecutions needs to have the ability to come back and maybe call for a higher sentence.

I want to speak about the gambling act but I will just touch on the Sentencing Act. As members know, the coalition is not happy with the home detention program. We see that this bill implements some changes to the home detention program. We are not comfortable about that.

However, the other issue I want to cover is the Gambling Regulation Act and the approval to publish or use race fields. Unfortunately, because of the role of this government, we have seen lot of our race tracks in country Victoria close, and people will make a judgement on that on 27 November when they voice their concerns about the loss of these racing facilities across country Victoria.

Mr McINTOSH (Kew) — This is an omnibus bill crossing a number of different areas. It also deals with home detention, which is a matter that concerns me as the relevant shadow minister.

In relation to omnibus bills, the vice of omnibus bills was of profound concern to the government party when it was in opposition. It railed against the Kennett government introducing omnibus bills and not giving the then opposition the ability to discretely vote on a novel piece of legislation or a novel part of a piece of legislation.

Accordingly, while the opposition does not oppose this legislation, I make it abundantly clear that the opposition is opposed to home detention, not only the front end but also the back end, most particularly in relation to the back end. It is undermining judicial independence on the basis that once a person is sentenced they are entitled to be released on parole subject to the discretion of the Adult Parole Board. Once the order is made, there is a sentence which contains a maximum term and potentially, and most often, a minimum term, and of course it is at that time that those people are then eligible for parole as determined by the Adult Parole Board. While the board is chaired by a Supreme Court judge, in this case Justice Simon Whelan — and this is certainly no reflection on the Adult Parole Board or indeed His Honour — the most important thing is that it is at the board's discretion; it is exercising an executive wing of government. It is at the board's discretion and is not in the hands of a judge.

Most importantly, what is now happening is that the executive will be second-guessing a judge. A minimum term is provided, but a person is eligible for home detention at six months. If they fit the criteria, given the particular crimes they have committed, they are eligible for home detention as determined by the Adult Parole

Board. We say that is taking away from judicial discretion at the time of the sentencing, and that is the fundamental flaw in relation to the back end.

At the front end, and likewise in relation to the back end, there are profound concerns about home detention itself. It is not just the opposition that has made these complaints. Many groups have made these comments. I refer to a group called Justice Action, which is a prisoner support group. It has identified on its website a number of profound concerns with home detention, be it front end or indeed back end — front end as a sentencing option or back end being an early release program.

That group says that it shifts the cost of maintaining prisoners to the prisoners' families, and of course that is very true, given that the government is saying that one of the benefits is there will be a profound cost saving to corrections from implementing a home detention program. Past experience would say that the cost of maintaining a prisoner could be reduced to some $41 000, but of course the actual cost of maintaining a prisoner is then being imposed upon the families.

Secondly, the family members of the home detainee have to maintain the jail. Effectively they become the jailers, not directly at law but certainly because of the circumstances. Unfortunately a consequence of this is that they are potentially subject to being searched, and it is their responsibility to maintain appropriate conditions for the person in home detention. Effectively family members become jailers and the cost of that is lumped on to family members rather than on the corrections system. It might be a saving to the corrections system but that cost is directly shifted to family members.

We in opposition and other groups, including Justice Action, are also very concerned about the effect of this legislation upon women. Justice Action highlights the notion that what happens is that family members, women particularly, in order to maintain the home detention effectively have to put up with a lot of issues about which they have to remain silent because the consequences of not doing so are quite confronting and indeed a matter of profound concern.

As I said, the opposition is implacably opposed to the notion of home detention, whether it be the front end or the back end. The back end, the first regime this government introduced, was a matter of profound concern for different reasons. The government has now extended its previous legislation to the front end. Be under no illusion: the opposition is opposed to home detention as a sentencing option.

Debate adjourned on motion of Mr LANGDON (Ivanhoe).

Debate adjourned until later this day.

EQUAL OPPORTUNITY BILL

Second reading

Debate resumed from 24 March; motion of Ms HULLS (Attorney-General).

Mrs POWELL (Shepparton) — I am pleased to speak in the debate on the Equal Opportunity Bill. I started last night and I think I got about 10 words on record. This is my second attempt at speaking on the Equal Opportunity Bill.

The Liberal Party and The Nationals have always been strong supporters of equal opportunity. As a female member of Parliament in this place representing a large area I am always very conscious of the issue of equal opportunity. As a female I am very aware of discrimination and of making sure opportunities are available to everybody and just as importantly to women.

We in opposition looked at this legislation, and we believe it has gone in the wrong direction entirely. We have been strong supporters of equal opportunity but we cannot support this bill. The opposition will be opposing this legislation. Having said that, we do not condone discrimination or the erosion of people's rights. We have a very strong and proud history of supporting equal opportunity laws. The member for Box Hill in his very good presentation put on record the long history that the opposition parties have had with respect to equal opportunity law.

Victoria's first equal opportunity legislation was introduced in 1977 by the Hamer government. The current Equal Opportunity Act was introduced by the Kennett coalition government in 1995. Those laws have served us well over many years. From time to time we need to make changes and amendments to laws, but we believe this new legislation has gone entirely in the wrong direction.

There are a number of problems with this bill. It puts unacceptable burdens not just on small businesses but on sporting clubs, community clubs and other groups in the community that employ people. The bill gives increased powers to the Victorian Equal Opportunity and Human Rights Commission. It reduces religious freedoms for all Victorians. Parts of the bill are inconsistent with commonwealth legislation.

This bill makes significant changes to equal opportunity law in Victoria. When the bill was introduced in this place two weeks ago the member for Box Hill asked for an extension of time before it was debated. Sadly, the government refused. This meant there were only two weeks for businesses, schools, churches and the broader community to determine how this fairly complex bill would affect them. The government has said it consulted with the community, but we in opposition along with members of the community needed to see the legislation. The draft review was made available to the public, but the review and this bill before the house today are two entirely different pieces of reporting.

Saying you have consulted with the community does not mean simply stating what you are going to do. People have to actually see the bill when it comes before Parliament. There may be a number of issues raised in consultation, reviews and draft policies that may or may not be picked up. Members of the community, including service clubs, schools, churches and similar organisations, need to know about the contents of the legislation that is brought before Parliament, and we in opposition need to see it so we know what we are meant to make our decisions on. We make our decisions very seriously, making sure that we understand how a piece of legislation will impact on the broader community.

The Scrutiny of Acts and Regulations Committee (SARC) reviewed this bill. Members were told in the second-reading speech that the report would be tabled on the day the legislation was brought before the house.

This legislation was only available to members on Tuesday in the tables office. The legislation is a fairly complex review of existing law. There are some issues that SARC was concerned about; it had about 114 submissions with a range of concerns. One of those concerns was that volunteers were deemed to be employees. I know the government removed this provision except in connection with sexual harassment. This is another example of the government making legislation on the run. The government came into this place with a piece of legislation and said it stood by it; then on the day it was introduced the government removed a fairly important part of the legislation.

We need to know what impact that will have. The government has removed that provision, but what impact will that removal have in the broader community? Again, we are not able to find that out because we do not have the time to do that. The bill will be passed in this place today and it will go into the upper house to be debated there.

The SARC review said that parts of the bill were incompatible with the human rights charter, but, again, even if things are incompatible with the human rights charter, this government says in its decision that is okay for the legislation to contravene the charter because it makes sense to the government. Another issue of concern the SARC review raised is the inclusion of an investigation power by the commission. The commission can now hold a public inquiry and request documents, and has more powers than the Victoria Police. I think we have to look at what the impact will be on the broader community. Most people in the community would not uphold discriminatory rules; they would abhor discrimination of any form. They would abhor sexual harassment and all those things that a decent person with good conscience would not do. This was provided for in the equal opportunity law brought in by the coalition while it was in government and it has served us well, but the legislation before the house today has gone the wrong way.

Issues that have caused a lot of concern in my electorate and around Victoria are the freedom of expression, freedom of religion and freedom of association. Members of the coalition believe these freedoms are a basic human right, and we believe in some instances that some of the provisions in this legislation diminish those basic human rights. The community is angry about the government interfering with issues of Christian schools or non-Christian schools and religious bodies and their ability to employ people with their own values or similar values to those they hold dear, including the religious beliefs of the principals of those schools. We understand that some schools say they want certain values reflected in their school community, and that is important. They should not be asked not to employ people with those same values. Again, this diminishes a school's right to employ who it wants.

The coalition MPs met with Pastor Peter Stevens from the Victorian state office of FamilyVoice Australia and others on the front steps of this Parliament. We were handed an open letter bearing the signatures of 992 Victorian residents who are concerned about these proposed changes to the Equal Opportunity Act 1995. They asked the Parliament not to amend the act in a way that could reduce religious freedom for Victorians.

In the few moments I have left I would like to talk about small business and the impacts that this legislation will have on it. I have been an employer — my husband and I had an auto-electrical business where I worked for 17½ years. We employed staff, and I still believe the provisions in this bill go too far the wrong way in trying to eliminate discrimination and in

imposing burdens and increased responsibilities on employers to take what the government calls reasonable and proportionate measures to eliminate discrimination.

The bill also requires employers, businesses and education authorities and service providers to make reasonable adjustments for people with impairments. If an employee has an impairment, of course you try to do everything you can to make it possible for that person to work for you in a decent way. However, this legislation goes too far. It legislates what is reasonable and what employers believe is reasonable.

The bill also reduces employers' rights to expect a certain standard of dress and behaviour from their employees. This government needs to get out of small businesses and allow them to get on with the job of employing who they want, making sure that their employees have a decent wage and decent conditions and allowing them to have decent relationships. Some of the issues that have been raised with me by employers are about advertising job vacancies. One is that employers must not be discriminatory. Most employers are not discriminatory, but this legislation goes too far. Discriminatory attributes defined in the bill are wide ranging and include many things. One attribute is height, and others include weight and even breastfeeding, and there are provisions about women being able to stay home to look after their children when that may not be in the best interests of the employer.

The bill sets out a number of conditions, and as long as conditions are agreed to between the employer and the employee, that is fair and reasonable. At present, mediation for anyone who has a complaint is voluntary. This could cause huge concerns because it could mean that if a complaint is lodged against somebody there should be mediation to see if an agreement or compromise can be put in place to benefit both of those parties. Now mediation is going to be voluntary.

Mr HUDSON (Bentleigh) — It is a pleasure to speak on the Equal Opportunity Bill 2010 because it takes us a further step down the road to eliminating discrimination. We have to recognise that whilst the 1977 legislation has served us well, the fact of the matter is that in our society discrimination persists. Discrimination is at the heart of much of the social and economic disadvantage that exists in our community today, and there is no greater cause on this side of the Parliament than eliminating and tackling disadvantage head-on to promote equity and social justice.

Whilst it is true that all people are born equal, some people are born more equal than others. The problem with entrenched discrimination is that it cannot be dealt with by tackling individual complaints. Discrimination is embedded in the very fabric of our society and comes to be seen as normal and reasonable. The Equal Opportunity Act was not enacted originally to deal with these particular forms of systemic discrimination. This kind of discrimination is real and affects people's lives, and we only have to look across a wide variety of areas to see that it has a real and material impact today.

For example, take the issue of gender discrimination. There are still substantial differences in the salaries of men and women, even after the enactment of equal pay legislation in the 1970s. That is because discrimination against women in employment persists in the workplace and in companies to the extent that, even today over 30 years later, the gap between women's pay and men's pay is still entrenched at 17.4 per cent.

Likewise we find that there is still enormous discrimination in relation to job applications. A 2009 study by the Australian National University found that job applicants in major cities find it easier to get an interview if they have an Anglo-Saxon name. To get the same number of job interviews a Chinese applicant must submit 68 per cent more applications; a Middle Eastern applicant must submit 64 per cent more applications and an indigenous applicant must submit 35 per cent more applications. Clearly discrimination is going on against people on the basis of their background.

What we also know from a study conducted by NWC Opinion Research is that one in four Victorians who experienced discrimination chose to do nothing about it, and that is a major problem. Not only do we have to be vigilant about discrimination where it is entrenched in our policies, practices, attitudes and behaviours but we have to ensure that we can conduct investigations into those matters. Systemic discrimination is not only hurtful to the individual or the groups who experience it but also damaging to those communities that suffer from discrimination and damaging to our society as a whole.

Therefore it is important to ensure that if we are going to have a socially cohesive community and an innovative and diverse business sector, and if we are going to be successful as a multicultural community, we tackle discrimination at every turn. We only have to take the example of Michael Long. In 1995 he made a complaint about being racially abused on the football field. That complaint could have been dealt with individually and was, but it was his strong and powerful stand that forced the AFL to investigate all its practices and codes of conduct and the attitudes that were

embedded in clubs to tackle racism head-on. Tackling racism head-on allowed indigenous footballers to flourish in the AFL and saw the number of indigenous footballers increase from 15 to 80 over the ensuing 15 years. That is why we need to tackle system discrimination, and that is why I support this Equal Opportunity Bill.

Sitting suspended 1.00 p.m. until 2.04 p.m.

Business interrupted pursuant to standing orders.

DISTINGUISHED VISITOR

The SPEAKER — Order! I acknowledge in the gallery today a former Minister for Education, Mary Delahunty. Welcome to today's question time.

QUESTIONS WITHOUT NOTICE

Planning: Hotel Windsor redevelopment

Mr BAILLIEU (Leader of the Opposition) — My question is to the Premier. I refer to the Premier's claim yesterday that he was unaware that his own department had provided unconditional support for the Windsor Hotel redevelopment, and I ask: if the Premier or his office did not know about this, who authorised this submission on the Windsor Hotel redevelopment by the Department of Premier and Cabinet?

Mr BRUMBY (Premier) — I am just trying to find whether I have the letter here, which I do. This matter was raised in question time yesterday by the opposition about the so-called 'secret submission' from the Department of Premier and Cabinet in relation — —

Honourable members interjecting.

Mr BRUMBY — Well, that is what you said.

Honourable members interjecting.

The SPEAKER — Order! Members will come to order.

Mr Baillieu — On a point of order, Speaker, the Premier is debating the question. He is also misleading the house. He knows I never said any such thing. The submission is referred to in the planning advisory committee report.

The SPEAKER — Order! I find it difficult to uphold the point of order when the Premier has just started his response to the question.

Mr BRUMBY — I do have another submission on the Windsor Hotel redevelopment.

Honourable members interjecting.

The SPEAKER — Order! I ask for some cooperation from the member for Hastings and the member for Burwood.

Mr BRUMBY — I have a submission here and it says, 'I was very pleased this morning — —

Mr McIntosh — On a point of order, Speaker, the Premier is debating the question. The question was about a Department of Premier and Cabinet submission, not another submission. He says he has another submission. He should confine his answer to his submission. The question was: who authorised that submission to the panel?

Mr Batchelor — On the point of order, Speaker, the Premier was asked a question in reference to a question that was raised yesterday about a submission — —

Mr Wells — You weren't listening.

Mr Batchelor — Yes, I was. It was in reference to yesterday's question — —

Honourable members interjecting.

The SPEAKER — Order! I suggest to all members that we all listen to the Minister for Energy and Resources on the point of order.

Mr Batchelor — The question asked by the Leader of the Opposition was in reference to a submission that was referred to yesterday. The Premier is answering that question and should be allowed to answer that question.

Dr Napthine — On the point of order, Speaker, the Premier clearly said he had and was referring to 'another' submission. The question was quite specific with regard to the submission from the Department of Premier and Cabinet. The Premier should be confined to answering the question with regard to the submission from the Department of Premier and Cabinet, and who authorised it. It would be debating the question to refer to another submission and quote from another submission, which the Premier is now proposing to do.

The SPEAKER — Order! I ask the Premier in responding to the question to address the question as it was asked. I ask members to show more patience and allow the Premier to utter more than five words before taking a point of order.

Mr BRUMBY — As I said, the opposition raised this question yesterday, referring to it as some sort of secret submission.

Mr Ryan interjected.

Mr BRUMBY — Yes, you did. That is exactly what you said. So after question time I obviously made inquiries as to what this so-called secret, covert submission was. What it is — —

Honourable members interjecting.

Mr BRUMBY — Are you for real?

Honourable members interjecting.

The SPEAKER — Order! I ask all members for their cooperation in the smooth running of question time.

Mr BRUMBY — I made inquiries. The document to which the honourable member refers is a document produced by the Office of the Victorian Government Architect. It is a letter to Mr Adrian Salmon, assistant director statutory approvals, Department of Planning and Community Development, Melbourne, Victoria 3001. It refers to the planning permit application in relation to the Hotel Windsor, and it goes on for a page and a half and is signed off by Geoffrey London, Victorian government architect.

This is the view of the Victorian government architect. I am proud of the fact that we created a position in government for a Victorian government architect. The reason we did that was so that an architect — someone well-known, well-established, well-credentialled, with an excellent reputation — could provide independent input and views on significant planning issues to do with Melbourne's heritage. This was all about building a more livable Melbourne and a more livable Victoria.

The submission is from the Victorian government architect. It is a submission in which he concludes that he believes the 'design strategy results in the restoration of a fine heritage building'. He went on to say:

> … the carefully considered placement of new architectural forms housing complementary functions will secure the Windsor's future and its ongoing relevance to Melbourne. The proposal offers a fully considered and exceptional outcome in terms of urban design and architectural design quality and is likely to contribute in a positive way to the existing precinct for the reasons outlined above.

I am happy to table the letter, which I will do and give to the clerks.

In closing, I reiterate: on the decision in relation to the Windsor, the advice received was from the independent panel, which was supportive; Heritage Victoria, which was supportive; the Department of Planning and Community Development, which was supportive; the Melbourne City Council, which was supportive; and the Victorian government architect. There is a further comment, which says:

> I was very pleased this morning to attend the announcement of the Hotel Windsor's expansion plans. It was great to see that the proposed $260 million development is going to expand the Hotel Windsor and secure the future of the city's only remaining 19th century grand hotel.

It goes on to say:

> I am very pleased that the owners have seen fit to invest a quarter of a billion dollars into this major project, and I look forward to its development.

That is from the state opposition. That is from Mr Dalla-Riva.

This development is supported by an independent panel, Heritage Victoria, the Department of Planning and Community Development, Melbourne City Council and the government architect — and fully supported by the state opposition.

Royal Children's Hospital: redevelopment

Ms MUNT (Mordialloc) — My question is to the Premier. I refer 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 redevelopment of the Royal Children's Hospital?

Mr BRUMBY (Premier) — I thank the honourable member for her question and for her strong support of this project. Earlier today I was happy to join the Minister for Health, the chair of the Royal Children's Hospital, Tony Beddison, and many of the builders, architects and others involved in this great new development, including Bovis Lend Lease, who are building it, both to inspect the current progress on the children's hospital and also to see one of the new rooms which has been completed. It was only a few months ago that I was there with the minister for the conclusion of the last concrete pour for that hospital.

There are 1600 people on site today working on that building and within a few months there will be 2200. This is just an exceptional project for our state. The thing that pleased me most today was not just the progress that has been made on this beautiful new facility for our city and our state, but also the quality of

the work that has been undertaken. I thank the workforce and Bovis Lend Lease for that, and everyone who has contributed to the building. Eighty-five per cent of the rooms in the new children's hospital will be single rooms, so that the parent or parents of a sick child will be able to stay there, in the room, with those children.

When the existing Royal Children's Hospital (RCH) was built back in the 1960s, the culture at the time was that it was not supported to have parents in there with their children. In fact, parents were given two hours strictly every day; that was the only visiting time. Last night at the children's there were 209 parents who were sleeping there overnight. I know from personal experience close to 12 to 14 years ago when one of our children was in the hospital that when your child is very ill in the children's you want to be there overnight with your child, providing them with love and care. In the new hospital they will be able to do that with, as I said, 85 per cent of the rooms being single rooms, with a couch with fold-out bed which is available for the parents.

To make it easier for families, in addition to that the new RCH will also include a 90-room, 3.5-star hotel and two child-care centres with all the facilities and support that go with that. A patient zone will be built into it — a safe haven for sick children — a parent zone, storage, internet access and so on, and also a clinical zone to store medical equipment and write up notes. The new hospital is also going to treat an extra 35 000 patients a year. I think it is a stunning new asset for our state now and into the future.

It is worth considering this hospital in the context of broader investments. Think of the huge investment that has been made in the hospital system in our state. The Berwick hospital was built shortly after we came to government. There is the Austin, of course. The drive for that was spearheaded by members in this house, and the member for Ivanhoe in particular. It cost $350 million and is just a beautiful hospital, and one that was going to be sold off and privatised by the Kennett government. We have built the new women's hospital as well. We have committed $407 million to the new Box Hill Hospital, and we are now three-quarters of the way through building the new children's hospital.

All of this is a huge investment in the health infrastructure of our state. It is no wonder that our city is the most livable city in the world. All of this has been backed with significant investment in country Victoria, in places like Ballarat, Bendigo, Warrnambool, Rochester and Alexandra and right across the state. This is a good story. It is a fantastic new hospital. It is absolutely true to say that this new hospital, when completed next year, will not just be the best children's hospital in Australia but will rank right up with the very best children's hospitals anywhere in the world, and the beautiful new facility will be matched by the wonderful love, care and attention provided by our fine staff at the children's hospital.

Planning: Hotel Windsor redevelopment

Mr CLARK (Box Hill) — My question without notice is to the Premier. In regard to the redevelopment of the Windsor Hotel, will the Premier confirm whether he or his office met or had discussions with representatives of the Windsor or the developers prior to the approval of the redevelopment last week, and if so, how often and when?

Mr BRUMBY (Premier) — I did not, but obviously Mr Dalla-Riva, a member for Eastern Metropolitan Region in the Council, did. Obviously he did. He was there. In fact he goes on to say — this is Mr Dalla-Riva:

> I was in attendance today to hear Mr Halim, one of the directors of the Melbourne-based Halim Group — —

Honourable members interjecting.

Mr BRUMBY — That is what he said.

The SPEAKER — Order! The Premier is debating the question, and I ask him not to reference the opposition member any further. The Premier has concluded his answer.

Road safety: Easter campaign

Ms LOBATO (Gembrook) — My question is for the Minister for Roads and Ports. I refer to the government's commitment to make Victoria the best place to live, work and raise a family, and I ask: can the minister outline to the house what steps the government is taking to make our roads safer, particularly in the lead-up to Easter, and is he aware of any challenges?

Mr PALLAS (Minister for Roads and Ports) — I thank the member for Gembrook for her question and her continuing support for this government's efforts to drive down our road toll. We are delivering better, safer roads for all Victorian communities. We have also delivered the seven lowest road tolls in the last seven years. Since our Arrive Alive strategy was introduced we have seen the road toll reduced by 35 per cent — that is 874 lives that have been saved as a consequence of the introduction of this strategy.

We have achieved this due to our road safety strategy but also recognising that investment in our roads is a critical part of that. Since 1999 we have invested $7.6 billion in building better roads right across Victoria. We plan to invest another $650 million over the next 10 years under the Arrive Alive road safety strategy to bring the road toll down by a further 30 per cent by 2017. That is part of our plan. That is our strategy: safer roads, better connected communities, and of course economic growth that flows from those roads.

Our strategy is underpinned by strong enforcement. Some claim the government's road safety strategy is all about revenue raising, but our enforcement and traffic camera strategies are about saving lives. Since the introduction of safety cameras on our road system in 1989 we have seen a 50 per cent reduction in the road toll. Speed is the biggest killer on our roads: it contributes to about 30 per cent of all fatal crashes. The Auditor-General found in his report on the government's speed-enforcement initiatives that, and I quote:

> We are satisfied that the speed-enforcement initiatives are underpinned by strong evidence and are primarily directed at reducing road trauma, rather than raising revenue.

The deputy commissioner of road policing said:

> Our research shows that mobile cameras do reduce average speeds on roads. We're very confident that they make a significant difference to our road toll.

The government and Victoria Police are committed to our continuing strategy of reducing the incidence of serious injury and death on our roads. But there are alternative strategies — for example, strategies in New South Wales that were criticised by the Pedestrian Council of Australia, when it said:

> The enforcement of speeding has been severely compromised by politicians who care more about the ballot box than the lives and limbs of the people of NSW.

We make no apologies for this government's strategy of asking motorists to obey the law. Our aim is to save lives and prevent serious injuries on our roads. Others have no road safety strategy. They have no plan. They say what people want to hear, or at least what they think people want to hear. But of course they think it is okay to encourage bad behaviour on our roads, to rationalise away the fact that people are speeding, in an effort to indicate to them that this behaviour is acceptable and that the government is in some way complicit. Their only policy is to encourage people to continue to speed by implementing a 10 per cent tolerance on speed limits. This sort of strategy was slammed in a joint statement by the Royal Australasian College of Surgeons and the Pedestrian Council of Australia, when — —

Dr Napthine — On a point of order, Speaker, the minister has had considerable leeway. He has been debating the question for some time, and I ask you to bring him back to answering the question with respect to government business.

The SPEAKER — Order! The question revolved around a strategy for safer roads and any challenges to that strategy. I believe the minister at the time was quoting from a prominent medical association and I am having difficulty in upholding the member's point of order. The minister, however, has been speaking for longer than 4 minutes, and I ask him to conclude his answer.

Mr PALLAS — The strategy that had been identified by the Royal Australasian College of Surgeons and the Pedestrian Council of Australia — 'Trading lives for votes — Ted Baillieu will have blood on his hands' — —

Honourable members interjecting.

The SPEAKER — Order! I warn the minister not to go down that path. I am assuming he has concluded his answer.

Public transport: myki ticketing system

Mr MULDER (Polwarth) — My question is to the Premier. I refer the Premier to the Transport Ticketing Authority stakeholder and media plan, dated July 2009, which recommends tactics under the heading 'Proving the system works', including:

> Media releases and briefings … drafted by … TTA for … minister —

and I ask: can the Premier confirm that since 16 July 2009 neither of the ministers responsible has been able to put out even one media release that proves the myki system actually works?

Honourable members interjecting.

The SPEAKER — Order! I ask government members, particularly the Minister for Health, to come to order.

Mr BRUMBY (Premier) — What I think is evident today, with questions about plans, is that the opposition has no plan for question time. It did not have one yesterday. Are you on plan B already? What happened to the Windsor? Have you lost your way?

The SPEAKER — Order! I ask the Premier not to debate the question.

Mr BRUMBY — Again, the question was about plans. No transport plan, no water plan, no education plan — —

The SPEAKER — Order! I ask the Premier not to continue in that vein. The Premier, to respond to the question as asked. The Premier has concluded his answer.

Honourable members interjecting.

The SPEAKER — Order! Members will come to order. I warn the member for Polwarth that I will not accept that behaviour as appropriate parliamentary behaviour.

Schools: regional and rural Victoria

Ms DUNCAN (Macedon) — My question is for the Minister for Education. I refer to the Brumby Labor government's commitment to make Victoria the best place to live, work and raise a family, and I ask: can the minister outline to the house what action the Brumby Labor government is taking to ensure children in regional and rural areas receive a great education, and is the minister aware of any actions that may prevent Victorian students being given every opportunity to shine?

Ms PIKE (Minister for Education) — I thank the member for Macedon for her question and, of course, her longstanding commitment to education for young people in country Victoria. We have said many times, and our actions show, that education is the Brumby government's no. 1 priority. Through the Victorian schools plan we are investing $1.9 billion in this term of government particularly, to rebuild, renovate or extend 500 schools. We are also working with the Rudd government to deliver more than $2.5 billion to Victorian schools through the Building Education Revolution, stimulating the economy, creating jobs and of course creating great school facilities for our young people. Communities and schools are delighted. They love the new facilities they are receiving. On this side of the house — —

Honourable members interjecting.

The SPEAKER — Order! I suggest to the members for Warrandyte, Nepean, Malvern and Bass that I am having difficulty hearing the minister because of the volume and constant nature of interjections.

Ms PIKE — On this side of the house we know that actions speak louder than words. That is why we are getting on with the job of building a world-class education system right around this state — and because every child, regardless of their location, has to have access to a great education.

We have seen several local members flocking to openings, inspecting works and praising this government for the Victorian schools plan and the Rudd government's Building Education Revolution. I have had the opportunity to join with many members as we open these new facilities.

Cohuna Secondary College has been a fantastic project. On top of the previous investments of $1.4 million we have recently invested another $400 000 in modernising the college's years 7 and 8 learning spaces. That is why I was very pleased and in fact a bit surprised to read in the *Cohuna Farmers Weekly* that the building was 'officially' opened by the member for Rodney, whose name is gleefully displayed on the plaque.

Honourable members interjecting.

The SPEAKER — Order! Will members come to order, please.

Ms PIKE — It is a great project and it is fantastic that it is being supported by that local member — the very same member, I must say, who put out a press release about a week ago accusing people of claiming credit for the work of others!

Honourable members interjecting.

The SPEAKER — Order! I ask the minister to return to government business.

Mr Hulls — That is the big Cohuna!

The SPEAKER — Order! The Deputy Premier!

Ms PIKE — The federal member for Gippsland showed his support for the Brumby and Rudd governments by attending the opening of $4.4 million works at Maffra Secondary College, which was opened by the Victorian Treasurer, John Lenders.

Mr Ingram interjected.

Ms PIKE — With great support from the member for Gippsland East. This kind of support is most welcome. Principals have had enough of their schools being used as political footballs. Just today — —

Honourable members interjecting.

The SPEAKER — Order! I now warn the members for Warrandyte, Nepean, Malvern and Bass.

Ms PIKE — Thank you, Speaker. We have seen the principal of Bendigo Senior Secondary College rebuke the Liberal candidate for Bendigo East for his deceitfulness.

Honourable members interjecting.

The SPEAKER — Order! The minister is clearly debating the question and I ask her to come back to government business.

Ms PIKE — As I said, we are very committed to continuing to provide great facilities for our children in rural and regional Victoria, and we are very pleased to be able to attend a number of openings and to affirm the work that is already being done. I was delighted to read about the opening of classrooms in Toongabbie — again, 'officially' opened by the member for Morwell, who said that it was 'vitally important', and I absolutely concur, for governments to continue to invest. Of course the way that governments will continue to invest is to continue to provide the resources for new facilities. The greatest threat to that investment is the commitment by the federal Leader of the Opposition to rip $20 billion from the Building Education Revolution as part of the economic stimulus package.

The SPEAKER — Order! The minister should conclude her answer.

Ms PIKE — I think that actions speak louder than words. It is one thing to affirm these buildings and to be present and to put one's name on the plaque, draw back the curtain and cut the ribbon and say how fantastic it is; it is another thing not to have the courage of one's convictions and stand up to those who would rip the resources from what is a fantastic set of projects.

Planning: coastal strategy

Mr INGRAM (Gippsland East) — My question without notice is to the Premier. The state government has recently directed catchment management authorities to implement the 0.8-metre sea-level rise on top of existing flood-level overlays, effectively halting all investment and development in many coastal communities, and I ask: why has the government implemented this policy before it has finalised the tools and guidelines to allow local government authorities to deliver anything but months of uncertainty?

Mr BRUMBY (Premier) — I thank the honourable member for his question. I am aware of the issue that he has raised. It has been raised in a number of the community cabinet meetings that I have attended and it has also been raised with the Minister for Planning and the Minister for Regional and Rural Development. We recognise that this is a serious issue within a number of communities, particularly coastal communities.

The issue arises because we believe, as does the Australian government — and I think I would be right in saying both sides of this house believe — that climate change is real and we need to plan to ensure that we can respond in the appropriate ways in relation to climate change in the future. One of the ways we do that is to think carefully about how we build, how we provide long-life infrastructure and developments in some of those vulnerable areas.

The 0.8-metre figure to which the honourable member refers was included in the Victorian coastal strategy because it reflects the consensus view of the science, as stated in a number of reports by CSIRO and by others such as the Intergovernmental Panel on Climate Change. I just want to point out to the honourable member and to members of his community that the 0.8-metre figure is not a limit or a proscription on building anything at all, but it is about considering appropriate planning and building design. What the strategy requires is that developers do a vulnerability assessment of the impact of storms and the potential for inundation, both as a result of sea-level rise generally and from storm events. I think the basis of it is a sound policy approach to try to tackle what will be an increasingly important issue for Victoria and Australia and the world in decades to come.

In terms of how we work through this in a practical way, I am advised that Regional Development Victoria and the Department of Planning and Community Development met yesterday with local and federal government representatives, local businesses and the community, and they discussed the issues and the risks of building on flood plains. A steering committee has been established to work through a range of these solutions to ensure that community voices are properly heard and to ensure that business investment can continue in the region.

Housing: government initiatives

Mr SCOTT (Preston) — My question is to the Minister for Housing. I refer to the Brumby Labor government's commitment to make Victoria the best place to live, work and raise a family, and I ask: can the minister outline the steps the government is taking to secure affordable accommodation for more Victorian families?

Mr WYNNE (Minister for Housing) — I thank the member for Preston for his question. As members of the house will recall, earlier this month the government released its Victorian integrated housing strategy, which draws together three themes of housing affordability: planning, the delivery of affordable housing, and consumer protection. This strategy was very warmly welcomed by the housing sector, underpinned by the government's announcement of a historic investment of a further 4500 units of subsidised rental housing properties. This will bring 7500 new units of affordable rental accommodation into the private rental market over the next two years.

As members of the house may recall, these homes need to be newly built, they need to be in the private rental market for 10 years, and they have to be in the market for 10 years at 20 per cent below the market rental for that area. In return, the proponents receive an annual incentive of $6000 from the commonwealth government and $2000 from the state government, a total of $80 000 for that 10-year period. This is a really great outcome for the private rental market.

The Real Estate Institute of Victoria indicated today that rental vacancy rates for metropolitan Melbourne have eased slightly from 1.5 per cent to 1.7 per cent. I would say this intervention makes a real difference in the private rental market, but it will also obviously have an impact on the public housing waiting lists.

This type of investment by the Brumby government makes a huge difference from a social perspective, but it also makes an enormous difference in terms of the economy here in Victoria. As the Premier has indicated very recently, if you look at dwelling approvals over the last 12 months, you will see that Victoria has accounted for something like 32 per cent of the nation's dwelling approvals despite the fact that we represent only a quarter of the nation's population and a quarter of the nation's economy.

If you put this record investment together, the combined impact of 7500 units of national rental affordable scheme properties, 4500 units from Nation Building funds and the continuing record investment of $500 million announced in the 2007–08 budget means we will put on the ground in excess of 13 500 units of new public, social and affordable rental accommodation. That is a record investment and a record impact on jobs. In jobs terms it means literally thousands of on-site jobs in the building industry and a critical flow-on effect on the supply chain. This is, frankly, a record investment, and one that we have not seen for decades.

Others can sit on the sidelines and bang out press releases — all 74 of them — or they can get on, get into the space and try to make a difference in the lives of some of the poorest and most dispossessed in our community.

Mr K. Smith — When are you going to start?

The SPEAKER — Order! I ask the minister to ignore interjections. I ask the member for Bass not to interject in that matter, and I remind him that he is on a warning already.

Mr WYNNE — The 74 press releases are a bit like a bad day on cable television — 74 channels and there is nothing worth watching.

To have credibility in this space you must have a policy, a proposition or, heavens above, perhaps even an idea. Without that we can only judge people on their track record. In this case I simply refer to the public record at the last election when there was $5 million from those opposite but $500 million from this government.

The SPEAKER — Order! The minister has concluded his answer.

Rugby Union: Super 15 team

Mr RYAN (Leader of The Nationals) — My question is to the Minister for Sport, Recreation and Youth Affairs. I refer to the claim by the minister in a media release of 12 November 2009 regarding the long-awaited and very welcome awarding of a Rugby Union franchise to the Melbourne Rebels consortium, in which he claimed:

> … the Victorian government had taken a leadership role in the bidding process and worked closely with the —

Australian Rugby Union. I refer also to the comment in an article dated 12 February claiming that the minister had:

> … played a critical behind-the-scenes role in pressuring the ARU …

Given that John O'Neill, the chief executive of the ARU, was reported on 2 March as having said:

> I've read that James Merlino had been working feverishly behind the scenes to make sure that the Melbourne Rebels got up. Well, that is news to me …
>
> The Victorian government's response to that would be, 'We built the (new rectangular) stadium'. They were going to build the stadium anyway.

> We are grateful for the construction of this wonderful stadium but the government's contribution to the Rebels directly is nothing.

I ask: is it not a fact that the minister has been caught out chasing a headline, hanging off the coat-tails of other people's hard work and once again working to a manipulative government media plan?

Honourable members interjecting.

The SPEAKER — Order! Members will come to order.

Mr Andrews interjected.

The SPEAKER — Order! The Minister for Health!

I remind the Leader of The Nationals of standing order 57 on the form of questions being succinct. The length of the questions from the Leader of The Nationals is becoming a problem for the Speaker, and I ask the member to reflect on my comment. I also believe there were a number of questions within that one question. I call the Minister for Sport, Recreation and Youth Affairs.

Honourable members interjecting.

The SPEAKER — Order! I understand that it is Thursday afternoon and quite late in question time, but that is no reason for members to behave in such a way. The minister will be heard.

Mr MERLINO (Minister for Sport, Recreation and Youth Affairs) — I thank the Leader of The Nationals for his speech.

Honourable members interjecting.

The SPEAKER — Order! Members of government will come to order.

Mr MERLINO — Every member in this chamber who has been associated with the sport of Rugby Union — and I am talking about a number of members on the opposition benches and a number of members on the government benches, including the Minister for Roads and Ports — and everyone involved in Rugby Union in Victoria knows that the licence to have a Super 15 Rugby team in Victoria was won in spite of people at the ARU and was won — —

Honourable members interjecting.

The SPEAKER — Order! I must admit to not realising that Rugby was such a sport as to inspire such enthusiasm. I ask again that members remember that they are in the Parliament.

Honourable members interjecting.

The SPEAKER — Order! The members for Lowan, Albert Park, Yuroke and Narre Warren North are not helping. I ask for some cooperation to finish question time.

Mr MERLINO — I would also advise the Leader of The Nationals and other members interested in Rugby Union — which does involve a lot of passion; it is a very passionate community — to speak to the likes of Gary Gray, the president of the Victorian Rugby Union, to speak to the likes of Harold Mitchell, to speak to the likes of John Wylie, who is chair of the MCG Trust and played a critical role in getting this licence overboard. I would suggest that the Leader of The Nationals speak to those Victorians and not take the word of the failed major events head in New South Wales.

Everybody knows that the best thing we could have done for Rugby Union, for Rugby League and for soccer in this nation was build the rectangular stadium, which is a $268 million investment. It will be a world-class facility when it opens on 7 May. Over 30 000 fans will pack that stadium, and every Rugby Union fan in this state, every Rugby League fan in this state and every soccer fan in this state will thank the Brumby government for building that stadium.

Honourable members interjecting.

The SPEAKER — Order! I ask the minister to conclude his answer.

Mr MERLINO — In conclusion, because we built the stadium and because it is going to be such a magnificent facility for Victoria, the Melbourne Rebels have been able to secure arguably the best coach in the land and are getting the best players in the land. It will be a fantastic team. This question shows not only that The Nationals are anti-Victorian but are pro-Sydney.

Honourable members interjecting.

The SPEAKER — Order! I suggest to government members that jeering in that manner is most unparliamentary.

Mr Trezise interjected.

The SPEAKER — Order! I suggest to the member for Geelong that he cease interjecting.

Racing: regional and rural Victoria

Mr HARDMAN (Seymour) — My question is to the Minister for Racing. I refer to the Brumby Labor

government's commitment to making Victoria the best place to live, work and raise a family, and I ask: can the minister outline to the house how the Brumby Labor government is supporting the regional racing industry?

Mr HULLS (Minister for Racing) — I thank the honourable member for Seymour for his question. He would know, as we all know, that racing has been the heart of rural and regional communities for a very long time. In fact it contributes — —

Honourable members interjecting.

The SPEAKER — Order! I suggest to the member for South-West Coast that at this time on a Thursday afternoon, as this is the response to the last question of question time, I would like to think that he would cooperate. As a former senior member of this house, I ask — —

Honourable members interjecting.

The SPEAKER — Order! As a senior member of this house — a very senior member of this house — I ask for his cooperation to conclude question time.

Mr HULLS — Even the former senior member would know that country racing is worth something like $257 million to the Victorian economy, and that is why the Brumby Labor government has a plan for its future. The member for South-West Coast would know that we are the biggest supporter of country racing in this state's history.

Just a small glimpse of the Brumby government's plan for the industry was seen last Sunday — and it is a pity that the Speaker could not make it — in the Yarra Valley, at the Yarra Valley Cup, which I attended along with the member for Seymour, who is a huge supporter of country racing. I was pleased, with him, to announce a $2 million funding package for the stage 1 redevelopment of the Yarra Valley racecourse. This will involve the racecourse being transformed into a community events centre which will be a great asset for the whole community to enjoy. It will also have facilities, I might say, to support effective emergency management. Stage 2 will involve the building of a 4-star boutique hotel and conference centre, which I know the area is indeed crying out for.

But our plan does not stop with just thoroughbreds; our plan is for the whole industry. On 16 March I was at Logan Park in Warragul to officially open the $1.9 million redevelopment of the greyhound racing track, of which the Brumby Labor government contributed $1.3 million. I have also been around the state announcing the installation of plastic running rails in a whole range of tracks, including those of Bendigo, Moe, Sale, Bairnsdale, Kyneton and other places.

Through programs like the record-breaking $86 million Regional Racing Infrastructure Fund — the largest ever funding commitment to regional racing by any government in this state's history — the $4.6 million committed so far to the Living Country Racing program, the $18.6 million delivered under the racing industry development program, and the $14 million developed under other various grants programs, this government has a clear record and clear plan for regional racing in the future. It has been covered by local newspapers from Warrnambool to the *Geelong Advertiser* and other newspapers as well.

Despite the fact that we have already heard today that those opposite have no plan, it was very pleasing to see the member for Lowan supporting our plan at the reopening of the Hamilton harness racing track and also pleasing to see the member for Narracan, to his credit, at Warragul, also supporting our plan. But not everyone supports the largest ever racing infrastructure plan for Victoria. Not everyone supports the brand-new facilities.

Honourable members interjecting.

The SPEAKER — Order! I suggest to members of the opposition that hooting in that manner is most unparliamentary. However, the Minister for Racing seems to be going down a path that invites interjections from the opposition. I ask him to conclude his answer.

Mr HULLS — In conclusion, I would have thought that everybody would have supported this. There is a person who bags our plan and bags country racing, but to his credit he follows me around attending these openings, no doubt to bag himself a sandwich or a cupcake. The fact is that the shadow minister's shadow is becoming bigger and bigger with every government racing announcement!

Honourable members interjecting.

The SPEAKER — Order! I inform the Minister for Racing that he lost his microphone at the commencement of that tirade, which was also unparliamentary. However, the opposition's interjections are not worthy of this chamber.

Mr Clark — Speaker, I want to raise a point of order regarding the Premier's answer to a question I asked on Tuesday. My point of order goes to standing order 1 and section 19 of the Constitution Act 1975. On Tuesday I asked the Premier a question regarding a Mr Graeme Holdsworth. The Premier replied:

> I do not know the person concerned, and I will make inquiries and respond to the member's question.

It should go without saying that when the Premier or a minister gives an undertaking to the house, the house should be able to expect that that undertaking will be met within a reasonable time. Of course what amounts to a reasonable time in any particular case will depend on factors including the ease with which the relevant information can be obtained and the importance of the issue. I note that in question time today the Premier had time to follow up and provide further information on another question relating to the same advisory committee report. The question is what procedure should be followed in cases such as these to ensure that an undertaking such as the Premier's is complied with. Clearly if the undertaking had been given with no intention of honouring it, that would amount to misleading the house.

However, aside from that point, there are issues raised by standing order 1 and section 19 of the constitution. As you would be aware, Speaker, standing order 1 provides:

> In all cases that are not provided for in these standing orders or by sessional or other orders, or by the practice of the house, the Speaker will determine the matter after reference is made to the rules, forms and practices of parliaments operating under the Westminster system, insofar as they may be applicable.

Section 19 of the constitution provides, in effect, that the privileges, immunities and powers of the Council and Assembly are those that existed within the UK Parliament as at 21 July 1855.

Honourable members interjecting.

The SPEAKER — Order! Government members will come to order.

Mr Clark — In-so-far as the practice at Westminster is relevant, *Erskine May*, 23rd edition, page 356, contemplates that when what it refers to as 'holding answers' are given, those answers will be noted and the date of the holding answer is given at the time of publication in the official report of the house of the substantive answer.

Westminster does not follow exactly the practices that we follow in this place — there has been a divergence over the years — nonetheless that gives an indication as to the way in which the Westminster Parliament treats holding answers such as those given by the Premier.

Accordingly, I ask you, Speaker, to rule, on notice if necessary and having regard to the practices of other Westminster parliaments, on what procedures should apply to make sure the house receives the answer which the Premier undertook to provide to it.

Mr Brumby — On the point of order, Speaker, in response to the honourable member's question on Tuesday, which was about appointments to the panel process, the chair of Planning Panels Victoria, the chief panel member, Kathryn Mitchell, issued a public statement about the selection process. I am happy to read that into *Hansard*. I had assumed that the honourable member would have been aware of the statement that was issued and which goes to the question, but I am happy to table it or attach it to a letter to the honourable member. I would have thought he would have been aware of the published statement issued by Kathy Mitchell, which goes exactly to the issue that was raised in Parliament.

Mr Cameron — On the point of order, Speaker, I urge you to rule out of order the matter raised by the honourable member for Box Hill. It is a longstanding practice in this house that when matters of privilege are raised they should not be aired in the house but should be directed in the primary instance to the Speaker in chambers or alternatively by correspondence to the Speaker.

The SPEAKER — Order! I am not prepared to rule on the point of order at this moment. I will take it on notice and come back to the member for Box Hill.

Mr McIntosh — On a further point of order, Speaker, yesterday there was a question from the Leader of The Nationals directed to the Premier, on which the member for Burwood made a point of order about the fact that the question related to something that had occurred prior to the current Premier's administration. You accordingly made a ruling, and you ruled the question out of order. It was the subject of considerable debate at a later stage, initiated by me through a further point of order when I asked you to review that decision over a period of time.

In informal discussions between us you indicated you are not prepared to rule on it today. I just alert you to the fact, Speaker, that a very similar question was asked in question time in the upper house today. It was a similar question that in the preamble related to business of a former government. That was prior to the current regime but the question related to the current Premier. An objection was raised, but the President of the Legislative Council ruled the question in order. I ask you to review the *Hansard* report of the upper house, and by way of assistance this may be something you take into account in your formal ruling in response to my point of order yesterday.

The SPEAKER — Order! I can assure the member for Kew that I will give the proceedings in the upper house the weight that would be most appropriate.

This is possibly a little unusual but I would like to comment on something that the Deputy Premier and Minister for Racing raised in his answer to a question about the Speaker not being at the Yarra Glen races on Sunday because I was here at the Parliament House Open Day. I take the opportunity to thank all the parliamentary staff who gave up their day to come and allow 4000 members of the Victorian public, visitors and overseas guests, to come through the house. It was a great day. Our appreciation to all the staff should be absolutely wholehearted.

EQUAL OPPORTUNITY BILL

Second reading

Debate resumed.

Mr DIXON (Nepean) — Along with my colleagues I will be opposing the Equal Opportunity Bill. We in opposition consider that on balance and in many ways the legislation is heading in the wrong direction.

The specific aspects of this bill that I wish to refer to relate to religion-based schools. In Victoria 35 per cent of students attend a non-government school. Most of those schools are either affiliated with Independent Schools Victoria or the Catholic system, and most of those schools are religion-based. We have Catholic, Greek, Anglican, Uniting Church and Lutheran schools, and many independent schools are known as Christian schools. They are faith-based schools and there are tremendous implications in this bill for those schools.

The concern I raise today is that the bill restricts the freedom of religious exemption for schools for quite specified attributes. Once we come down to those narrow definitions we are asking for trouble. There will be some difficulty in making rulings in relation to these definitions if it comes to that stage.

The bill further restricts exemptions for non-employment discrimination. The bill states that it will allow only discrimination that is 'reasonably necessary' — this has been changed from the current 'necessary' — 'to avoid injury to … religious sensitivities'. This is a quite significant change. It is only one word but it makes a significant change and will certainly impact on our religion-based schools in Victoria.

In clause 82(3)(a) the bill restricts exemption for employment discrimination to where:

> … conformity with the doctrines, beliefs or principles of the religion is an inherent requirement of the particular position …

This means that the bill prohibits schools from selecting staff who will uphold the school's values unless that conformity is an inherent requirement of the particular job that was advertised. That demonstrates to me an ignorance of what religious and faith-based schools are about.

The vast majority of teachers — and staff, not just teachers — working in these schools do not simply teach a particular subject. Many other responsibilities within the school and even within the community come with those jobs. An example of this would be a mathematics teacher who also has a home room. Part of the duties of a home room teacher would be to talk to the students about their behaviour, the values and beliefs of the school and also the various activities the school is taking part in and how they refer to the values and beliefs of that school.

Classroom teachers and other staff are also required to attend religious ceremonies associated with the denomination of the school. They are expected not only to attend but also to actually plan, organise and take part in those ceremonies. That is another set of duties required just by being part of the staff of a particular school. Staff are required also to take part in assemblies and contribute to them. School assemblies are part of the gathering of that community, where the whole school community gathers and where the core values and beliefs in the faith of that school community are discussed and exhibited. They are an integral part of those school assemblies. Discipline and the values it is based on very much relate to the faith, doctrine and belief of those schools. You cannot divorce yourself from that if you are teaching in one of those schools.

One of the other requirements of teachers is that within the school the everyday life and the interpersonal relationships with students, other teachers and also parents and the broader community, the teachers must bear witness to the school's values and beliefs.

These are the sorts of things that are a very important part of employment in any of these sorts of schools. The question is: is this a deliberate omission, or is it based on ignorance? I think it is the former, and it is going to make real difficulties for religion-based schools.

Another aspect of the bill which I think will affect all schools is clause 42, which restricts the standards of dress, appearance and behaviour for school students to reasonable standards compared with the current act, which allows the standards to be set by the local community. We should not be taking that right away from the local community. Schools belong to their local community, and I think that is a very dangerous track to be taking.

I could say much more, but many of my colleagues wish to speak on this bill. I oppose this bill. It has quite dangerous ramifications for our religion-based schools, and I do not trust where this government is going.

Debate adjourned on motion of Mr LANGDON (Ivanhoe).

Debate adjourned until later this day.

CREDIT (COMMONWEALTH POWERS) BILL

Council's amendments

Returned from Council with message relating to amendments.

Ordered to be considered later this day.

MEMBERS OF PARLIAMENT (STANDARDS) BILL

Statement of compatibility

Mr BRUMBY (Premier) tabled following statement in accordance with Charter of Human Rights and Responsibilities Act:

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

In my opinion, the Members of Parliament (Standards) 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 purpose of the Members of Parliament (Standards) Bill 2010 ('the bill') is to replace the Members of Parliament (Register of Interests) Act 1978 (Vic), and establish standards for members of Parliament (members) that reflect contemporary circumstances and community expectations.

Specifically, the bill proposes to:

(a) promote public trust and confidence in members;

(b) set out a new code of conduct for members;

(c) establish a new register of members' interests for members, requiring them to declare any personal interests which may, or may be perceived to, conflict with their public duties; and

(d) repeal the Members of Parliament (Register of Interests) Act 1978.

Human rights issues

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

The bill engages four of the human rights provided for in the charter.

Section 13(a): privacy

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

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 that it is permitted by law, is certain, and is appropriately circumscribed. Interference will not be arbitrary provided that the restrictions on privacy are in accordance with the objectives of the charter and are reasonable, given the circumstances.

Three sections in the proposed bill engage the right. In each instance the purpose of the limitation on the right is to prevent the potential for conflicts of interest between members' private interests and their public duties and to promote public trust and confidence in members. In particular:

(a) the proposed section 8(1) engages the right to privacy as it requires that a member must declare any actual and perceived conflicts of interest;

(b) the proposed part 4 —Register of interests engages the right to privacy as it requires that a member submit a return disclosing, in defined circumstances, information about the following: source of any income; any corporation, partnership or other body in which the member holds a beneficial interest or office; beneficial interest in land; personal debt; a trust in which the member holds a beneficial interest; the name of an estate of which the member is appointed as executor and holds a beneficial interest; gifts received, and travel outside Victoria funded by another person. The register also engages the right by requiring a member to disclose information about a member's membership of an organisation, or any interest where a conflict of interest could arise, or reasonably be seen to arise, because of that interest;

(c) the proposed part 5 — General provides that any wilful contravention of the requirements of the bill by any person shall be a contempt of the Parliament and may be dealt with accordingly, including the imposition of a fine not exceeding 35 penalty units.

The interference with privacy in these circumstances is not unlawful or arbitrary. Rather, the requirement to declare any perceived and actual conflict of interest, or private

information, is clear and circumscribed. The type of information required to be declared by members is limited to that which is necessary to determine if their interests conflict with their public duties.

In addition, the scope of the information required to be declared by members is narrower in the bill than the current act. Given this, the limitations in the bill are less onerous than those in the current Act while still achieving their purpose.

For the reasons stated, I consider that none of the proposed sections provide for the unlawful or arbitrary interference with privacy and there is therefore no limitation on the right to privacy under section 13 of the charter.

Section 15: freedom of expression

Sections 26(3) and 28 engage the right as they regulate what a person can say, write or communicate about information entered in the register of interests. Section 26(3) specifically prohibits the Clerk from making a record of, divulging or communicating information from the register of members' interests. In addition, section 26(3) creates conditions on a person's freedom to publish information derived from the register.

The right to freedom of expression is also subject to a specific limitation in the charter. Section 26(3) specifically recognises that there are special duties and responsibilities that attach to the right. Sections 26(3) and 28 impose responsibilities reasonably necessary to preserve the privacy of information disclosed by members. The limitation is provided for by the bill and is therefore lawful.

Section 16: freedom of association

Sections 8(1), 19(e), 19(j), 20(g) and 20(l) of the bill limit the right to freedom of association and are discussed in part 2 of this statement.

Section 18: taking part in public life

Part 3, part 4 and part 5 of the bill limit the right to take part in public life and are discussed in part 2 of this statement.

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

Section 16: freedom of association

Section 16 of the charter provides that every person has the right to freedom of association with others. This right protects the right of all persons voluntarily to group together for a common goal. It applies to all forms of association.

(a) The nature of the right being limited

The right to free association reflects the freedom of a society, and is essential to the exercise of other human rights, such as freedoms of movement, expression, religion and belief. The right is particularly important in a free and democratic society to ensure that a person's eligibility to participate in elections for public office is not restricted unjustifiably on the grounds of their membership of an association.

However, the right is not absolute and can be subject to reasonable limitations in section 7 of the charter.

(b) The importance of the purpose of the limitation

The purpose of the limitations is to prevent actual or perceived conflicts of interest arising between a member's activities outside of Parliament and the fulfilment of their public duties.

(c) The nature and extent of the limitation

Section 10 of the bill provides that members may engage in employment, business and community activities outside of the Parliament but that they must avoid any actual or perceived conflicts of interest that might arise from those activities, including where the activities compromise the member's ability to fulfil his or her public duties. The section also provides that members who are ministers should not partake in outside employment.

Section 10 limits the right to freedom of association in two ways. It prohibits membership of groups and associations in particular circumstances. It also creates a disincentive to assume or continue association with an organisation where it may create a real or perceived conflict of interest.

Sections 19(e), 19(j), 20(g) and 20(l) require that a member who holds office in any company or other organisation must declare details of the organisation and describe the office held by the member. Members must also disclose membership of any other organisation of which they are a member or associated if a conflict of interest could arise or reasonably be seen to arise. These sections limit the right to freedom of association as they require a person to disclose membership of a group or association, creating a potential disincentive to assuming or continuing to associate with the organisation.

(d) The relationship between the limitation and its purpose

The limitations on the right are direct, proportionate and balanced with both the needs of the state and the purpose of promoting public trust and confidence in members of Parliament. The purpose of the limitation is to enhance the integrity of Victoria's system of representative democracy which the charter seeks to protect and promote.

The limitations are reasonable and demonstrably justifiable in a free and democratic society based on human dignity, equality and freedom.

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

There are no less restrictive means reasonably available to achieve the intended purposes.

(f) any other relevant factors

There are no other relevant factors to be considered.

Section 18: taking part in public life

(a) The nature of the right being limited

The right to take part in public life protects the right to participate in public affairs, the right to vote in genuine, periodic and free elections and the right to have access to the public service and office. In particular, the right to stand for election ensures that eligible voters have a free choice of candidates in an election, fundamental to democratic principles, and that a person is able to fully participate in

public life. However, the right to take part in public life is not absolute and may be subject to reasonable limitations.

(b) The importance of the purpose of the limitation

The proposal to require members to observe prescribed behaviours and to register relevant interests recognises that there are standards that are required of people who hold public office, including that they avoid conflicts of interest, and that the community is entitled to be represented by people who will properly perform their duties as members of Parliament.

(c) The nature and extent of the limitation

Part 3 imposes on members an obligation to observe prescribed behaviour when carrying out their public duties and to disclose conflicts of interest.

Part 4 imposes on members an obligation to disclose certain financial information as well as the offices they hold.

Part 5 provides that any wilful contravention of the requirements of the proposed act shall be contempt of the Parliament and may be dealt with accordingly, including the imposition of a fine not exceeding 35 penalty units.

The proposed sections do not affect the eligibility of persons to stand for election to the Victorian Parliament. However, the proposed sections may have the effect of creating a disincentive for seeking membership of Parliament where a person is unwilling, or thinks it disadvantageous, to meet the obligations of the bill. To this extent, the sections limit a person's right to take part in public life.

(d) The relationship between the limitation and its purpose

There is a direct and proportionate relationship between the nature of the limitation and the purpose of promoting public trust and confidence in members. The limitation achieves a balance between preserving the right of persons to take part in public life and promoting public trust and confidence in members of Parliament.

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

There are no less restrictive means reasonably available to achieve the intended purposes.

(f) Any other relevant factors

None.

Conclusion

I consider that the bill is compatible with the Charter of Human Rights and Responsibilities because, although it does limit human rights, the limitations are reasonable and proportionate.

The Hon. John Brumby, MP
Premier of Victoria

Second reading

Mr BRUMBY (Premier) — I move:

That this bill be now read a second time.

This government is committed to increasing the accountability and transparency of government and the Parliament. This includes increasing the transparency of the dealings of elected representatives, and upholding the standards rightly expected of us by the public.

The bill before the house, namely, the Members of Parliament (Standards) Bill 2010, will continue this government's strong record of enhancing accountability and democracy in this state. This legislation builds on a raft of reforms that the government has already introduced including:

reforms to the Victorian Parliament including a longer, more effective question time, more sitting days and regular opportunities for matters of public importance;

reforming Victoria's electoral processes to provide a smaller, more effective Parliament, proportional representation and four-year terms for the Legislative Council;

live webcasting of Parliament;

strengthening the role of independent office-holders such as the Ombudsman, Auditor-General and Director of Public Prosecutions and entrenching their independence in the constitution;

establishing a regime to protect whistleblowers who make disclosure about public officials engaging in improper conduct;

creating a framework to ensure good governance and ethical behaviour across the Victorian public sector;

tabling an annual statement of legislative intent;

making the government board appointment process more transparent;

creating the Office of Police Integrity to create a corruption-resistant Victoria Police; and

establishing the Local Government Investigations and Compliance Inspectorate to investigate alleged breaches of the Local Government Act.

The bill will repeal the Members of Parliament (Register of Interests) Act 1978 and introduce a new act, the intention of which is to promote public trust and confidence in members of Parliament. The current act has served Victoria well, however it is now out of date and in need of reform. The role and responsibilities of parliamentarians have changed substantially since 1978, as has the public's expectations of MPs. In addition, members of Parliament are now subject to

greater scrutiny through the media and other institutions. At the same time, there is more concern for the personal privacy and security of public figures and their families. It is therefore an opportune time to review our parliamentary standards, and strengthen them in line with community expectations and the reality of being a modern parliamentarian.

In 2008, the government accepted a recommendation of the Public Accounts and Estimates Committee that the act be reviewed, and in 2009 the Law Reform Committee undertook a comprehensive review of the act. The Law Reform Committee consulted with and sought advice from people inside and outside the Parliament: current and former members of Parliament, parliamentary officials, political scientists, ethicists and community organisations. It also looked at other parliaments in Australia and overseas to learn from their experiences.

The committee tabled its report on 9 December 2009. The committee reported that overall, it believed that the concepts in the current act are still fundamentally sound, but the act is showing its age and has fallen behind best practice in some areas. The committee made 35 recommendations designed to strengthen the act so that it promotes high standards well into the future. The committee's recommendations were intended to build capacity and skills amongst members of Parliament to deal with ethical challenges, and to ensure that Parliament upholds its standards when issues arise.

This bill reflects many of the Law Reform Committee's recommendations. On behalf of the government I thank the chair and members of the committee for the valuable contribution they have made to the development of the bill.

The main elements of the bill are a statement of values, a substantially revised and improved code of conduct, and an extended register of interests.

I will deal with each of these areas in turn.

1. The statement of values

The statement of values in the bill provides an aspirational framework. It is designed to build ethical capacity amongst members. Members should demonstrate the following values in carrying out their public duties:

serving the public interest;

upholding democracy;

integrity;

accountability;

respect for diversity of views and backgrounds within the Victorian community;

diligence; and

leadership.

These values are behaviours that members should seek to embody and promote.

2. The code of conduct

The code of conduct provides guidance and rules regarding acceptable and unacceptable conduct, and is a model of best practice values and behaviours. While a code cannot guarantee ethical conduct, it can increase awareness of ethical behaviours and expectations.

The code of conduct also provides the community with information on what it should expect of its elected representatives, and a means by which members can be held to account. Unlike the statement of values, members may be sanctioned for not adhering to the code of conduct. I will refer to these sanctions again later.

The current act contains a code of conduct; however, it is fairly brief and focuses on the potential for conflicts of interest. The new code in the bill provides greater clarity on what constitutes a conflict of interest, as well as addressing broader issues such as the use of public resources and handling personal information. The code also sets out the manner in which a member can demonstrate the values I referred to earlier.

The rules in the bill's code of conduct are broad ranging, and I will just outline a selection today. Under the revised code, members of Parliament will be expected to make the performance of their public duties their prime responsibility. They must exercise reasonable care and diligence in performing their duties and submit themselves to the lawful scrutiny appropriate to their office. Members will be expected to treat all persons with respect and have due regard for their opinions, beliefs, rights and responsibilities. This is a new rule which concords with the importance this government has placed on respect for human rights in the community.

Members must avoid actual and perceived conflicts of interest between their public duties and private interests. A member has a conflict of interest if the member participates or makes a decision as part of their duties which furthers their own private interests or the private interests of their family, a corporation with which they are involved, a creditor or debtor of the member, or someone who has donated a gift to the

member. This latter group of associates is defined in the bill as being a 'prescribed person'. Members must declare any actual or perceived conflict of interest when speaking in parliamentary proceedings, including the proceedings of parliamentary committees. Declaring such conflicts of interest is vital to the transparency of parliamentary business, and the bill promotes this as expected and important ethical behaviour.

Members of Parliament must not receive a fee, payment, retainer or reward as a result of their position as a member, other than parliamentary salaries and allowances. While engagement in employment, business and community activities outside the Parliament is not proscribed, members must avoid any real or perceived conflict of interest which may interfere with their primary responsibility to the public. A higher standard is expected of ministers, who must not be employed outside the Parliament, as they are expected to devote their professional capacity entirely to fulfilling their public duties.

Members must exercise their influence as members responsibly and must not use their influence to improperly further their own interests or the interests of a prescribed person. Members must comply with appropriate rules regarding use of parliamentary allowances and facilities. They must use all public funds and resources provided to them as members responsibly and only for legitimate purposes. This is another new provision which reinforces and enshrines the proper and appropriate standards expected of us as parliamentarians.

Under the bill, members are required to act with honesty and integrity in all official dealings and must be fair, objective and courteous in their dealings with the community and colleagues. They must not use confidential information gained in the performance of their public duties for personal gain. This new provision is important to ensure that members respect the privacy of information they receive in the course of their public duties. The public is certainly entitled to expect that their private information is treated with sensitivity and respect.

It is entirely fair and reasonable that the community expects us to demonstrate and adhere to such standards of behaviour. It is a privilege to serve as a member of the Victorian Parliament, and this code will aid current and future members in upholding the dignity and integrity of the office.

3. The register of interests

Registers of interest have now become a standard feature of integrity regimes. They create transparency by requiring members to declare interests which have the potential to conflict with their public duties. Like the code of conduct, the register of interests in the current act has generally worked well; however, there is room for improvement.

This bill will initiate a series of changes, largely based around the types and extent of information required to be registered. An important consideration in developing such disclosure regimes is the need to balance adequate disclosure with privacy for members and their families. The government believes this bill strikes the right balance between public interests and private rights.

The bill will require members to declare a range of interests in the register. In essence, particular details of the following interests will need to be disclosed:

- outside income;
- investments;
- atypical debts;
- gifts and contributions to travel outside of Victoria;
- estates;
- offices held;
- trusts (including family trusts);
- memberships considered a potential conflict of interest;
- land; and
- any other interests where a conflict of interest could arise or could reasonably be seen to arise.

Members will be required to declare outside income, investments, land and debts if they are valued at more than $2000. This threshold will be indexed and rounded to the nearest $500. Gifts and travel contributions over $500 will need to be declared. This threshold will be indexed and rounded to the nearest $100. Gifts and travel contributions provided by family are exempt from disclosure. The Law Reform Committee recommended that such benefits provided by friends in a purely personal capacity should also be exempt from disclosure; however, in the interests of greater openness and transparency, the bill provides that gifts provided by friends must be disclosed if over the threshold amount.

As recommended by the Law Reform Committee, if members receive a number of gifts from the same source which are valued below the disclosure threshold, they will be required to declare them if the aggregate

total of the gifts is above the threshold. Members will not be required to register official hospitality, which is hospitality received as part of the regular and expected duties of a member of Parliament. For example, this may include duties undertaken as part of the responsibilities of a local member, a minister or a member of a parliamentary committee.

In relation to memberships and associations, members will only need to disclose that they are a member of or associated with a particular organisation if a conflict of interest could arise, or could reasonably be seen to arise, because of that membership. Members may also list memberships of or associations with organisations they are not required to disclose.

Street addresses of primary or secondary residences will no longer need to be disclosed, which is an example of increased privacy afforded by the bill. The address of land, or if there is no address, the precise description of land, owned by a member which is not used as a primary or secondary place of residence by any person will need to be disclosed. While monetary values of interests will not need to be declared, the number of shares held in investments will. Again, this achieves a balance between appropriate disclosure and privacy.

In line with current practice, members will be required to submit annual returns to the clerks of the Parliament. Members must update their returns if there is a substantial change in their circumstances. Rather than publishing a summary of the returns, the clerks will publish the returns in full.

The Clerk of the Parliament will be empowered to report a member to the relevant Presiding Officer if a member has failed to submit a return in accordance with the act. The Clerk will, however, only exercise this power once they are satisfied the member has been given reasonable opportunity to comply.

These new provisions will ensure the high standards of transparency and accountability that the public rightfully expect of their elected representatives are recognised in legislation.

Finally, I turn to the potential sanctions included in the bill if members do not fulfil their obligations regarding the code of conduct or the register of interests.

The Law Reform Committee made a number of recommendations including the appointment of an ethics adviser to assist members with their obligations under the act, as well as avenues for complaints to be made, safeguards for accused members and sanctions for breaches of the act.

The government considers that the review of Victoria's integrity and anticorruption system, which is being undertaken by the public sector standards commissioner, may consider some of these issues. The sanctions in the current act will therefore be maintained pending the outcome of the review. Any wilful contravention of the act's requirements will be considered a contempt of Parliament and will be dealt with accordingly. The houses may also determine that a fine of up to 35 penalty units (approximately $4000) is warranted, which is double the current fine amount of $2000. This fine will be expressed in penalty units so that the fine remains relevant in real terms.

In summary, this bill makes appropriate and considered reforms to the current Members of Parliament (Register of Interests) Act 1978. The reforms will increase the accountability and transparency of parliamentarians, whilst maintaining an appropriate balance between suitable disclosure and privacy.

I commend the bill to the house.

Debate adjourned on motion of Mr CLARK (Box Hill).

Debate adjourned until Thursday, 8 April.

EQUAL OPPORTUNITY BILL

Second reading

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

Mr PERERA (Cranbourne) — I rise to speak in support of the Equal Opportunity Bill 2010. This is a groundbreaking piece of legislation. It would be remiss of me if I did not congratulate the Attorney-General for providing Victorians, through this bill, with the promise of a just and fair society. Well done, Attorney-General. The reforms in the bill will equip Victoria with the ability to prevent discrimination rather than react to and resolve individual cases.

I was shocked to hear of Australian National University research results which point towards a preference among 21st century employers to grant interviews to people with Anglo-Celtic names as opposed to other names when the applications are identical. The name does not represent your appearance, the name does not represent your accent, the name does not represent your personality or ability. It certainly does not represent who you are as an individual in today's society. Such behaviour is unfortunate and antiquated and is more in keeping with the 19th century Victorian era than

today's Victoria, but it still exists in some pockets of society. It is up to this legislature to make ours a fairer society.

Society as a whole cannot be strong and prosperous without also being fair. A society flourishes when all members are able to reach their full potential without discrimination and contribute to the society they have chosen to be part of. If Barack Hussein Obama, the son of a Kenyan goat farmer, did not have the opportunity to become President of the United States of America, funding for stem cell research would still be frozen, the perception of the US as the world's policeman would prevail, an extra 32 million Americans would never be entitled to health insurance, and insurers would continue to dump American policy-holders who became sick or cap their refunds. Campaigners have fought for universal health care coverage for generations, since the days of President Theodore Roosevelt. President after president from the socially progressive side of politics, all with Anglo-Celtic names, did not have the audacity to bring on much-needed health care reform in the United States of America.

Let me cite another example of how, when opportunities are presented to all without discrimination, a society can be uplifted and a nation state helped. There are number of parliamentarians with Indian ancestry in the British Parliament. Interestingly most of them have typical Indian names such as Lord Daljit Rana, Lord Megnad Desai and Lord Navnit Dholakia, to name but a few. Lord Daljit Rana from Northern Ireland works very closely with UK Trade and Investment.

Members of parliament with Indian ancestry from all around the world travelled to India in January 2010 to attend the conference of Global People of Indian Origin. As a person with Indian subcontinent ancestry I too was invited.

UK parliamentarians of Indian origin always take a front-seat role when it comes to developing trade discussions between the UK and India. During their visit last January they met with the Prime Minister, senior ministers of the national cabinet and senior players in Indian state governments. These contributions are unparalleled. Discrimination and prejudice at all levels based on the name or racial origin of these people would have jeopardised their positive work for the country they have adopted.

This bill strikes the right balance between freedom of religion and discrimination. Religious organisations now agree that the amendments in relation to exceptions for their organisations are acceptable. The position on religious exceptions is the result of extensive consultation with faith groups and has the support of the Catholic Church. The religious exceptions in the 1995 act are very broad and allow discrimination on all attributes, including race, impairment and age. This bill, however, limits the exceptions so they are only as broad as they should be.

This does not mean that religious bodies and schools will be forced to hire people with particular attributes. What it does mean is that they will have to show why the requirement to discriminate is an inherent requirement of the job. For instance, it might not be an issue for a religious school to discriminate against a part-time sex worker or a gay or lesbian person seeking employment as a part-time school chaplain. However, it would be an issue for a religious school to discriminate against a member of a socialist party on the basis of their political beliefs or a pregnant applicant on the basis of her pregnancy when seeking a maths teacher for the school.

If all religious schools representing all religions start to discriminate against all those seeking employment in the school sector, including administration and maintenance staff, it would become a societal problem. Does that mean secular education institutes should only hire atheists to carry out their work, including teaching? This would lead to the vertical segregation of society.

I will conclude there because of the time constraints for this debate and commend the bill to the house.

Mr R. SMITH (Warrandyte) — I rise to speak on the Equal Opportunity Bill 2010, and I say from the outset that I support equal opportunity legislation. Indeed I am proud of the equal opportunity legislation that was brought in by the Hamer and Kennett governments. I cannot support this particular bill because I believe this bill is a retrograde step for the issue of equal opportunity.

Just how much this bill tramples on the human rights of Victorians is evident with the inclusion in this bill of a statement of compatibility numbering 33 pages in which the Attorney-General fails miserably in his attempt to show that this legislation does not unduly trespass on human rights. My former position as a member of the Scrutiny of Acts and Regulations Committee has shown me that the Attorney-General — this champion of human rights — has frequently bypassed his own charter to introduce his own ideologies through legislation, and his explanations by way of the statements he has tabled have raised more questions than they have answered. We only need look

at the *Alert Digest* report in relation to this bill which was tabled by SARC to see page after page of questions that were thrown up as a result of the Attorney-General's statement of compatibility.

I think it is a testament to the pettiness of the Attorney-General that this bill is not called the 'Equal Opportunity Amendment Bill 2010'. The Attorney-General is so arrogant that the equal opportunity legislation in this state has to be all his own work. He could not just make the necessary amendments to Jan Wade's act. Jan Wade's act has stood us in good stead. Even Michael Gorton, chairperson of the Victorian Equal Opportunity and Human Rights Commission, said when giving evidence to SARC with regard to the Equal Opportunity Act 1995, and I quote:

> The act itself has overall worked well. It has certainly enabled Victoria to have a very good environment in which discrimination issues can be raised and addressed.

I think the Attorney-General's second-reading speech shows the yawning chasm between the coalition's values and his own where it says that the aim of this legislation is:

> to aim for equality of outcome, rather than just equality of opportunity.

The member for Malvern made a good point in saying that this bill should probably be called the 'equality of outcome bill', because that is really what the Attorney-General is championing.

I believe in equality of opportunity. I also believe that those who work hard and those who have the strength of character to succeed should be justifiably proud of what they have achieved even if, heaven forbid according to the Attorney-General, they end up ahead of others. It is clear that the Attorney-General's belief is grounded not just in everyone having a fair go, not just in a climate of ensuring that people are not unjustifiably discriminated against — which everyone in this house agrees with — but in a culture of promoting mediocrity where effort is not admired and hard work is not rewarded.

The Attorney-General charged SARC with recommending changes to the exceptions and exemptions in the Equal Opportunity Act 1995, and a lot of effort and a lot of time from a great many people went into presenting a number of recommendations. I have to say all members of SARC — even the Labor members who saw firsthand the strength of opposition to many of the changes the Attorney-General was championing — agreed broadly on what recommendations should be made. It is clear with this legislation that the Attorney-General has turned his back on many of the recommendations.

I will quickly refer to the freedom of religion exemption in schools. I will refer to clauses 82 and 83 of the bill which restrict the freedom of religious exemption for schools and other parties to specified attributes. The bill restricts the exemption from non-employment discrimination to discrimination that is reasonably necessary to avoid injury to religious sensitivities, and for employment discrimination this bill further restricts exemption to where conformity with the doctrines, beliefs or principles of the religion is an inherent requirement of the particular position.

Clause 84 restricts the freedom of religious beliefs exemption to specified attributes and where the discrimination is reasonably necessary for a person to comply with the doctrines, beliefs or principles of their religion. This is an attack on religious freedom and freedom of association. It prohibits schools and religious bodies from selecting staff who will uphold their school's values unless they can demonstrate that conformity with the doctrines of the school's faith is an inherent requirement of the job. The commissioner of the Victorian Equal Opportunity and Human Rights Commission has already stated that she does not consider employment of teachers like maths teachers will satisfy this requirement.

The restrictions on freedom of religion and association in the bill are far greater than even those in the Fair Work Act and are greater than those in most interstate antidiscrimination acts. The bill also seeks to bring into legislation an option for changing the current act that was canvassed by SARC in its options paper but ultimately rejected by the committee. Labor members of the committee were absolutely appalled that members on this side of the house told their faith-based schools about some of the options canvassed in the options paper. They said we were scaremongering and raising concerns, and there was no way these options would be seriously considered by the Attorney-General in developing the bill. They stand condemned for their criticism in that regard because what we have in this bill is almost exactly what was feared by the schools. What we have is exactly what we on this side of the house knew would come into this house by way of this legislation, because we know the Attorney-General is driven by misplaced ideology rather than common sense.

There are number of other problems with the bill. Time prevents me from going through them all except to say that a number of people have raised issues about the sweeping power the Victorian Equal Opportunities and

Human Rights Commission will have to launch investigations even when there is absolutely no reason to do so other than its want or desire to wage some campaign against systemic discrimination that it believes exists even if there have not been any direct complaints. I will conclude by saying that I do not support the bill in the form that has been introduced.

Mr LIM (Clayton) — I have much pleasure in supporting the Equal Opportunity Bill 2010. Australia, and Victoria in particular, is warm, tolerant, vibrant and diverse. We welcome the contributions of all our people, no matter from where they come, the colour of their skin, their religion, gender or sexual orientation. We value the contribution of all our citizens and have a particular commitment to assisting those with a disability. We celebrate our diversity. Indeed our diversity is our strength in all our global endeavours, be they cultural, sporting, economic, business or education.

Here in Victoria various forms of discrimination have been illegal for over 30 years. We have laws such as the Equal Opportunity Act and institutions such as the Human Rights and Equal Opportunity Commission. This is not because racism and discrimination are rife, rather the opposite. As a society we abhor discrimination, and it is our commitment to a decent society and the quintessentially Australian notion of a fair go that we enshrine in legislation.

Acts of discrimination or racism are the exception, not the norm. When they occur they attract attention precisely because as a society we find them repugnant and disgusting. Our antidiscrimination laws are not an indication of an endemic problem, rather they are the hallmark of an enlightened society and its commitment to equality and fairness.

Our legislative approach to combating discrimination has matured over the years and is more comprehensive and sophisticated than it was in the 1970s. Examples include the Racial and Religious Tolerance Act 2001, which was landmark legislation. Last year's Sentencing Amendment Bill ensured that where racism is a motivating factor in offences such as assault, that will be taken into account in sentencing.

Much has changed since the 1970s. The community is now more diverse. There is a greater appreciation of the need to deal with systemic issues rather than just prosecute individual cases. The Victorian government has taken a comprehensive and consultative approach in developing this bill. This includes Julian Gardner's 2007–08 review of the act and the Equal Opportunity Amendment (Governance) Bill 2008. This bill is the outcome of all that work and indeed our experience since the 1970s.

To say the least I am surprised at the amount of emails and representations from the so-called disquiet quarter saying that the sky is going to fall in or that there will be riots and social unrest if this bill is enacted. What such people have not looked at is that the bill changes the commission from a complaints-handling body to one that educates and facilitates dispute resolution, best practice and compliance — and there is no negativity in that.

The bill also gives the commission more effective options to respond to systemic discrimination — for example, the ability for the commission to investigate serious systemic discrimination and engage directly with duty holders to reach enforceable undertakings, issue compliance notices where necessary and conduct public inquiries with the consent of the Attorney-General.

The bill in fact encourages best practice and proactive compliance by duty holders without reliance on individual complaints. This will be achieved through the commission's role in conducting research and education and through a proactive duty to eliminate discrimination as far as possible.

More importantly, the bill provides a more effective and efficient complaints resolution system by placing the focus on early and flexible dispute resolution at the commission while allowing complainants to also go directly to the Victorian Civil and Administrative Tribunal to have their matter determined. Importantly, it also removes legal and technical barriers to the elimination of discrimination by simplifying the definition of discrimination, extending existing protections for employees to volunteer and unpaid workers and clarifying duties to make reasonable adjustments for people with impairments. It will clarify, update and amend certain exceptions to unlawful discrimination.

The bill has all the elements that should be admired and appreciated by all concerned. I have nothing but high regard for the Attorney-General and his introduction of this bill. I cannot wait to see the bill passed, and I commend it to the house.

Dr SYKES (Benalla) — Let me make it clear at the outset that I support equal opportunity for everyone, but I cannot support this bill, because it has gone off the rails. The Nationals, and most people in Victoria, support the notion of a fair go for everyone. We also support the notion of reward for personal endeavour.

That said, however, we acknowledge — and I certainly knowledge — that there are circumstances where positive discrimination is appropriate to help people achieve to their potential. It is in this context that my constituents have found it most perplexing that with this Brumby government bill, which is supposedly groundbreaking — but which has been described by others as tricky and complex — the government is not adhering to the basic principles of a fair go to everyone and in particular is not addressing the basic issue of the widening social disadvantage gap between people living in country Victoria and their city counterparts.

This has been discussed many times. Education is a way out of social disadvantage. In spite of the spin the Minister for Education gave today in question time about addressing education needs in country Victoria, it would be fair to say that country Victorians do not have equal opportunity to education. I refer to the failure of the Brumby government to stand up and get a fair deal on youth allowance. I refer to the poor — —

The DEPUTY SPEAKER — Order! I ask the member to Benalla to speak on the bill.

Dr SYKES — Okay. Education is the way out of social disadvantage, and addressing inequality — —

The DEPUTY SPEAKER — Order! I understand that, but we are discussing the Equal Opportunity Bill.

Dr SYKES — Related to that is the bill as it applies to faith-based education. Other speakers have raised on a number of occasions their concerns about the restriction on the rights of faith-based schools to select staff they believe adhere to the faith-based schools' values and thereby provide the best educational opportunities to their children. The member for Box Hill stated this succinctly in a media release, which I will quote:

> A faith-based school that wants to employ teachers who will uphold the school's values will be obliged to prove that conformity with the school's religious beliefs is an 'inherent requirement' and can be fined more than $35 000 if they advertise for staff in breach of that requirement.
>
> Yet Brumby government ministers will remain completely free to discriminate on the grounds of political belief when hiring their office staff.

We do not have a level playing field. Concerns have been raised by many people in my electorate in relation to this. Many of us were approached by FamilyVoice Australia, but I was also contacted by people such as Michele Schelling from Mansfield, Mr Scot Chaston from Tolmie, Rhondda and Roelf Boer from Benalla, Silvia Bukovec from Mansfield, Tom Wise from Benalla, Paul and Michelle Murray from Lima, Gerard Murphy from Devenish; the list goes on. The basic message is that they believe the Brumby government has got it wrong. They are expressing their concerns loud and clear.

On a different aspect of this bill, another concern that was addressed to me was the impact of this bill on volunteers — or its failure to address volunteers' concerns. As I understand it the amendments that have been introduced go some way to addressing those concerns, but until we see how it plays out there is a lack of confidence amongst the volunteers — whether they be Country Fire Authority volunteers, State Emergency Service volunteers or others — as to what this really means.

Being mindful of others wishing to speak, I reiterate that The Nationals firmly believe in a fair go for everyone, but the attempt by the Attorney-General to do further social engineering does not represent a fair go for everyone, and therefore I will oppose the bill.

Mr INGRAM (Gippsland East) — I rise to make a very brief contribution on the Equal Opportunity Bill 2010. I state from the outset that I will oppose the legislation. Like many of those who have spoken against the legislation, I believe it is a bridge too far in many aspects. That said, I think everyone in this place values equal opportunity and opposes discrimination in any form to make sure that we have a tolerant and fair society. It is essential that those principles are developed. But, as members have indicated, there has been social engineering here, the bill has gone through a lengthy process, and there has been an enormous amount of opposition during that process. Some of the issues have been resolved through the process, but like many members of this place I have received an enormous amount of correspondence from many people in my local community who object to the proposed legislation. That is why I will oppose it.

Mr DONNELLAN (Narre Warren North) — That was a very short and pithy contribution, so I will make a short and pithy one as well. I get up today to support the Equal Opportunity Bill 2010. Tackling disadvantage and discrimination and improving people's lives is very much a policy of the ALP. These reforms fulfil an election commitment to modernise the Equal Opportunity Act to expand its capacity, including dealing with volunteers, as the member for Benalla indicated. It will bring Victoria into line with other jurisdictions, promote real equality of opportunity and support disadvantage and marginalised Victorians. The reforms will equip Victoria with the ability to prevent discrimination on a mass basis, rather than just to react

to and resolve it on a one-on-one basis. The bill includes consequential amendments to the Racial and Religious Tolerance Act 2001, which I was equally as supportive of at the time because it dealt with racial and religious vilification.

Business interrupted pursuant to standing orders.

The DEPUTY SPEAKER — Order! The time set down for the government business program has arrived and I am required to interrupt business. The question is:

> That this bill be now read a second time, government amendments 1 to 7 inclusive be agreed to and the bill be now read a third time.

House divided on question:

Ayes, 50

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

Noes, 33

Asher, Ms	Northe, Mr
Baillieu, Mr	O'Brien, Mr
Blackwood, Mr	Powell, Mrs
Burgess, Mr	Ryan, Mr
Clark, Mr	Shardey, Mrs
Crisp, Mr	Smith, Mr K.
Delahunty, Mr	Smith, Mr R.
Dixon, Mr	Sykes, Dr
Fyffe, Mrs	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	

Question agreed to.

Read second time.

Circulated amendments

Circulated government amendments as follows agreed to:

1. Clause 2, lines 9 and 10, omit all words and expressions on these lines.
2. Clause 2, line 15, omit "(5)" and insert "(4)".
3. Clause 2, line 19, omit "(4)" and insert "(3)".
4. Clause 4, page 6, line 10, omit "but does not include" and insert "and in Part 6 includes, but does not otherwise in this Act include,".
5. Clause 4, page 6, line 22, omit "but does not include" and insert "and in Part 6 includes, but does not otherwise in this Act include,".
6. Clause 4, page 7, line 3, omit "but does not include" and insert "and in Part 6 includes, but does not otherwise in this Act include,".
7. Clause 216, omit this clause.

Third reading

Motion agreed to.

Read third time.

LEGISLATION REFORM (REPEALS No. 6) BILL

Second reading

Debate resumed from earlier this day; motion of Mr CAMERON (Minister for Police and Emergency Services).

Motion agreed to.

Read second time.

Third reading

Motion agreed to.

Read third time.

JUSTICE LEGISLATION AMENDMENT BILL

Second reading

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

The DEPUTY SPEAKER — Order! The question is:

That this bill be now read a second time, government amendment 1 to 4 inclusive be agreed to and the bill be now read a third time.

Motion agreed to.

Read second time.

Circulated amendments

Circulated government amendments as follows agreed to:

1. Clause 43, line 3, omit "**611**" and insert "**616**".

2. Clause 43, line 4, omit "After section 610" and insert "At the end of Part 8.6 of Chapter 8".

3. Clause 43, line 6, omit "**611**" and insert "**616**".

4. Clause 76, lines 19 to 23, omit all words and expressions on these lines and insert "reference to section 582 of the **Crimes Act 1958** as in force immediately before its repeal.".

Third reading

Motion agreed to.

Read third time.

TRANSPORT LEGISLATION AMENDMENT (COMPLIANCE, ENFORCEMENT AND REGULATION) BILL

Second reading

Debate resumed from 24 March; motion of Mr PALLAS (Minister for Roads and Ports).

Motion agreed to.

Read second time.

Third reading

Motion agreed to.

Read third time.

RADIATION AMENDMENT BILL

Second reading

Debate resumed from 23 March; motion of Mr ANDREWS (Minister for Health).

Motion agreed to.

Read second time.

Third reading

Motion agreed to.

Read third time.

ENVIRONMENT PROTECTION AMENDMENT (LANDFILL LEVIES) 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 Environment Protection Amendment (Landfill Levies) Bill 2010.

In my opinion, the Environment Protection Amendment (Landfill Levies) 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 gives effect to a government commitment to increase landfill levies for municipal and industrial waste, in two increments, from 1 July 2010 and then from 1 July 2011.

The purpose of the bill is to increase the municipal and industrial waste landfill levies and therefore encourage a reduction in waste generation, in the amount of waste being sent to landfill and to drive the market for resource recovery technologies and services across Victoria. The increased levy will be allocated to waste avoidance and recovery and other identified environmental initiatives.

Human rights issues

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

The bill does not place any limitations or restrictions on any human right protected under the charter.

Conclusion

I consider the bill is compatible with the Charter of Human Rights and Responsibilities because it does not limit or restrict any rights under this 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.

I am pleased to present the Environment Protection Amendment (Landfill Levies) Bill to the house today.

This bill delivers on commitments made by the Victorian government to work in partnership with Victorian industry and community to achieve greater efficiency in our resource use and to reduce waste.

This bill resets Victoria's landfill levies to help bring about measured change for better waste management.

This bill sets out a staged approach to achieving the government's vision for a resource-efficient society, a society that understands that unnecessary waste that ends up in our landfills not only presents potential risks to our environment and health, but that it represents wasted energy, wasted water and wasted materials.

A society that values the innovation, ingenuity and creativity required to turn waste into a resource. That is the society we aspire to.

The new levy settings will support jobs, promote technology and business innovation, allow reinvestment in environmental actions and programs to help protect the environment and allow all Victorians to live more sustainably.

Increasing the levies will increase recycling and help Victoria avoid sending unnecessary waste to landfill.

This will make recycling more competitive and provide an incentive for investment in new recycling technologies and facilities.

Victoria already recycles 6 million tonnes of waste each year but with an increase in the landfill levy, an extra 1.2 million tonnes will be diverted away from landfill per year by the 2014–15 financial year. This is equivalent to a 33 per cent reduction.

Over five years it means Victoria will divert a significant 5.6 million tonnes of waste from landfill.

Providing an incentive to avoid sending unnecessary waste to landfill will stimulate the development of recycling business and technology, providing opportunity for new jobs.

Every 10 000 tonnes of recycled material supports more than nine jobs, compared with less than three jobs supported by the same amount of material going to landfill.

The result will be the creation of around 700 jobs over the next five years.

The reinvestment of levy revenue into recycling and environmental programs aims to support households, councils and businesses avoid unnecessary waste and increase their recycling.

Victoria has continued to strengthen its efforts toward waste management.

The Department of Sustainability and Environment, local councils, the Metropolitan Waste Management Group, other regional waste management groups, Sustainability Victoria and the Environment Protection Authority have all been working effectively with stakeholders, building successful partnerships and actions to deliver a more resource efficient Victoria.

Victorian households and businesses have also risen to the recycling challenge and have concentrated their efforts to make a difference by introducing recycling into their daily routines.

Through this collaborative effort, Victoria's recycling rates have improved over the last five years but are now beginning to plateau.

At the same time, metropolitan Melbourne's increasing population and future projections mean that waste generation is likely to increase by an additional third over the next 20 years in comparison with current rates.

Victoria still faces major challenges in waste management and must move forward to take advantage of otherwise missed opportunities.

The Victorian community expects the Victorian government to continue to push for better waste management throughout the state and we are determined to meet this challenge.

For a state with aspirations for resource efficiency as a central driver to future competitiveness, Victoria can do more to reduce waste and recover resources.

The current levy settings do not provide the right framework for Victoria to significantly reduce the volume of waste sent to landfill.

Taking a staged approach across metropolitan and regional Victoria minimises the impact to businesses and households and ensures we get the settings right.

In Victoria, generating waste and disposing of it into landfills is a very minor component of business and household costs, and is cheap compared to other waste management solutions, such as recycling.

As a consequence, the amount of waste generated statewide continues to increase and although recycling and resource recovery is also increasing, this has not sufficiently offset the overall increase in waste in order to reduce the amount of waste to landfill.

Landfill levies serve two purposes.

Firstly, the levies act as an incentive to minimise waste and encourage greater reuse and recycling of resources while promoting investment in alternatives to waste disposal to landfill.

Secondly, landfill levies play an important funding role to provide waste management infrastructure, support programs for industry, education programs and the resourcing of the bodies responsible for waste planning and management in Victoria.

A staged approach to landfill levy increase in Victoria will minimise the impact on businesses and households, look at different environmental needs for different areas of the state and ensure we have the levy settings right for the future.

The new levy will now provide appropriate incentives for waste reduction alternatives, striking a balance between increasing recycling and minimising the burden on households and businesses.

From 1 July 2010 the levy for every tonne of municipal waste (household and council) and commercial waste will increase.

Following two initial increases on 1 July 2010 and 1 July 2011, levies will progressively be increased over the following three years, to 2014–15.

The Victorian government has also committed to a review of waste levies to commence later in 2010 to determine if any further changes to the proposed settings are required.

Most importantly, this review will include views from industry, local government, environmental groups and all other stakeholders so that longer term, levy settings are well informed of the needs and expectations of the Victorian community.

The Victorian government is committed to making sure that waste programs and initiatives have sufficient funding to be successful.

This funding commitment will be directed to local government, industry and those with a clear and key role in reducing Victoria's waste and delivering sustainable resource use.

Revenue will be split and allocated to a range of actions, which together wholly support a better statewide response to waste management.

Funding will:

support businesses to reduce waste levels through the 'industry reinvestment program';

support 'fast movers' in the recycling industry and local government who are willing to invest early in new technologies and facilities;

tackle illegal dumping and clean up contaminated sites;

support local government and waste management groups; and

invest in sustainability and environmental projects and programs through the Victorian government's Sustainability Fund.

Activities undertaken by regional waste management groups, the Metropolitan Waste Management Group, Sustainability Victoria and the EPA assist all sectors of the community, especially industry and local government, to reduce waste and improve resource use efficiency.

The use of landfill levy funds for supporting waste management bodies, particularly local councils, has been fundamental to improvements which have been made to waste collection and infrastructure in Victoria over a number of years.

Funding will also support the expansion of assistance to regional groups and councils to improve infrastructure and promote waste avoidance, reuse and recycling. Levy moneys raised will continue to be committed to achieve these ends.

In conclusion, the bill will bring into effect three key outcomes for Victorian waste policy.

Firstly, the bill encourages action on key Victorian government objectives to reducing waste and increasing resource efficiency, thereby enhancing economic productivity, preserving quality of life, and continuing to protect the environment and the community.

Secondly, it supports the advancement of innovation in environmental technologies and services, particularly in the recycling and resource recovery industry.

Finally, the bill establishes additional landfill levy revenue for provision towards stated government priorities on waste avoidance and resource recovery, and other identified environmental initiatives.

I commend the bill to the house.

Debate adjourned on motion of Ms WOOLDRIDGE (Doncaster).

Debate adjourned until Thursday, 8 April.

JUSTICE LEGISLATION AMENDMENT (VICTIMS OF CRIME ASSISTANCE AND OTHER MATTERS) 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 Justice Legislation Amendment (Victims of Crime Assistance and Other Matters) Bill 2010.

In my opinion, the Justice Legislation Amendment (Victims of Crime Assistance and Other Matters) 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.

Victim impact statement amendments to the Children, Youth and Families Act 2005 and Sentencing Act 1991

Overview of amendments

The bill's amendments arise from the Victims Support Agency's report: victim's voice — an evaluation of victim impact statements in Victoria (October 2009). Part 2 of the bill amends the Sentencing Act 1991 and Children, Youth and Families Act 2005 to clarify that:

a. victims, or their representative with leave of the court, may read aloud their victim impact statement in court;

b. victim impact statements may include non-written material;

c. victims and witnesses, in relation to victim impact statements, may be given similar protections to those which apply in giving evidence via alternative arrangements under 'Division 4— Procedure on conviction' of part 5.8 of the Criminal Procedure Act 2009;

d. the definition of 'victim' in the Children, Youth and Families Act is to be consistent with the Sentencing Act.

These amendments are made in the context of, and consistent with, existing provisions. Victim impact statements are filed as statutory declarations following a finding of guilt or a conviction, and may be taken into account during sentencing. The statement may contain particulars of the impact of the offence on the victim, including any injury, loss or damage suffered by the victim as a direct result of the offence. The court may rule as inadmissible any parts of the statement and, under the amended provisions, can direct a victim to the parts of the statement that are admissible for the purposes of being read out.

The amendments accord with the principles contained in the Victims Charter Act 1996, which recognises the adverse effects of crime.

Human rights issues

These amendments do not engage or limit any rights in the Charter of Human Rights and Responsibilities.

Amendments to the Victims of Crime Assistance Act 1996

Overview of amendments

The Victims of Crime Assistance Tribunal (VOCAT) provides financial assistance to victims of violent crime. Part 2 of the bill also amends the Victims of Crime Assistance Act (VOCA act) to promote access to timely awards of assistance. The amendments:

a. allow the Chief Magistrate to delegate powers to judicial registrars, expanding the current scheme where limited powers may be delegated to registrars, and include appropriate rights of review drawn from the Magistrates' Court Act 1989;

b. explicitly provide an assistance category of safety-related expenses which facilitates victims' access to interim awards for such expenses.

Human rights issues

These amendments do not engage or limit any rights in the Charter of Human Rights and Responsibilities.

Amendments to the Family Violence Protection Act 2008 and Stalking Intervention Orders Act 2008

Overview of amendments

The Family Violence Protection Act 2008 (FVP act) provides an effective and accessible system of family violence intervention orders and family violence safety notices (notices) and creates offences for contraventions of these orders and notices. The FVP act has now been in operation for over one year. Notices were introduced in December 2008 as a pilot, subject to an evaluation. The notice provisions in part 3 division 2 of the FVP act are subject to a sunset clause with an end date of 8 December 2011 (following amendments to the FVP act by the Crimes Legislation Amendment Act 2009).

Part 3 of the bill makes procedural amendments to the FVP act, to improve the justice system in respect of family

violence victims. The proposed amendments are mainly technical in nature and have been developed to address operational issues. The amendments to the Stalking Intervention Orders Act 2008 mirror those for the FVP act to ensure the two schemes remain in procedural alignment. By improving the effectiveness of family violence intervention orders and notices, the bill will:

maximise safety for persons who have experienced family violence;

reduce and prevent family violence to the greatest extent possible;

promote the accountability of perpetrators of family violence for their actions.

Human rights issues

Overview

Similarly to the introduction of the FVP act itself, the amendments engage various charter rights. In upholding the rights of victims of family violence, family violence protection orders may limit the rights of others, particularly perpetrators of family violence. The charter rights which may be engaged are: right to privacy and reputation (s.13), protection of families and children (s.17), property rights (s.20), the right to a fair hearing (s.24) and rights in criminal proceedings (s.25). The equivalent provisions in the Stalking Intervention Orders Act will also engage these rights.

The original FVP act itself also engages the rights to freedom of movement (s.12), cultural rights (s.19), right to liberty and security of the person (s.21), humane treatment when deprived of liberty (s.22). However, the amendments in this bill are largely procedural and do not relate directly to those rights. The statement of compatibility for the Family Violence Protection Bill 2008 contains a discussion of those limitations.

Section 13: right to privacy

Section 13 confers a number of rights regarding privacy. Specifically, a person has a right not to have their privacy, family or home unlawfully or arbitrarily interfered with or their reputation unlawfully attacked. Privacy comprises bodily, territorial, communications and information privacy.

Seizure of firearms, ammunitions and objects

Clause 17 of the bill inserts a new section 16(2A), which enables a police officer who has found a firearm or an object that may cause injury or damage or may be used to escape, to issue a direction to surrender the firearm under section 158 of the FVP act or seize the object. Existing section 16 of the act enables police officers to search persons and their possessions in certain circumstances. The new section 16(2A) will operate alongside existing seizure powers in section 158 and the rest of the enforcement powers in Part 7. The new section 16(2A) does not itself authorise seizure of firearms, but ties to the existing surrender power in section 158 of the FVP act.

Clause 17 may engage the right to privacy in enabling seizure of personal property. However, the right to privacy in section 13 is only limited where the interferences with privacy are unlawful or arbitrary.

The interference is in accordance with the provisions, aims and objectives of the charter (particularly section 17, which provides for the protection of children and families) and is reasonable in the circumstances (where the intent is to protect a person from further family violence incidents). It also imposes a number of obligations on police officers, including:

the person searched must have been subject to a direction, detention or apprehension under the FVP act;

the direction, detention and apprehension power can only be used where the police officer intends to make an application for a family violence intervention order, a variation of an order, or a notice, and where the police officer believes on reasonable grounds that exercise of the power is necessary to ensure the safety of a family member of the person or to preserve any property of the family member;

the police officer may only initiate the search if he or she suspects, on reasonable grounds, that the person has in the person's possession any object that may cause injury or damage or be used to escape.

As a safeguard, existing section 16(3) clarifies that a suspicion that the search would provide evidence of an offence is not by itself sufficient grounds for conducting the search.

For these reasons, the potential interference with the right to privacy is neither unlawful nor arbitrary. Therefore the right to privacy is not limited by the amendments in clause 17.

Search with a warrant

The current section 160 of the FVP act and section 37 of the Stalking Intervention Orders Act provide for a warrant to be issued that authorises the entry and search of premises or a vehicle described in the warrant. Clauses 30 and 38 amend those acts (respectively) to clarify, for the avoidance of doubt, that if a police officer obtains a warrant to search premises, this will include the power to search vehicles on that premises and a separate warrant for the vehicle is not required. This is consistent with other commonly used search warrant powers including section 465 of the Crimes Act 1958. Clauses 31, 32, 39 and 40 extend the provisions which apply in relation to entry to premises under warrant to include entry to vehicles in public places under warrant.

These search powers potentially engage the right to privacy because a vehicle may be part of a person's private or domestic environment, particularly if it is privately owned. However, the right to privacy in section 13 is only limited where the interferences with privacy are unlawful or arbitrary.

The interference with privacy in searching a particular vehicle is not unlawful because the issuing of a search warrant provides a legal basis for the search. The court's role in determining a warrant application provides an independent mechanism to assess whether the proposed interference is justified in the circumstances. Furthermore, the rules with respect to search warrants set out by the Magistrates' Court Act 1989 extend and apply to warrants under the FVP act and the Stalking Intervention Orders Act.

The interference with privacy will not be arbitrary, because the search warrant will only allow a search in specific circumstances and in relation to particular vehicles to limit the interference with the right to privacy. In addition, the

amendments are circumscribed in scope and are limited to what is required to enforce the acts in question.

Finally, the amendments will only enable a vehicle to be searched for limited purposes (such as gathering evidence of certain offences), and if specified preconditions are met. Other existing safeguards, in addition to the requirement that the police officer intends to apply for a notice or order against a person (or the person is subject to a notice or order), are the requirement that the officer reasonably believe that the person is committing or is about to commit an offence against the FVP act or Stalking Intervention Orders Act, or is in possession of a firearm, a firearms authority, ammunition or a weapon. The magistrate must also be satisfied of these things.

For these reasons, the potential interference with the right to privacy is neither unlawful nor arbitrary. Therefore the right to privacy is not limited by the amendments in clauses 30, 31, 32, 38, 39 and 40.

Section 17: protection of families and children

Section 17 provides that families must be protected by society and the state.

Clause 18 of the bill amends section 53 of the FVP act to clarify the court's existing power, and specify the procedure, in relation to protecting children on its own initiative. The amendments provide that, before making an interim intervention order, the court must consider whether any children that have been subject to family violence also require protection under the same order. If satisfied that an interim order is necessary, the court can include the child on the interim order of the affected family member or make a separate interim order. These extended provisions are modelled on section 77 of the FVP Act, which provide for the protection of children in final orders on the court's own initiative.

This clarification of process is consistent with the protective policy of the FVP act. Sections 91 and 93 of the FVP act already place a requirement on the court to deny contact with a child (even if not the subject of an application) if it is of the belief that a child's safety may otherwise be jeopardised.

Making an interim intervention order for the protection of a child could engage the protection of the family. However, while family unity is an important charter right, it must be balanced with other rights. Section 17(1) of the charter might be qualified by the special right of children to protection in section 17(2) (for example, when children are removed from a situation of family violence). The amendments are an appropriate balance between the protection of the family unit (section 17(1)), the protection of the rights of family members to life (section 9) and security (section 21) and the entitlement of children to such protection as is in their best interests (section 17(2)). In addition, the respondent retains the right to seek leave to make an application to vary the interim order, and there are not lengthy delays between an ex parte hearing and a mention date.

Section 20: property rights

Section 20 establishes a right not to be deprived of property other than in accordance with law.

Seizure of weapons

As discussed in relation to the right to privacy, clause 17 amends section 16 of the FVP act in relation to seizure powers and firearms, weapons, ammunition or objects which may be used to cause injury or damage or be used to escape.

Any deprivation of property is specifically tied to the possibility of causing injury or damage or allowing escape, and is not arbitrary. It has the legitimate objective of the protection of a protected person as well as other family members. In addition, the existing protections in sections 164 and 165 of the FVP act apply.

Given the seriousness of the context in which the power to seize objects may be used, and the safeguards which provide for the return of the property, any limitation on the property rights is rational and proportionate to its purpose.

Search of vehicles

Property rights may be limited by the amendment which clarifies that the power to search premises includes vehicles on those premises. Clauses 30, 31, 32, 38, 39 and 40 are discussed above in relation to the right to privacy. The existing section 160 of the FVP act and section 37 of the Stalking Intervention Orders Act provide for a warrant to be issued, that authorises the entry and search of particular premises or a vehicle. The amendments clarify, for the avoidance of doubt, that if a police officer obtains a warrant to search premises, this includes the power to search vehicles on the premises and a separate warrant for the vehicle is not required.

The legitimate objective of the provisions is to enable police to protect persons and children of a respondent by removing a respondent's access to possible weapons. Any limitation on property rights caused by these powers is justified because it balances the protected persons' rights to life (section 9), protection from torture and cruel, inhuman or degrading treatment (section 10), and to liberty and security of the person (section 21).

As noted in relation to privacy rights, the search powers are also subject to safeguards in addition to the requirement that the police officer intends to apply for a notice or order against a person (or the person is subject to a notice or order): the requirement of a warrant, the requirement that the police officer reasonably believes that the person is committing or is about to commit an offence under the FVP act or Stalking Intervention Orders Act, or is in possession of a firearm, a firearms authority, ammunition or a weapon and the requirement for the magistrate to be satisfied of the same matters.

For these reasons, the amendments are in accordance with the law. Therefore the right not to be deprived of property other than in accordance with law is not limited by the amendments in clauses 30, 31, 32, 38, 39 and 40.

Section 24: right to a fair hearing

Section 24 guarantees the right to a fair and public hearing. The right to a fair hearing applies in both civil and criminal proceedings and in courts and tribunals. The requirement to a fair hearing applies to all stages in proceedings and applies in relation to proceedings in any Victorian court or tribunal.

The purpose of the right to a fair hearing is to ensure the proper administration of justice. This right is concerned with procedural fairness (that is, the right of a party to be heard and to respond to any allegations made against them, and the requirement that the court or tribunal be unbiased, independent and impartial) rather than the substantive fairness of a decision or judgement of a court or tribunal (that is, the merits of the decision).

Clause 19 engages the right to fair hearing by extending the proceedings in which certified evidence can be used. The act already provides for the use of certified evidence in proceedings including applications for warrants, and for final orders. This is a robust form of evidence, subject to significant penalty for falsification. However, the act does not allow this evidence in interim proceedings, as section 55 currently requires either oral evidence or affidavit. The amendment provides for the policy intention that a notice, certified by a police officer, can be evidence to support an interim order being made.

This amendment is consistent with the current evidentiary provisions in the act. The court is not bound by rules of evidence in proceedings for a family violence intervention order, in recognition of the unique context of family violence and the difficulties that can exist in formal corroboration. The court may refuse, or limit the use of, any evidence if satisfied that it is just and equitable to admit such evidence, and that the probative value of the evidence is not substantially outweighed by the danger that the evidence might be unfairly prejudicial to a party, or misleading or confusing. If the court's discretion to refuse a certified notice as evidence is enlivened, the amendments require the court to consider whether oral evidence or an affidavit is reasonably practically available.

A person will continue to have the proceeding decided by a competent, independent and impartial court after a fair and public hearing. The order itself is of limited duration, ceasing to have effect as soon as the application is finally determined.

In view of the above, the amendments may engage but do not limit the right to fair hearing.

Including children in interim orders

The protections in section 24 of the charter may also be engaged by clause 18 of the bill, discussed above in relation to section 17 of the charter. The statement of compatibility in respect of the Family Violence Protection Bill 2008 discussed the nature of this limitation in some detail in respect of the similar provision in section 77 of the act. It is not necessary to repeat the detailed analysis contained in that statement of compatibility. This statement focuses on the limitation imposed by clause 18, which clarifies the court's power to protect a child on its own initiative and specifies the procedure for doing so, and the reasons for my opinion that any limitation is reasonable and demonstrably justified in the terms of section 7(2) of the charter:

(a) The importance and purpose of the limitation

The purpose of the provision is to protect an affected child from family violence as swiftly as possible. This is particularly important in the context of family violence. The amendment also promotes the right to life (section 9 of the charter) which arguably imposes a positive obligation on public authorities, including Victoria Police, to protect the lives of children in certain circumstances.

(b) The nature and extent of the limitation

The limitation is confined because the duration of an interim order is limited. The order ceases to have effect as soon as the application is finally determined, which is likely to occur within a short period of time. In addition, the respondent retains the right to seek leave to make an application to vary the interim order, and there are not lengthy delays between an ex parte hearing and a mention date.

Further safeguards are that an application must be served on a respondent as soon as practicable after the application is made (section 48 of the FVP act) so the respondent knows proceedings will be on foot. If the application is made by a notice, the police officer who serves it is required to give an oral explanation of the consequences of not attending court (section 35), and the notice itself contains a written warning as to the consequences of not attending the hearing (including the court's powers to protect children who are not named in the application).

(c) The relationship between the limitation and its purpose

The purpose of the limitation is to ensure that the FVP act operates effectively and protects children from family violence.

(d) Any less restrictive means available

There are no less restrictive means available to achieve the purpose. The limitation only applies where the court is satisfied that an order is necessary to protect a child from family violence.

Given the importance of the context in which such orders are made, and the safeguards referred to above, any limitation on the rights in criminal proceedings is reasonable and proportionate to its purpose.

Amendments to the Children, Youth and Families Act 2005 and the Infringements Act 2006

Overview of amendments

New provisions in the Children, Youth and Families Act reduce the time limit for commencing a proceeding for a summary offence in the Children's Court from 12 months to 6 months, unless the court orders an extension or the parties agree.

Part 4 of the bill amends the Children, Youth and Families Act to allow enforcement agencies to commence proceedings outside the six-month time limit in certain circumstances where an infringement notice has been served on a child.

This amendment overcomes the possibility that enforcement agencies will prosecute a matter in court to meet the shorter time periods, rather than registering unpaid infringements with the children and young persons infringement notice system (known as CAYPINS). It is designed to ensure that the CAYPINS system can continue to operate effectively. The amendment will ensure that enforcement agencies are able to register an infringement notice for a summary offence with CAYPINS and if the matter is not resolved still have sufficient time to commence proceedings in court.

The CAYPINS system involves greater discretion and flexibility than the adult system, taking into account a child's personal and financial circumstances. It also allows young people with outstanding infringements to avoid a finding of guilt. In this way, the system promotes the right in section 25(3) that a child charged with a criminal offence has the right to a procedure that takes account of his or her age and the desirability of promoting the child's rehabilitation.

Part 4 also makes similar amendments to the Infringements Act to include a new section 40AA. This new section provides for an extension of time in respect of summary proceedings being commenced in the Children's Court where a child elects to have the matter heard in the Children's Court or an enforcement agency withdraws an infringement notice for the matter to be dealt with in the Children's Court.

Part 4 of the bill raises the right of an accused child to be brought to trial 'as quickly as possible'. Part 4 does not limit this right because a child can elect to have the matter dealt with in court when they first receive an infringement notice. The purpose of part 4 is to facilitate an alternative process that is tailored to the needs of children whereby a child can avoid being dealt with in court.

The transitional provision for part 4 applies to infringement offences that are summary offences alleged to have been committed on or after 1 January 2010 and not more than six months before the commencement of part 4. Where the enforcement agency or the child elects to proceed to have a matter heard in open court, from 1 January 2010 the six-month time limit to commence proceedings in section 344A of the Children, Youth and Families Act 2005 will apply.

The transitional provision extends the time within which a proceeding may be commenced for an infringement offence, but it does not apply where the offence is alleged to have been committed more than six months before the commencement of part 4. As a result, the bill does not permit an extension of time to commence a proceeding where the time for commencing a proceeding has already expired under section 344A of the Children, Youth and Families Act 2005. Part 4 therefore does not apply retrospectively.

Amendments to the Liquor Control Reform Act 1998 and the Summary Offences Act 1966

Overview of amendments

Amendments to the Summary Offences Act 1966 increase the maximum penalties for the offences of drunk in a public place (section 13), drunk and disorderly in a public place (section 14) and behaving in a disorderly manner (section 17A). Amendments to that act also increase the infringement penalty amounts for those offences and for the offence under section 17(1)(d) of riotous, indecent, offensive or insulting behaviour.

An amendment to the Liquor Control Reform Act 1998 increases the infringement penalty amount for the offence under section 114(2) of a person who is drunk, violent or quarrelsome refusing or failing to leave licensed premises if requested to do so by a licensee, a permittee or a member of the police force. A further amendment to that act increases the maximum period for which a banning notice may operate from a maximum of 24 to a maximum of 72 hours.

Human rights issues

The amendments to the Summary Offences Act 1966 in relation to maximum penalties and infringement penalty amounts for certain offences and the amendment to the Liquor Control Reform Act 1998 to increase the infringement penalty amount for the offence under section 114(2) of that act do not engage or limit any rights in the charter.

Clause 49 amends the Liquor Control Reform Act 1998 to increase the maximum period for which a banning notice may be given; this engages the charter right to freedom of movement.

Section 12: freedom of movement

The issuing of a banning notice by police for a period not exceeding 72 hours imposes limitations upon an individual's right to move freely within Victoria, as protected by section 12 of the charter. However, the limitation is reasonable and justifiable under section 7(2) of the charter.

(a) The nature of the right being limited

The right to move freely within Victoria is one that can be subject to restrictions. The International Covenant on Civil and Political Rights expressly recognises that the right may be subject to restrictions that are necessary to protect public order, public health or morals or the rights and freedoms of others.

(b) The importance of the purpose of the limitation

The purpose of banning notices is to reduce alcohol-related violence and disorder. The notices are aimed at protecting public order and the rights and freedoms of others, including the right to life in section 9, the right to privacy in section 13, the rights in respect of property in section 20 and the right to liberty and security of the person in section 21 of the charter.

(c) The nature and extent of the limitation

Banning notices impose restrictions upon a person entering a designated area or licensed premises within a designated area for a maximum period, not exceeding 72 hours. Clause 49 of the bill amends section 148B of the Liquor Control Reform Act to extend the maximum period for which a banning notice may be made from 24 to 72 hours. There are a number of existing safeguards in part 8A of the Liquor Control Reform Act, governing banning notices and exclusion orders, which remain unaffected by the amendment.

For example, the director of liquor licensing may only declare designated areas if the director believes that alcohol-related violence or disorder has occurred in the immediate vicinity of licensed premises in the area and that the giving of banning notices is likely to be an effective means of reducing alcohol-related violence or disorder in the area. To date, the director has designated 11 separate and relatively confined areas across Victoria.

A police member can give a banning notice in respect of the entire designated area, or only in respect of licensed premises in the area and the ban must not exceed 72 hours but can certainly be for a period less than the maximum. Further, the member must take a number of factors into account in determining whether to give a notice.

Section 148B(6) of the Liquor Control Reform Act prohibits the giving of a banning notice in respect of the designated area if the police member believes or has reasonable grounds for believing that the person lives or works in the designated area. In those circumstances, a notice can only ban the person from the licensed premises in the designated area. Section 148B(7) of the act ensures that this more limited notice cannot affect the person's ability to work or to live where they choose, by providing that if the person lives or works in licensed premises in the designated area, the banning notice does not prevent him or her from entering those premises.

Section 148E of the act enables variation or revocation of a banning notice by a relevant police member above the rank of sergeant. Additionally, a banning notice may only be given by a 'relevant police member', with the intention such notices will only be given by members who have received training in liquor licensing and who have the appropriate authorisation.

(d) The relationship between the limitation and its purpose

The limitation imposed on freedom of movement is directly and rationally connected with the purpose of the provisions under part 8A of the Liquor Control Reform Act in relation to banning notices.

Banning notices can only be made where:

an area has been designated by the director and, accordingly, where the director believes that alcohol related violence or disorder has occurred in the immediate vicinity of licensed premises in the area and that the giving of banning notices and/or exclusion orders is likely to be an effective means of reducing alcohol-related violence or disorder in the area;

the police member suspects on reasonable grounds that a person is committing or has committed a specified offence wholly or partly in a designated area;

the police member believes on reasonable grounds that the giving of the notice may be effective in preventing the person from continuing to commit the specified offence or committing a further specified offence;

the police member considers that the offence or further offence may involve or give rise to a risk of violence or disorder in the designated area.

(e) Less restrictive means reasonably available to achieve the purpose

Any less restrictive means would not achieve the purposes of the provisions as effectively. The extension of the maximum duration for which a banning notice may be made, to 72 hours, is reasonable and appropriate as there have been a number of people to whom police have had to give a banning notice on multiple occasions. Police have used the banning notice system effectively since its inception; however, its efficacy can be enhanced through enabling police, in appropriate circumstances, to give notices of a significantly longer duration. The amendment is intended to increase the deterrent effect of banning notices, reduce the incidence of alcohol-related violence and disorder and, consequently, enhance public safety. Given the importance of protecting public order and the rights and freedoms of others, and having regard to the safeguards that are and will continue to be in place as referred to above, any limitation on the right to freedom of movement is reasonable and proportionate to its purpose.

Conclusion

I consider that the bill is compatible with the charter because, to the extent that some provisions may limit human rights, those limitations are reasonable and demonstrably justified in a free and democratic society.

Rob Hulls, MP
Attorney-General

Second reading

Mr HULLS (Attorney-General) — I move:

That this bill be now read a second time.

Background

The Justice Legislation Amendment (Victims of Crime Assistance and Other Matters) Bill 2010 gives effect to three main objectives, which are part of the commitments I made in the Justice Statement 2 (2008) to:

review victims' compensation;

improve the processes for making a victim impact statement;

evaluate and build on law reforms and services for victims of sexual assault and family violence.

The bill also provides for certain matters in respect of infringement notices and children, and provisions related to liquor and disorderly conduct.

The bill will improve the operational effectiveness of the Victims of Crime Assistance Tribunal (VOCAT), give victims greater flexibility in presenting their victim impact statement, and make procedural improvements to the family violence protection scheme (with parallel changes to the stalking intervention scheme).

This government has made significant progress in improving the protection and support of victims of crime. In 2006, Victoria became the first state in Australia to enact an independent victims charter. The government further sought to protect and support victims through the implementation of the Family Violence Protection Act 2008 and the Stalking Intervention Orders Act 2008.

The bill recognises the importance of engaging victims in the justice system, by enhancing and improving court procedures to assist the recovery of victims of crime and facilitate access to awards of assistance.

Additionally, the bill increases maximum penalties and infringement penalties for certain drunkenness and public disorder offences under the Summary Offences Act 1966 and the Liquor Control Reform Act 1998 and increases the maximum period for which a banning notice may be given under the Liquor Control Reform Act.

Victim impact statement amendments

Part 2 of the bill amends the Sentencing Act 1991 and Children, Youth and Families Act 2005 in order to:

clarify that a victim, or their chosen representative with the court's approval, may read their victim impact statement aloud in court;

clarify that a statement may include non-written and other material;

provide court discretion to allow alternative arrangements for reading statements or giving evidence by victims and witnesses in relation to the statements;

update the definition of 'victim' in the Children, Youth and Families Act for consistency with the Sentencing Act.

These amendments arise from the recommendations of the Victims Support Agency's report: victim's voice — an evaluation of victim impact statements in Victoria, which I launched in October 2009. The report highlighted the powerful restorative value for some victims in being able to include non-written material with their victim impact statement, such as pictures, and in being able to read their own statement aloud in court.

These amendments are made in the context of, and consistent with, existing provisions. Victim impact statements are made by statutory declaration, or statutory declaration and sworn evidence, following a finding of guilt or a conviction, and may be taken into account during sentencing. The statement may contain particulars of the impact of the offence on the victim, including any injury, loss or damage suffered by the victim as a direct result of the offence. The court may rule as inadmissible any part of the statement.

Victims are also given the important right to nominate another person to read the statement on their behalf, such as a friend or family member, where the victim feels unable to read their statement personally. This right should be respected wherever possible and appropriate. The amendments provide for courts to ensure a fair sentencing hearing, by giving direction to a victim on which parts of a statement are admissible, and having discretion on giving approval for a victim's representative to read out the statement.

The victim or their representative needs to be available during the sentencing hearing to ensure they have the opportunity to read out a statement, as otherwise the court's general discretion on adjournments will apply. The victim support agency is undertaking preparation and discussion with courts and stakeholders to ensure that victims who wish to make or read statements understand the nature of the material that can be included, and how to exercise their rights to participate in this important part of the sentencing process.

The report also noted the importance of affected family members of victims being able to make a victim impact statement. The bill does not explicitly provide for this, as the broad definitions of victim in the Sentencing Act and Children, Youth and Families Act already allow for the intention that appropriate people, including affected family members of the person who suffered the offence, can make a victim impact statement in their own right. This recognises the longstanding position that victim impact statements may include statements from affected family members, particularly those impacted by terrible crimes such as parents of children who have been sexually assaulted or relatives of deceased victims. It is critical that victims such as these can make their statements to the court if they wish to.

The Criminal Procedure Act 2009 provides protections for particular categories of vulnerable victims when giving evidence, for example allowing evidence to be given by closed-circuit television. The bill extends these protections, at the court's discretion, to victims and witnesses in relation to a victim impact statement.

VOCAT amendments

Part 2 of the bill also amends the Victims of Crime Assistance Act 1996 to:

allow the Chief Magistrate to delegate powers to judicial registrars, with an appropriate review mechanism;

create a new assistance award category of safety-related expenses.

The Victims of Crime Assistance Tribunal (VOCAT) sits in the Magistrates Court and applications are determined by magistrates sitting as tribunal members. Last financial year, VOCAT granted financial awards to more than 3 500 victims totalling over $38 million dollars.

The VOCA act provides an existing, but limited, delegation power in relation to registrars of VOCAT. The bill's amendments enable the Chief Magistrate to delegate some or any of the powers of VOCAT to judicial registrars, other than the powers of review or delegation. The proven success of judicial registrars in the Magistrates Court in expediting access to justice will now be available to VOCAT. The amendment will help address the growth in demand for VOCAT services, with judicial registrars exercising the powers of VOCAT in matters the Chief Magistrate considers appropriate. This helps victims access the funds they need to facilitate their recovery from the adverse effects of crime. The amendments include appropriate rights of review drawn from the Magistrates' Court Act 1989. An applicant may use the existing review provisions to seek further review of the final determination at the Victorian Civil and Administrative Tribunal.

VOCAT awards assistance under particular categories. There is no safety-related expenses category, and VOCAT currently awards safety-related expenses to victims of crime under the category for other expenses to assist recovery in 'exceptional circumstances'. These expenses assist, for example, a victim of domestic violence to replace a door lock to prevent an abusive spouse returning to commit further violent acts in future, or assist with the relocation of a victim. However the 'exceptional circumstances' requirement typically means the safety-related awards are delayed until the final determination is made, rather than be awarded partially or in full as an interim measure when they are most needed.

The amendment inserts a specific award category for reasonable safety-related expenses arising as a direct result of the offence. This will enable victims of violent crime to access assistance for security measures and help prevent further victimisation. It will also facilitate access to urgent assistance through VOCAT's capacity to provide awards on an interim determination.

Improving measures to assist victims of crime with their recovery is another demonstration of this government's commitment to supporting and protecting victims.

Family violence and stalking intervention order amendments

Part 3 of the bill amends the Family Violence Protection Act and Stalking Intervention Orders Act. The Family Violence Protection Act has been in operation for over a year and is working well. The amendments are for the most part technical and operational and will further streamline the functioning of the intervention order scheme. The consequential amendments to the Stalking Intervention Orders Act mirror the changes to Family Violence Protection Act, to maintain procedural parity between the two intervention order systems.

The substantive amendments to the Family Violence Protection Act will:

clarify existing police search powers to include appropriate seizure powers;

enable the court to include a child as a protected person on an interim intervention order on its own initiative, consistent with the courts current powers in respect of final orders;

enable the court to base interim orders on family violence safety notices (notices), which are certified by police officers.

The current provision for interim orders requires oral evidence or an affidavit. This is inconsistent with other important proceedings in the Family Violence Protection Act, which allow for the use of certified evidence, and is undermining protections for victims of family violence. This amendment promotes the effective use of resources, as the notice already serves as a detailed multi-page application for an interim order. The amendment is also consistent with existing provisions which provide that a court can make an interim order where a notice has been issued and the court is satisfied that interim protection should continue. These notices include a significant penalty for any falsification. The bill provides that if the court's existing discretion in relation to refusing evidence, based on equity or probative value, is enlivened in a particular case, the court must consider the reasonable practicality of obtaining oral evidence or affidavit evidence. While notices are sufficient evidence in all but a very small number of cases, this amendment acknowledges that a deficient notice should lead to consideration of whether other evidence is reasonably practically available.

Miscellaneous procedural amendments to the Family Violence Protection Act will clarify processes and procedures in relation to:

the power of the Children's Court to order an assessment of a respondent or family member if the person consents;

the use of interim orders to extend final orders in specified situations;

joint hearings of stalking intervention orders and family violence intervention orders applications where appropriate;

the power of the Children's Court to revoke or vary a family violence intervention order where a child is a party to an intervention order as either a respondent or a protected person;

applications for warrants to search premises including vehicles that are on those premises.

Equivalent amendments are made to the Stalking Intervention Orders Act in relation to warrants for the search of premises and vehicles.

Children and young persons infringement notice system amendments

New provisions in the Children, Youth and Families Act reduce the time limit for commencing a proceeding for a summary offence in the Children's Court from 12 months to 6 months, unless the court orders an extension or the parties agree.

The bill amends the Children, Youth and Families Act to allow enforcement agencies to commence proceedings outside the six-month time limit in certain circumstances where an infringement notice has been served on a child.

In cases where an infringement notice has been served, an enforcement agency can register an unpaid infringement with the children and young persons infringement notice system (known as CAYPINS). CAYPINS provides a process by which the child can resolve or dispute the infringement without proceeding to court.

The amendment will ensure that enforcement agencies are able to register an infringement notice with CAYPINS and if the matter is not resolved still have sufficient time to commence proceedings in court.

Summary Offences Act 1966 and Liquor Control Reform Act 1998 amendments

Finally, the bill makes amendments to the Summary Offences Act 1966 and Liquor Control Reform Act 1998 to double specified maximum and infringement penalties for drunkenness and public disorder offences and increase the maximum possible duration of banning notices from designated areas or licensed premises from 24 hours to 72 hours. The government considers these forms of behaviour in public places to be unacceptable, and is introducing these robust measures to reduce the incidence of the offending and facilitate the ongoing effective use of banning notice powers subject to the existing safeguards. The government is determined to maintain a safe environment for the community to enjoy Victoria's excellent entertainment precincts and public places.

I commend the bill to the house.

Debate adjourned on motion of Mr CLARK (Box Hill).

Debate adjourned until Thursday, 8 April.

TRUSTEE COMPANIES LEGISLATION AMENDMENT BILL

Statement of compatibility

Mr HOLDING (Minister for Finance, WorkCover and the Transport Accident Commission) 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 Trustee Companies Legislation Amendment Bill 2010.

In my opinion, the Trustee Companies 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

Human rights issues

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

The following human rights are protected by the charter and are relevant to this bill:

property rights;

protection of families and children.

The bill itself removes trustee companies, other than State Trustees Ltd, from prudential supervision by Victorian government institutions. It does not alter the property rights of those companies, nor the property rights of those whose estates or other assets are managed by those trustee companies, or the beneficiaries of those estates and other assets. Similarly, it does not alter the protections in respect of estates or assets management that are provided by legislation for children or others without legal capacity to manage their own affairs.

The commonwealth regulatory regime that will apply in future to trustee companies, other than State Trustees Ltd, is not created or imposed by this bill. Nevertheless, it is relevant to state that this commonwealth regime will not result in any reduction of human rights either.

Conclusion

There is nothing in this bill that will have any adverse implications for the human rights of Victorians.

Tim Holding, MP
Minister for Finance, WorkCover and the Transport Accident Commission

Second reading

Mr HOLDING (Minister for Finance, WorkCover and the Transport Accident Commission) — I move:

That this bill be now read a second time.

This bill will facilitate the transfer of responsibility for the regulation of private sector trustee companies from the state to the commonwealth. As part of the reforms of the financial system during the 1980s and early 1990s, the states and the commonwealth agreed in principle that responsibility for regulation of deposit-taking and funds management activities should lie with the commonwealth.

Over several years this resulted in the commonwealth assuming responsibility for regulation of most financial institutions, in addition to responsibility for banks and insurance companies which the commonwealth already had under the constitution. Trustee companies were included in this general in-principle agreement. However, in the 1990s the commonwealth deferred legislating to assume this responsibility, on the grounds that the Australian Prudential Regulation Authority (APRA) was fully engaged on issues relating to insurance and superannuation, and would be distracted by the addition of responsibility for trustee companies.

Following a commitment by the Council of Australian Governments (COAG) in July 2008 that the commonwealth would assume this responsibility, the commonwealth made provision in its Corporations Legislation Amendment (Financial Services Modernisation) Act 2009 for regulation of trustee companies.

The commonwealth is relying on its corporations powers for this assumption of responsibility and so does not require a referral of powers from the states. However, this means that the regime that will be applied will be a national licensing and consumer protection regime administered by the Australian Securities and Investment Commission (ASIC) rather than a prudential supervision regime administered by APRA.

The commonwealth legislation is expected to commence on 1 May 2010, although this date has not yet been proclaimed. If no commencement date is proclaimed, the legislation will automatically commence on 6 May 2010. It is therefore desirable that this complementary Victorian legislation commence at the same time as the commonwealth provisions, as otherwise the outcome would be overlapping state and commonwealth regulation of private sector trustee companies.

The principal purposes of the bill are to ensure:

continued smooth operation for trustee companies of provisions of Victorian probate and estate administration law, including the jurisdictions of the Victorian Civil and Administrative Tribunal (VCAT) and the Victorian courts in these matters, without conflict with the operation of Victorian laws in respect of unincorporated trustees;

repeal of provisions of Victorian law that regulate certain aspects of trustee companies, such as setting of fees and requirements to provide accounts, that will now come under commonwealth regulation, to avoid either imposing additional superfluous duties on trustee companies or retaining redundant and spent provisions in Victorian legislation; and

continued retention of current provisions applying Victorian government regulation of State Trustees Ltd, which is a corporation wholly owned by the state that the state and the commonwealth have agreed will not be subject to commonwealth regulation.

State Trustees Ltd undertakes certain functions that in other states and territories are performed by the public trustee, who is not incorporated and therefore not subject to commonwealth regulation. The state and the commonwealth have agreed that, at least for the time being, State Trustees Ltd should continue to be regulated by the state, so that these public trustee functions can continue unaffected.

The similarity between the regulatory regimes of the state and the commonwealth means that there will be no commercial advantage or disadvantage in respect of those activities of State Trustees Ltd that are not of a public trustee-like nature and are undertaken in competition with private sector trustee companies.

The bill amends provisions of legislation administered by the Attorney-General and the Minister for Consumer Affairs, and I am grateful for the cooperation and support they and the Department of Justice have provided.

I commend the bill to the house.

Debate adjourned on motion of Mr CLARK (Box Hill).

Debate adjourned until Thursday, 8 April.

EDUCATION AND TRAINING REFORM FURTHER AMENDMENT BILL

Statement of compatibility

Ms PIKE (Minister for Education) 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 Education and Training Reform Further Amendment Bill 2010.

In my opinion, the Education and Training Reform Further 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 Education and Training Reform Act 2006 (the act) to enlarge the functions of the Victorian Institute of Teaching (the institute) to include developing standards for higher levels of professional practice by teachers; to provide for police record checks to be carried out on prospective teachers; to streamline the qualification requirements for non-practising teachers who wish to return to full registration; to provide for additional particulars relating to sanctions placed on teachers by formal hearing panels to be contained in the register of teachers; to require the institute to notify the director of transport of certain determinations made by formal hearing panels relating to teachers; and to make consequential and other miscellaneous amendments to the act. The bill also has the additional purpose of re-enacting and modernising the Mildura College Lands Act 1916, and will repeal related acts. It also makes a minor amendment to the act regarding authorisations for use of Victorian student numbers.

Human rights issues

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

The right to privacy (section 13 of the charter)

Section 13(a) of the charter provides that individuals have a right not to have their privacy 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.

The register

Clause 11 of the bill amends section 2.6.24(d) of the act to provide that the following particulars in relation to each registered teacher should be included on the register of teachers: whether the registration of the teacher is subject to a condition, limitation or restriction or has been suspended or cancelled as the result of a decision made by a formal hearing panel.

As section 2.6.25 provides that the institute must make an up-to-date copy of the register available for inspection by any person at the institute's offices, the register is consequently able to be viewed by members of the public.

Assuming that the publication on the register of information regarding whether the registration of the teacher is subject to a condition, limitation or restriction or has been suspended or cancelled may interfere with the privacy of such teachers, in my view any such interference will not be unlawful or arbitrary.

The purpose of including these details on the register is to enable members of the public to confirm the fact that a teacher is registered in circumstances where a teacher may be working with children outside of his or her employment as a teacher. For example, a parent wishing to employ a teacher as a private tutor for his or her child will be able to search the register to confirm that the teacher is still, in fact, registered as a teacher. As teachers who are registered do not require a working-with-children check under the Working with Children Act 2005, the register will serve an important function of ensuring that members of the public can ascertain whether or not a teacher is in fact registered, and whether such registration is subject to conditions as the result of an adverse finding against the teacher.

Additionally, no personal information will be contained on the register apart from the name of an individual and the state of his or her registration, including whether or not the registration is subject to a condition (e.g. John Smith — registration cancelled; or Jane Smith — registration currently subject to conditions).

Consequently, to the extent that this clause will cause private information to be publicly available, this will only occur in prescribed circumstances set out in the bill and the information disclosed will be minimal in nature and will relate to professional status rather than matters of a more intimate nature.

I consider that any interference with privacy occasioned by clause 11 will not be arbitrary, as the information contained on the register will be limited in scope and reasonable in order to enable members of the public to confirm that a teacher is registered. Consequently, clause 11 is compatible with right to privacy in section 13 of the charter.

Additionally, I note that this clause promotes the right of children to protection in section 17(2) of the charter.

Police record checks

Clause 6 of the bill amends section 2.6.7 of the act to provide that the application form to apply for registration as a teacher must include authorisation for the institute to conduct a police

record check in connection with the consideration of the application and, if registration is granted, from time to time during the period for which the registration remains in force. Clause 6 will insert a new clause 2.6.7(3A) to provide that, in considering an application under this section, the institute may arrange for the conduct of a police record check on the applicant.

Clause 8 amends section 2.6.13 of the act in a similar manner, so that the approved application form for permission to teach must also include authorisation for the institute to conduct a police record check, and to enable the Institute to arrange for the conduct of a police record check on the applicant.

Clause 9 will amend section 2.6.18 of the act to provide that the approved application form for renewal of registration must also include authorisation for the institute to conduct a police record check, and to enable the institute to arrange for the conduct of a police record check on the applicant.

Unlike criminal record checks, police record checks would result in the institute being provided with information regarding charges for 'relevant offences' (such as offences relating to children) alleged to have been committed in Victoria, and also information on certain additional offences that could relate to a person's suitability to be registered, such as drug trafficking and manufacturing, armed robbery and firearm offences.

This information will be received through the establishment of an information exchange system with Victoria Police, similar to that which facilitates working-with-children checks. Together, the system of continuous police record checks and systematic national criminal history checks will work together to provide a more comprehensive system of checks on prospective and registered teachers in Victoria.

In my view, any interference with privacy which occurs as a result of the institute obtaining a police record check will not be arbitrary. It is necessary to ensure that comprehensive police and criminal record checks are completed in relation to both current and potential teachers, to ensure the suitability of teachers to teach children.

Clauses 7, 9 and 10 are thus compatible with section 13 of the charter.

Additionally, I note that this clause promotes the right of children to protection in section 17(2) of the charter.

Conclusion

I consider that the bill is compatible with the charter.

Bronwyn Pike, MP
Minister for Education
Minister for Skills and Workforce Participation

Second reading

Ms PIKE (Minister for Education) — I move:

That this bill be now read a second time.

The Education and Training Reform Further Amendment Bill 2010 will make a number of amendments to the Education and Training Reform Act 2006 (ETR act) to implement government policy and further improve its operation.

The main purposes of the bill are:

to amend part 2.6 of the Education and Training Reform Act 2006 (ETR act) in relation to certain operations of the Victorian Institute of Teaching (the institute);

to amend the ETR act in relation to certain operations of the Victorian student number (VSN), the Victorian Curriculum and Assessment Authority (VCAA) and for other purposes;

to update the language of the Mildura College Lands Act 1916, make a number of changes to improve its operation, and re-enact the provisions in the Education and Training Reform Act 2006. The 1916 act and two amending acts — the Mildura College Land (Ranfurly) Act 1992 and the Mildura College Lands (Amendment) Act 1995 — will be repealed.

The bill also addresses minor anomalies to improve the operation of the ETR act.

As the provisions of the bill are grouped under these main purposes, the following further details are also given in that same order.

The bill includes several amendments to part 2.6 of the ETR act, which will support reforms to the Victorian Institute of Teaching arising as a result of the review of the institute conducted in late 2007.

The institute was established in 2001 as a professional body for the teaching profession, with responsibility for setting entry level standards of professional practice, assessing qualifications, advising on professional development, undertaking criminal records checks and administering a discipline system to ensure that registered teachers in Victoria meet high standards of professional practice and conduct.

A review of the institute was undertaken in 2007 to consider changes that may be required to its functions, structure and legislative mandate to ensure that it achieves its objectives effectively in the context of the current environment. The review found that there was a role for the institute, but one that has a more streamlined, single focus to avoid potential overlaps with the core roles of other major stakeholders. The majority of changes to part 2.6 of the ETR act that give effect to reforms that will improve the efficiency and effectiveness of the Victorian Institute of Teaching are contained in the Education and Training Reform Amendment Bill 2009. Some further changes to

part 2.6 of the ETR act are contained in this bill, which have occurred as a result of further consideration, consultation and discussion arising from the findings and recommendations contained in the review. These changes will have direct benefits for teachers, schools, children and their families.

Changes to the ETR act proposed in this bill to support the reform of the institute include:

the introduction of a power enabling the institute to undertake police records checks on a continuous basis;

the inclusion of adverse outcomes of disciplinary action on the public register;

the enlargement of the functions of the Victorian Institute of Teaching to include developing standards for higher levels of professional practice by teachers;

streamlining the qualification requirements for non-practising teachers who wish to return to full registration; and

requiring the institute to notify the director of public transport of certain determinations made by a formal hearing panel relating to teachers.

The bill will introduce a system of continuous police records checks on registered teachers on a very similar basis that police record checks are carried out on people who hold a working with children assessment notice. The institute will receive regular, current information about whether a registered teacher has been charged with, or committed for trial for, or been found guilty of a relevant offence in Victoria. The amendments in this bill introduce a process whereby people who apply to become a registered teacher, and teachers who apply to renew their registration, consent to ongoing continuous Victorian police record checks. In the interim, teachers who are currently registered can be part of the continuous police check process by virtue of existing provisions already contained in the ETR act.

Police record checks will operate in parallel with the national criminal record checks that the institute undertakes for all new teaching applicants, and from time to time while a teacher remains registered. Together, the systems of police and criminal record checks will provide greater protections for students, parents and school communities. In addition, this change will establish consistency between the procedures followed by the institute in relation to police record checks and those that apply under the working with children legislation.

This bill amends the information included in the institute's public register of teachers. The inclusion of adverse outcomes of disciplinary action on the public register will result in greater transparency and improved client service to employers who are employing teachers and to people who employ or otherwise engage registered teachers in a non-teaching context. Now the outcomes of an adverse finding by a hearing panel (or automatic cancellation as the result of being found guilty of a sexual offence) will be published next to a teacher's name on the institute's register of teachers.

For example, annotations to show that registration has been 'cancelled', 'suspended' or 'subject to conditions' would be included on the register if that was the finding of the hearing panel. Any adverse outcomes, other than deregistration, will be automatically removed from the public register at the expiry of the condition, limitation or suspension period. It is anticipated that the length of a condition, limitation or suspension period in most cases will be approximately 12 months.

This change requires the rights of the individual teacher who is the subject of adverse outcomes of disciplinary action to be balanced against the rights of employers and the public. Balancing the public interest and the rights of the individual to privacy is best achieved by limiting information about adverse outcomes on the register to a description of the teacher's registration status. The institute will not publish any details about the circumstances that lead to the adverse outcome on the register.

The amendments in this bill are consistent with the practice of professions covered by the Health Professions Registration Act 2005, including doctors and nurses working in Victoria. The Queensland College of Teachers and the Northern Territory Teacher Registration Board both have legislative power to publish adverse outcomes of disciplinary action on their public registers. This amendment is therefore consistent with open and transparent processes, and is supported by government as a practice that will benefit schools and students.

The institute is currently responsible for developing standards for entry to and continuing membership of the profession. These professional standards enable teachers to demonstrate and maintain effective teaching and learning. The extension of the functions of the institute to include developing standards for higher levels of professional practice by teachers will enable the institute to respond to initiatives occurring at a national level. The Council of Australian Governments (COAG) has agreed to the development and implementation of a national professional teacher

standards framework and certification/accreditation process for teachers and school leaders. The institute is a leading partner in this national teacher quality initiative and the proposed legislative change will enable it to undertake further work in relation to standards of professional knowledge, practice and engagement for teachers at different stages of their careers.

Streamlining the qualification requirements for non-practising teachers who wish to return to full registration will enable the institute to provide a more efficient service and reduce the administrative burden for non-practising teachers seeking full registration.

Requiring the institute to notify the director of public transport of certain determinations made by a formal hearing panel relating to teachers will provide added protections for students and school communities. There are cases where a teacher who is subject to adverse outcomes of disciplinary action may be employed as a school bus driver. This amendment will provide a further check in relation to the employment of appropriate people to positions where they will be in contact with school students and is consistent with requirements under the Working With Children Act 2005 and relevant transport legislation requiring people who will be in contact with students to have a police records check.

In 2008, the government introduced a unique student identifier for students in Victoria and the establishment of a Victorian student register. This was in response to the strong case for the allocation of a number which travels with a student from commencing in prep until a student turns 25. The creation of the Victorian student number (VSN) assists the Victorian government's goal of having 90 per cent of young Victorians complete year 12 or its equivalent by helping to identify students at risk of dropping out of the education and training system.

When developed in 2008, the VSN was designed to be progressively 'rolled out' to ensure that it is successfully implemented by a diverse range of education and training providers. The VSN is now being 'rolled out' to students in TAFE institutes, registered training organisations, adult, community and further education providers and the Catholic school education system.

This bill extends the classes of authorised users of the VSN to those organisations and Victorian government departments that administer those education and training sectors. Skills Victoria, the Adult, Community and Further Education Board, and the Catholic Education Commission of Victoria all require the authority to access and utilise the VSN in order to ensure that the system operates efficiently and effectively.

Importantly, the bill maintains the safeguards that were put in place when the VSN was introduced. The bill does not alter the operation of the VSN or change the way in which authorised bodies can access and use the VSN.

This bill makes minor amendments to clause 4 of schedule 2 of the ETR act. The bill clarifies that the Minister for Education may now appoint a member, including a chairperson, to the board of a statutory authority in the event there is a vacancy in the office of a member or chairperson, of if a member or chairperson is absent or unable to perform the duties of the office.

In addition, this bill removes an anomaly by allowing the Minister for Education to appoint a person to act in the place of a member or chairperson in the event of a vacancy on the board of the Victorian Curriculum and Assessment Authority (VCAA). The ETR act has previously not included the VCAA amongst the list of boards for which the minister could exercise such power.

The office of the chief parliamentary counsel has requested a number of statute law revisions. These are not considered to change existing policies or procedures or remove existing rights.

The next set of amendments relate to the Mildura College Lands Act scheme.

Honourable members may be aware that George and William Chaffey, who established the settlement of Mildura, provided substantial pieces of land to the Victorian government in 1887 to fund an agricultural college in the area.

Construction of the college was never completed, however, the government built the Mildura Agricultural High School on its foundations. The rental income from the land provided by the Chaffey brothers was paid into a trust fund and distributed to the school. The Mildura College Lands Act 1916 vested the land in the minister and formalised this arrangement.

Today, 30 government and non-government schools in the Mildura region receive income from the scheme. The schools use the money for such things as the maintenance of school buildings, grounds and equipment.

The bill will update the language of the Mildura College Lands Act 1916, make a number of changes to improve its operation, and re-enact the provisions in the Education and Training Reform Act 2006. The 1916 act and two amending acts — the Mildura College Land (Ranfurly) Act 1992 and the Mildura College Lands (Amendment) Act 1995 — will be repealed.

The main change provides that the land will be shown in survey plans, instead of being listed in the act, and the Governor in Council will be able to add or remove land when it is bought or sold. Survey plans are a more user-friendly format and can be kept up to date more easily.

Similarly, the list of beneficiary schools will be included in an order made by the Governor in Council. As well as adding a school, the Governor in Council will be able to change the name of a previously declared school and remove a school — for example, if it merges with another school or becomes deregistered — ensuring that the list is always up to date. The bill provides that all current beneficiary schools under the 1916 act will continue to be beneficiary schools under the new provisions.

Any orders changing the land or the beneficiaries must be tabled in Parliament and published in the *Government Gazette* and a newspaper in the Mildura region.

The current act allows leaseholders to apply to VCAT for a review of a rental valuation made by the Valuer-General. Consistent with other legislation, this provision has been updated to impose a 28-day time limit in which applications must be made.

The minister's power to subdivide and consolidate land has been made explicit. Other provisions have been updated to accommodate current practices, such as the provision dealing with the investment of surplus school funds.

The bill does not change the main components of the scheme, such as the formula for the distribution of funds, the way in which sale proceeds can be used, the beneficiary schools or leasing arrangements.

New section 5.7A.1 will be inserted to provide a connection to the 1916 act and continuing legislative recognition of the contribution the Chaffey brothers have made to education in the Mildura region.

The amendments contribute to the government's commitment to simplify the statute book by repealing redundant legislation and consolidating acts. They also move one of the last stand-alone pieces of education legislation into the Education and Training Reform Act 2006.

I thank the chair of the beneficiaries committee, Robert Biggs, and the trustee company for their input into these amendments. I also acknowledge the unique and very substantial gift made by the Chaffey brothers over 120 years ago which continues to benefit the students of Mildura.

Collectively, the amendments contained in the bill will ensure that our legislative framework continues to provide for ongoing innovation and improvement in the education sector in Victoria. They will go a long way to providing all Victorians with the assurance that Victoria maintains high-quality teachers, which is critical to ensuring the wellbeing of our future generations.

I commend the bill to the house.

Debate adjourned on motion of Mr DIXON (Nepean).

Debate adjourned until Thursday, 8 April.

THERAPEUTIC GOODS (VICTORIA) BILL

Statement of compatibility

Mr ANDREWS (Minister for Health) 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 Therapeutic Goods (Victoria) Bill 2010.

In my opinion, the Therapeutic Goods (Victoria) 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 the bill

The purpose of the bill is to improve the Victorian legislation that operates as part of the national regulation of therapeutic goods. The bill will replace the Therapeutic Goods (Victoria) Act 1994, which was put in place in 1994 to operate alongside the Therapeutic Goods Act 1989 of the commonwealth ('the TGA').

The TGA is the central legislation regulating the manufacturing, import, export, sale and other handling of therapeutic goods in Australia. It covers all corporations trading in therapeutic goods and all interstate trade. Due to the fact that the therapeutic goods industry is almost entirely composed of large corporate bodies, this means that most of the industry is regulated by the TGA.

However, due to the limitations on commonwealth power contained in the Constitution of Australia, there are potentially some parts of the industry that cannot be regulated

by the TGA (for example, if an individual were to commence trading in therapeutic goods within Victoria). Victorian legislation is necessary to address this possibility. In addition there are certain minor issues that Victoria regulates differently to the commonwealth, relating to hawking and vending machines.

The Therapeutic Goods (Victoria) Act 1994 was structured in a way that replicated the necessary parts of the TGA and applied them to the areas that could not be constitutionally addressed by the TGA. However, due to the fact that the coverage of the Victorian legislation was very limited, the resources that have been historically applied to maintaining and updating the Victorian legislation were limited. As amendments were made to the TGA over time, this has resulted in the development of discrepancies between the TGA and the Therapeutic Goods (Victoria) Act 1994 that need to be addressed.

To remove the discrepancies and provide for future changes to the TGA, the bill changes the approach of the therapeutic goods law in Victoria to directly apply the provisions of the TGA, rather than to replicate the provisions in a separate act. This approach allows the Victorian law to automatically adjust in the event of future changes to the TGA, and provides for certain additional minor issues that are not addressed by the TGA.

Human rights issues

This statement examines the human rights issues by analysing the following areas of the bill:

1. publication of list of manufacturers;
2. entry powers;
3. advertising restrictions;
4. seizure and forfeiture of property; and
5. offences imposing an evidential or legal burden on defendant.

1. Publication of list of manufacturers

Bill provisions

In order to be able to manufacture therapeutic goods in Australia, manufacturers must obtain a licence under the TGA. Section 41A of the TGA provides for the publication of a list of the persons licensed as manufacturers at the relevant time along with certain details of each licensee. Section 41A states:

> The secretary may, from time to time and in such manner as the secretary determines, publish a list of the persons who are licensed under this part, the classes of goods to which the licences relate, the steps of manufacture that the licences authorise and the addresses of the manufacturing premises to which the licences relate.

Charter right: privacy and reputation

Section 13(a) of the charter recognises a person's right not to have his or her privacy, family, home or correspondence unlawfully or arbitrarily interfered with. The right to privacy encompasses a right to information privacy. The requirement that any interference with a person's privacy must not be 'unlawful' imports a requirement that the scope of any legislative provision that allows an interference with privacy must specify the precise circumstances in which interference may be permitted. The requirement that an interference with privacy must not be arbitrary requires that any interference with a person's privacy must be reasonable in the circumstances and should be in accordance with the provisions, aims and objectives of the charter.

Application of charter to provisions

The provision relating to the public register of manufacturers strikes an appropriate balance between the rights of manufacturers to information privacy and the need for the public to be able to verify that people manufacturing therapeutic goods are appropriately licensed to do so. The interference with a manufacturer's right to privacy is not unlawful because it is prescribed by law. Nor can it be said that the interference is arbitrary, as the disclosure is clearly limited to the commercial details of the licensee and the manufacturing activity authorised by the licence. The register does not contain personal details such as residential addresses (unless the residence is also being used as a manufacturing premises for the purpose of the licence) or a person's date of birth.

With the limited disclosure of information restricted to identifying the manufacturer and the manufacturer's actions under its licence, these provisions do not authorise an interference that is unlawful or arbitrary — the interference serves the legitimate purpose of protecting the public and the clauses adequately specify the circumstances in which the interference may occur.

Conclusion

I consider that the publication of manufacturers' details in a public register under section 41A of the TGA bill engages but does not limit the right to privacy because the interference with privacy is not unlawful or arbitrary.

As the right of privacy, although engaged by the bill, is not limited by the bill, it is not necessary to consider the application of section 7(2) of the charter.

2. Entry powers

Bill provisions

Part 6-2 of the TGA and part 8 of the bill relate to powers of entry, search and seizure. The provisions allow for certain authorised persons to enter premises relating to therapeutic goods on certain grounds. The grounds on which premises may be searched are:

> for the purpose of finding out whether the therapeutic goods law has been complied with (TGA section 46(1) and 46A(1)); or
>
> if there are reasonable grounds for suspecting that there may have been a breach of the therapeutic goods laws and that it is necessary to exercise the search and seizure powers to avoid an imminent risk of death, serious illness or serious injury (TGA section 46B(1)); or
>
> if there are reasonable grounds for suspecting that there may be evidential material relating to a contravention of

the therapeutic goods laws on particular premises (TGA section 47(1); bill clauses 35(1), 37(1)).

Charter right: privacy and reputation

As discussed above, section 13 of the charter protects a person's right to privacy, including territorial privacy and information privacy. The protection given by the charter is from unlawful or arbitrary interference with privacy. Interference with privacy may be 'unlawful or arbitrary' if the limits of the power of interference are not clearly specified or if appropriate checks and balances constraining the power are not in place.

Application of charter to provisions

The power of authorised persons to enter and search certain premises could potentially amount to a breach of the right to privacy if the entry and search is unlawful or arbitrary. In this case, the powers of entry may only be exercised for specific purposes set out above and are subject to a number of constraints. The constraints imposed on authorised persons exercising the entry powers are:

a requirement to produce identity cards on request and a prohibition on entry if the identity card cannot be produced (TGA sections 46(3), 46A(3), 46B(2), 47(3); bill clause 33);

entry only if the occupier of the premises has consented to the entry or a warrant has been issued by a magistrate under section 49 or 50 of the TGA or clause 37(2) of the bill (TGA sections 46(2) and 47(2); bill clause 37(1)), except in relation to:

premises for which there is a specified connection to therapeutic goods (TGA section 46A(4)); and

searches necessary to avoid an imminent risk of death, serious illness or serious injury (TGA section 46B);

a prohibition under the TGA on entry onto residential premises without a warrant to monitor compliance with the law unless the occupier consents or the premises is also used for commercial therapeutic goods purposes and the premises has a specified connection to therapeutic goods (TGA section 46A);

in relation to searches authorised by warrant, the authorised person must announce themselves and give persons at the premises the opportunity to allow entry (unless immediate entry is required for the safety of a person or to prevent frustration of the warrant execution) (TGA section 48B; bill clause 38);

under the TGA, in relation to searches authorised by warrant, the occupier or his or her representative is entitled to observe the conduct of the search provided he or she does not impede the search (TGA section 48F).

With the safeguards of these constraints, the entry powers provisions do not authorise an interference that is unlawful or arbitrary — the interference serves the legitimate purpose of protecting the public and the clauses adequately specify the circumstances in which the interference may occur and the limitations on the interference.

Conclusion

I consider that the entry and search powers of the bill engage but do not limit the right to privacy because the interference with privacy is not unlawful or arbitrary.

As the right of privacy, although engaged by the bill, is not limited by the bill, it is not necessary to consider the application of section 7(2) of the charter.

3. Advertising restrictions

Bill provisions

Part 5-1 of the TGA provides for restrictions on the advertising that may be published or broadcast in relation to therapeutic goods. The TGA references the Therapeutic Goods Advertising Code, which prescribes in detail how therapeutic goods may or may not be represented in advertising material. Financial penalties are imposed for breaches of the advertising restrictions of 30 to 60 penalty units ($3300 to $6600[1]).

Charter right: freedom of expression (charter section 15)

The charter protects a right to impart information and ideas of all kinds, whether within or outside Victoria and whether orally, in writing, in print, by way of art or in another medium chosen by the person (section 15(2)). Section 15(3) of the charter also provides that special duties and responsibilities are attached to the right to freedom of expression and the right may be subject to lawful restrictions reasonably necessary for the protection of matters including public health.

Application of charter to provisions

The restrictions on commercial advertising in part 5-1 are imposed for the purpose of protecting public health. The restrictions relate to the way manufacturers may or may not represent the therapeutic goods and are reasonably necessary for the protection of public health due to the difficulty faced by the public in obtaining detailed and objective information about therapeutic goods with which to make informed decisions regarding purchase and use of such goods. The purpose of this part is to protect the public from acquiring or using therapeutic goods as a result of advertising that is misleading or deceptive or in some other way detrimental to public health. This is considered necessary given the public health risks associated with therapeutic goods.

Conclusion

I consider that the advertising restrictions in the bill engage but do not limit the right to freedom of expression, as the limitations imposed are lawful restrictions reasonably necessary for the protection of public health.

As the right of freedom of expression, although engaged by the bill, is not limited by the bill, it is not necessary to consider the application of section 7(2) of the charter.

[1] Crimes Act 1914 (cth), section 4AA: 1 penalty unit = $110.

4. Seizure and forfeiture of property

Bill provisions

Part 6-2 and section 54 of the TGA and clauses 35(8), 37, 40(1)(c), 46(2) and 53(1) of the bill could be considered to engage the right not to be deprived of property other than in accordance with law. This part provides for seizure and forfeiture of property in certain circumstances. The provisions enable an authorised person to seize and secure evidence from premises and provide for seized items to be forfeited in some circumstances.

Charter right: property (charter section 20)

Section 20 of the charter recognises a person's right not to be deprived of his or her property other than in accordance with law. The requirement that a permissible deprivation can only be carried out 'in accordance with law' imports a requirement that the law not be arbitrary. A provision that confers a discretionary power to deprive a person of his or her property will be consistent with the charter if the limits of the power are defined and the criteria that govern the exercise of the discretion are specified and reasonable.

Application of charter to provisions

The provisions in the bill that allow for seizure and forfeiture of items are necessary to prevent items from being hidden or destroyed which may frustrate an investigation into breaches of the therapeutic goods law.

It is noted that items may only be seized if there are reasonable grounds for suspecting that:

the therapeutic goods law has not been complied with;

it is necessary in the interests of public health to exercise the powers in order to avoid an imminent risk of death, serious illness or serious injury; or

evidence is on the premises that should be collected.

Goods may only be forfeited if they relate to a conviction (TGA section 54, bill clause 53).

Under section 48H of the TGA, seized items must be returned when they are no longer relevant as evidence or after 90 days, whichever occurs first, unless the items are forfeited or forfeitable to the commonwealth under section 54 or an extension has been obtained.

Under clause 47 of the bill, items must be returned when the reason for the seizure no longer exists or no later than three months after seizure if no proceedings have commenced, unless the items are forfeited or forfeitable under clause 53 or an extension has been obtained.

The provisions relating to seizure and forfeiture of property are not arbitrary as they are clearly defined and are reasonable in relation to the object of enforcing the therapeutic goods laws.

Conclusion

As the engagement with property rights is neither unlawful nor arbitrary, these provisions do not limit the right protected by section 20 of the charter.

As the right relating to property, although engaged by the bill, is not limited by the bill, it is not necessary to consider the application of section 7(2) of the charter.

5. Offences imposing an evidential or legal burden on defendant

Bill provisions

The commonwealth TGA contains various offences that are 'applied' in the bill to be operative in Victoria. For many of the offences, specific defences are set out; however, a burden is placed on the defendant to adduce evidence for the particular defence. The offences for which this is the case are:

Offences imposing burden on defendant in respect of specific defences

TGA s8 Power to obtain information with respect to therapeutic goods

TGA s14 Criminal offences for importing, supplying or exporting goods that do not comply with standards

TGA s19B Criminal offences relating to registration or listing etc. of imported, exported, manufactured and supplied therapeutic goods

TGA s31 Secretary may require information

TGA s31C Criminal offence for failing to give information or documents sought under section 31A, 31AA or 31B

TGA s31D False or misleading information

TGA s31E False or misleading documents

TGA s41JI False or misleading documents

TGA s41MA Criminal offences for importing, supplying or exporting a medical device that does not comply with essential principles

TGA s41MB Exceptions

TGA s41MF Criminal offences for failing to apply conformity assessment procedures — sponsors

TGA s41MG Exceptions

TGA s41MI Criminal offences for importing, exporting, supplying or manufacturing a medical device not included in the register

TGA s42C Offences relating to publication of advertisements

TGA s42DL Advertising offences

TGA s48 General powers of authorised persons in relation to premises

Under each of these provisions, the burden relating to the claiming of the defence is an evidential burden through the operation of section 13.3(3) of the Criminal Code Act 1995 of the commonwealth. This means that the defendant must adduce or point to evidence that suggests a reasonable possibility that the relevant matter exists or does not exist.[2]

[2] Criminal Code Act 1995 (cth), section 13.3(3) and (6): '*evidential burden*, in relation to a matter, means the burden of adducing or pointing to evidence that suggests a reasonable possibility that the matter exists or does not exist'.

However, in addition to the evidential burden, two of the provisions (sections 19B and 41MI), impose a legal burden, meaning that the defendant must prove the issue on the balance of probabilities. These are:

> section 19B: criminal offences for dealings with unlawful therapeutic goods; and
>
> section 41MI: criminal offences for dealings with a medical device not included in the register.

Under these sections, it is an offence to import, export, manufacture and supply unlawful therapeutic goods or medical devices. Different penalties apply depending on the severity of the contravention.[3] It is a defence to a prosecution of this kind if the person was not the 'sponsor' [4] of the goods/device at the time of the dealings. However, the defendant bears a legal burden to establish this defence on the balance of probabilities.[5]

These two different kinds of burden require different consideration under the charter, discussed below.

Charter right: right to be presumed innocent until proven guilty (charter 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 proved guilty according to law.

Application of charter to provisions: evidential burden

The requirement for defendants to adduce evidence when claiming a specified defence engages the right to be presumed innocent until proved guilty. However, in relation to an evidential onus, the burden does not extend beyond the raising of sufficient evidence to suggest a reasonable possibility that the defence applies. Once sufficient evidence is raised, the prosecution must prove beyond reasonable doubt that the defence does not apply and that all requisite elements of the offence are present. In this case, the burden placed on the defendant is clearly articulated to be an evidential burden only, not extending to a legal burden. Evidential burdens that do not extend to a legal burden have been held by the courts to be compatible with the presumption of innocence,[6] as a necessary part of preserving the balance of fairness between the defendant and the prosecutor in matters of evidence. As such, the provisions above (in respect of the imposition of an evidential burden) do not limit the right to be presumed innocent.

Application of charter to provisions: legal burden

Sections 19B and 41MI provide that a person wishing to defend a prosecution for dealings with unlawful therapeutic goods or with a medical device not included in the register on the basis that he or she was not the sponsor at the time must prove this on the balance of probabilities. I accept that this constitutes a limitation of the right of presumption of innocence. In my view, however, that limit is reasonable and demonstrably justifiable when considered under section 7(2) of the charter:

(a) The nature of the right being limited

The right to be presumed innocent protects defendants in criminal proceedings from conviction, and the potential loss of liberty or imposition of financial penalties, where the prosecutor is unable to prove all elements of the offence beyond reasonable doubt.

(b) The importance and purpose of the limitation

An obligation is placed on 'sponsors' of therapeutic goods to include their goods in the register before they may import these goods into Australia, manufacture or supply the goods in Australia, or export them from Australia. Before therapeutic goods may be included in the register, the goods must satisfy statutory criteria that establish their safety, quality and efficacy for their intended use. Hence, requiring goods to be first entered in the register ensures that an appropriate level of scrutiny in relation to the goods has occurred before they are marketed to the general public. It is therefore an offence (subject to a number of exceptions set out in the act) for a sponsor to supply goods that are not included in the register. Very generally, a 'sponsor' is defined in the act to be a principal manufacturer, importer or exporter.

The requirement for the defendant to prove that he or she was not the 'sponsor' at the relevant time was included in the TGA to address difficulties experienced in initiating prosecutions against 'sponsors' under previous versions of the act. The explanatory memorandum for the amending legislation[7] stated that:

> … in proceedings under this provision, to establish that a person is a sponsor the Crown is required to show, among other things, that there is no agency arrangement. However, it is not possible to establish something that does not exist and a fact that is within the knowledge of the sponsor.

The effect of the introduction of the reverse legal onus was to require a 'sponsor' in such a situation to establish that there was an agency arrangement, and that therefore the person did

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[3] Penalties range from 12 months imprisonment/1000 penalty units/both for dealings with unlawful therapeutic goods or medical devices that contravene the laws through to five years imprisonment/4000 penalty units/both for dealings with unlawful therapeutic goods or medical devices that contravene the laws and have, will or would result in harm or injury to any person.

[4] Criminal Code Act 1995 (cth), section 3:

sponsor, in relation to therapeutic goods, means:

(a) a person who exports, or arranges the exportation of, the goods from Australia; or

(b) a person who imports, or arranges the importation of, the goods into Australia; or

(c) a person who, in Australia, manufactures the goods, or arranges for another person to manufacture the goods, for supply (whether in Australia or elsewhere);

but does not include a person who:

(d) exports, imports or manufactures the goods; or

(e) arranges the exportation, importation or manufacture of the goods;

on behalf of another person who, at the time of the exportation, importation, manufacture or arrangements, is a resident of, or is carrying on business in, Australia.

[5] Sections 19B(5) and 41M(6) and Criminal Code Act 1995 (cth), section 13.3(5).

[6] R v Director of Public Prosecutions, ex parte Kebilene [2000] 2 AC 326, 379.

[7] Therapeutic Goods Amendment Bill 1996

not act as a principal in unlawfully importing, exporting, supplying or manufacturing therapeutic goods. The purpose of the limitation is important — namely to ensure that responsibility for offences under these provisions is not evaded due to unduly onerous burdens on the prosecution.

(c) The nature and extent of the limitation

The defences provided for in sections 19B(5) and 41MI(6) only become relevant if the prosecution is able to establish beyond reasonable doubt that the person has committed an offence under the section. If the prosecution is unable to do this, the offence will not be 'made out' and the defence will be unnecessary. The limitation on the defendant's right to be presumed innocent extends only to the defendant's status as sponsor. The prosecution must still prove all other elements of the offence beyond reasonable doubt.

(d) The relationship between the limitation and its purpose

Sections 19B and 41MI constitute two of the principal offences under the regulatory scheme. As noted above, the definition of 'sponsor' is technical and the defences only become relevant once the prosecution has established beyond reasonable doubt that the person has imported, exported, manufactured or supplied the unlawful goods/devices in the relevant manner. The limitation on the right of presumption of innocence, requiring the defendant to prove that he or she was not the sponsor if this is claimed by the defendant, is in place to balance fairness between the defendant and the prosecutor in the matter of proving ultimate responsibility in Australia for the exportation, importation or manufacture of the relevant goods/devices.

The explanatory memorandum for the legislation that introduced the reverse onus defence noted:

> The principal/agent relationship, particularly in cases not involving major corporations, can only be ascertained conclusively through confidential commercial arrangements known only to the parties concerned, to which the commonwealth is not privy and often precluded from discovery for the purposes of establishing who committed an offence under [the relevant section]. Until the identity of the sponsor can be established, it is not possible to lay charges under [the relevant section] of the act so as to effectively preclude the exportation, importation, supply and use within Australia of unapproved therapeutic goods, including counterfeit drugs.[8]

The defence is considered to be essential if prosecutions against sponsors are to be pursued.

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

There is no less restrictive means that achieves the purpose of allowing persons to defend themselves against prosecutions for dealings with unlawful therapeutic goods/devices on the grounds that they did not have ultimate responsibility in Australia for the goods' importation, exportation or manufacture while also removing the potentially impossible burden on the prosecution of establishing that no other person had such ultimate responsibility.

Conclusion

I consider that the provisions requiring the defendant to produce evidence in relation to defences under the TGA engage but do not limit the right to be presumed innocent until proved guilty because the burden on the defendant does not extend beyond an evidential burden. As the right of presumption of innocence, although engaged by the bill, is not limited by the bill, it is not necessary to consider the application of section 7(2) of the charter in respect of the evidential burden imposed on the defendant.

In respect of the legal burden imposed on the defendant under sections 19B and 41MI of the TGA, while the legal burden component of the defences in these sections constitutes a limitation of the right of presumption of innocence, the limitation is reasonable and demonstrably justifiable when considered under section 7(2) of the charter.

Conclusion

Based on the considerations set out above, I consider that the bill is compatible with the charter.

Hon. Daniel Andrews, MP
Minister for Health

Second reading

Mr ANDREWS (Minister for Health) — I move:

That this bill be now read a second time.

The bill repeals the Therapeutic Goods (Victoria) Act 1994 and replaces it with legislation which applies the commonwealth Therapeutic Goods Act 1989 as a law of Victoria. It will continue the controls over aspects of the supply of therapeutic goods not covered by the commonwealth act, namely, the supply of therapeutic goods by hawking and through vending machines.

The object of the commonwealth Therapeutic Goods Act 1989 was to provide for the establishment and maintenance of a national system of controls over therapeutic goods. These controls relate to the quality, safety, efficacy and timely availability of therapeutic goods to Australian consumers.

When the commonwealth enacted the Therapeutic Goods Act 1989 the commonwealth relied upon its constitutional powers to regulate trading corporations, interstate trade, customs and quarantine.

The commonwealth's powers to regulate did not extend to natural persons trading intrastate. This left the states and territories to either enact 'mirror' legislation or adopt the commonwealth act by reference to regulate these entities.

[8] Therapeutic Goods Amendment Bill 1996, Explanatory Memorandum.

When Victoria enacted the Therapeutic Goods (Victoria) Act 1994 it 'mirrored' the commonwealth Therapeutic Goods Act. Since then there have been at least 30 changes to the commonwealth Therapeutic Goods Act. This has resulted in the Victorian act no longer reflecting the provisions of the commonwealth Therapeutic Goods Act in significant respects. It has also become clear that it is very rare for natural persons or corporations trading intrastate to participate in this sector. For Victoria to continue to regulate by 'mirror' legislation would cause significant administrative inefficiency without a corresponding benefit.

In replacing the Therapeutic Goods (Victoria) Act 1994 the same approach is being taken as other participating jurisdictions such as New South Wales and Tasmania. The bill applies the commonwealth act as amended from time to time as a law of Victoria.

Now I turn to the specifics of the bill, starting with the applied provisions. The applied provisions apply the commonwealth laws as a law of Victoria.

The commonwealth act sets out the legal requirements for the import, export, manufacture and supply of medicines. It details the requirements for listing or registering all medicines on the Australian Register of Therapeutic Goods.

Other aspects of the commonwealth act include regulating advertising, labelling, and product appearance. The commonwealth act is supported by the regulations, and various orders and determinations.

The Therapeutic Goods Administration commonly known as the TGA is part of the Australian government Department of Health and Ageing and has responsibility for administering the commonwealth act.

The TGA carries out a range of assessment and monitoring activities to ensure that all therapeutic goods are of an acceptable standard. At the same time, the TGA ensures that the Australian community has access, within a reasonable time, to therapeutic advances.

TGA control of medicines is exercised through various processes including pre-market evaluation and registering of approved products, and the licensing of manufacturers and subsequent monitoring of them in accordance with international standards of good manufacturing practice. It also includes post-market monitoring of products and adverse event reporting.

The bill deals with functions and powers under the applied provisions. The commonwealth has the same functions and powers under the applied provisions as it has under the commonwealth therapeutic goods laws. Commonwealth administrative law will apply to any matter arising in relation to the applied provisions and offences will be prosecuted as commonwealth offences.

Provisions specific to Victoria

The provisions specific to Victoria mean that hawking or the sale of therapeutic goods by vending machine without written permission of the Victorian Secretary of the Department of Health, as in the existing act, continue to be prohibited. Also the minister has power to exempt persons or goods from these provisions by order published in the *Government Gazette*.

Under the bill the Victorian secretary retains the power to make or adopt codes of practice and the procedure for making or adopting a code of practice is specified. An example of such a code of practice could relate to the supply of therapeutic goods.

The bill next deals with the enforcement of the Victorian provisions. The bill includes updated Victorian standard provisions for authorised persons, the enforcement powers of authorised persons and evidential and legal proceeding matters.

The final parts of the bill deal with general matters, such as the provision for making regulations and transitional provisions from the existing 1994 act.

In conclusion the bill will result in a reduction in administrative and compliance costs for potential Victorian manufacturers. Manufacturers of therapeutic goods will find the requirements for the manufacture and sale of the therapeutic goods in one piece of legislation which is always up to date.

I commend the bill to the house.

Debate adjourned on motion of Dr NAPTHINE (South West Coast).

Debate adjourned until Thursday, 8 April.

CREDIT (COMMONWEALTH POWERS) BILL

Council's amendments

Message from Council relating to following amendments considered:

1. Clause 2, line 11, for "This Act" substitute "(1) Subject to subsection (2), this Act".

2. Clause 2, line 12, after this line insert —

"(2) Section 20(2) comes into operation on 1 January 2011.".

3. Clause 20, line 23, before "Sections 3," insert "(1)".

4. Clause 20, line 23, omit "Part 4A" and insert "Divisions 2 and 3 of Part 4A".

5. Clause 20, line 25, after this line insert —

"(2) Divisions 1, 4, 5 and 6 of Part 4A and the heading to Part 4A of the **Consumer Credit (Victoria) Act 1995** are **repealed**.".

6. Clause 22, line 14, after this line insert —

'(1) In section 37A of the **Consumer Credit (Victoria) Act 1995** —

(a) **insert** the following definition —

"**National Credit Code** has the same meaning as in Part 5;";

(b) in paragraph (a) of the definition of ***consumer credit***, for "Consumer Credit (Victoria) Code" **substitute** "National Credit Code";

(c) in paragraph (b) of the definition of ***consumer credit***, for "Part 10 of the Consumer Credit (Victoria) Code" **substitute** "Part 11 of the National Credit Code";

(d) in the definition of ***valuation fee***, for "Consumer Credit (Victoria) Code" **substitute** "National Credit Code".

(2) In section 37J(3) of the **Consumer Credit (Victoria) Act 1995** —

(a) in paragraph (a), for "Consumer Credit (Victoria) Code" **substitute** "National Credit Code";

(b) in paragraph (b), for "Consumer Credit (Victoria) Code" **substitute** "National Credit Code".'.

7. Clause 22, line 15, for "(1)" substitute "(3)".

8. Clause 22, page 17, line 1, for "(2)" substitute "(4)".

9. Clause 30, line 31, after "repeal of" insert "Division 1 of".

Mr ROBINSON (Minister for Consumer Affairs) — I move:

That the amendments be agreed to.

As a result of discussions which have been held over the last few days the government has agreed to amend the bill as introduced. The amendments will allow for a staged transition from the current state oversight to commonwealth oversight. The effect of those changes is for a staged repeal of the Victorian act. These matters have been discussed at some length by different parties. I acknowledge the cooperative attitude of the opposition, The government is able to meet the needs of the opposition and some other parties without impacting upon the time lines that have been agreed between the state and commonwealth governments on these important reforms. Therefore we are happy to have these amendments made to the bill and wish it a very speedy passage.

Mr O'BRIEN (Malvern) — The opposition welcomes these amendments to the Credit (Commonwealth Powers) Bill 2010 that have been made by the Legislative Council. In my contribution to the debate when the bill was before this chamber I flagged that we had some concerns about the possibility of a regulatory gap in relation to finance brokers in the transition between state regulation of consumer credit and commonwealth regulation of that area.

Those concerns were shared by other parties, and as a consequence of that I am very pleased that the government has agreed to take those concerns on board. These amendments are the consequence of those concerns being dealt with. We think it is important that we have consistent national regulation of consumer credit. We also think it is important that the current safeguards Victorians have and enjoy are not lost in the transition, and we welcome the fact that these amendments should ensure that adverse consequences will not be the case when it comes to finance brokers.

The opposition supports these amendments and will not oppose the bill.

Motion agreed to.

Remaining business postponed on motion of Mr ROBINSON (Minister for Gaming).

ADJOURNMENT

The SPEAKER — Order! The question is:

That the house do now adjourn.

Water: north–south pipeline

Ms ASHER (Brighton) — I raise an issue for the Minister for Water. The action I am asking him to take is to help Melbourne Water have a transparent reporting approach regarding the inflows from the north–south pipeline into the Sugarloaf Reservoir. Specifically I am asking him to publish weekly inflows data in the Melbourne Water weekly water report. This project is contentious; all members of this house know that. The

government said it would not take water from north of the Great Divide prior to the 2006 election, and it has done so. We on this side oppose that particular project, and now in recent times we are seeing a dispute in regard to the volume of water, or at least some questions raised about the volume of water taken from that pipe. There have been claims in particular by one group that is opposed to the pipe about significant operational problems and the possibility of reduced volumes from that pipe, and there have been allegations that some of the pumps are not working.

In a press release issued by the Premier on Tuesday, 16 March 2010, the Premier disclosed that as of that date the Sugarloaf pipeline had provided 2.5 billion litres since the pipe was turned on. Again, a lot of people with expertise in this area, particularly given that the minister said he would only pump in the irrigation system, think the target set by the government may not be reached. It is also of course particularly cynical of the government to 'only' guarantee 75 gigalitres in 2010, which is of course the election year. That comment or observation has been made over and over again. It is a very cynical exercise.

However, notwithstanding the opposition to the pipeline, the issue and my request to the minister is to publish weekly inflows data in the Melbourne Water weekly water report. Those water reports are extremely comprehensive, and they are tracked by many people with an interest in measuring flows. The minister is well aware that the project is contentious, and he is well aware that there are a number of interest groups that are disputing the capacity of the government to take the water it said it would take. We are not advocating the take, but we are simply asking for transparency and accountability in the reporting of the inflows from the north–south pipeline into Sugarloaf Reservoir.

Buses: SmartBus orbital service

Ms MARSHALL (Forest Hill) — I rise in the house today to raise a matter for the Minister for Public Transport. The action I seek is for the minister to ensure that the residents are informed of the extended bus route 735 which will continue to link residents to Forest Hill Chase shopping centre when the new route 902 SmartBus service which will replace former routes 888 and 889 commences on Monday, 5 April 2010. It was a pleasure to be present with the Minister for Public Transport on 1 March this year when he announced that passengers can try out the new SmartBus service for free for the first two weeks from 5 April until 18 April.

An honourable member interjected.

Ms MARSHALL — Absolutely for free! What exciting news for the Forest Hill electorate and its constituents with the new SmartBus route 902 running from Chelsea to Airport West via Glen Waverley, Nunawading, Doncaster, Eltham, Greensborough, Thomastown and Broadmeadows. The extended SmartBus service delivers what the people of Forest Hill need — a bus service operating for longer periods and more frequently and which connects better with other transport hubs. It uses a mixture of road priority measures and technology to get people where they want to go quickly. The 902 SmartBus service will operate on average every 15 minutes during busy periods on weekdays and every 30 minutes on weekends, and it will connect with existing bus routes 732 and 765 in the electorate.

All SmartBuses are low floor, which means the bus can meet the kerb at SmartBus stops, making travelling more accessible for people with a disability and parents who may be using prams — which is fantastic news. I have been contacted by a number of my constituents and local business operators who were concerned that the new SmartBus route 902 would not travel to Forest Hill Chase shopping centre or Mount Pleasant Road in Nunawading. For many of these people, the 888 and 889 bus services were their only form of transportation. For these people and others in the electorate, adequate public transport services not only provide a way to get from A to B but also enhance their inclusion within the community. I have been pleased to advise these constituents that this extended bus route 735 will be able to continue to provide residents of Mount Pleasant Road and those along sections of Springvale Road and Canterbury Road with a direct bus link to Forest Hill Chase shopping centre.

A number of my constituents were unaware that the local bus route 735 will be extended to replace those parts covered by the former 888 and 889 services. It is imperative that residents are made aware of any changes to bus services in their area, including new or replacement services. Bus patronage in my electorate and in the eastern suburbs generally has increased dramatically in the last 12 months. The more people are aware of their public transport options, the more people will access public transport itself. Again, I ask the minister to ensure that adequate timetable and bus route information is made available to residents along the new extended routes.

Murtoa Stick Shed: future

Mr WALSH (Swan Hill) — The matter I raise is for the Premier, and it concerns the Murtoa Stick Shed. In October 2008 the Premier announced funding of

$1.2 million through Heritage Victoria to spend on conservation works at the Murtoa Stick Shed. The Murtoa Stick Shed is obviously at Murtoa and is a temporary grain storage that was built in World War II to store grain. It is 280 metres long and 60 metres wide — —

An honourable member interjected.

Mr WALSH — For the minister's benefit, I will come to the fact that it is all falling down, in a minute. It is 19 metres wide and has poles every 4.5 metres holding the roof up. The majority of the shed is owned by the Victorian government, but it is on GrainCorp land. There has been ongoing correspondence between GrainCorp and the government since early 2009 about the future of the stick shed. GrainCorp and the overwhelming majority of the community believe the stick shed is beyond repair and that the best outcome would be to have it pulled down. The Rupanyup Historical Society wrote to me in November 2008 stating just that. Large sections of the roof have fallen in, and the whole roof is covered by wire mesh to stop roofing iron from blowing around in the community.

As reported in the *Weekly Times* on 14 October last year, conservation works on the shed were suspended by WorkSafe almost as they began, for fear of workers safety.

WorkSafe is not the only one concerned about the safety. I am in receipt of a letter from Murtoa College. Its principal is quite concerned and wrote:

> On high wind days we have a concern that sheets of … iron may lift up from the roof and be blown into the school grounds. We did, on one occasion last year, remove students from the sports oval and basketball courts as we were concerned about the possibility of materials coming loose.

So there is a real safety issue in the community about this particular facility.

GrainCorp has put a compromise proposal to the government to build a historical interpretive centre adjacent to the current shed and use unspent grant money, supplemented with some of its own money, to achieve this. It would maintain and respect the history of grain handling and storage in the Wimmera. It would improve safety on the site and also within the community.

An honourable member interjected.

Mr WALSH — That is what it is proposing to build. The Premier's office is well aware of these particular issues.

I ask the Premier to intervene to ensure that the proposal from GrainCorp is progressed to conserve the history of grain handling in the Wimmera and, more importantly, to improve safety in the community. I ask him also to make sure that the GrainCorp site, which is the major receival site in Victoria for GrainCorp, can be developed in the future and can remain a grain receival site. If the shed is not removed, there is a risk GrainCorp will exit the facility and have to go somewhere else.

Seymour electorate: men's sheds

Mr HARDMAN (Seymour) — I wish to raise a matter for the Minister for Senior Victorians. The action I request is that the minister provide funding to enable communities to develop men's sheds across the Seymour electorate and particularly for the bushfire-affected communities.

In the 2007–08 budget $2 million of funding was allocated for men's sheds. In the 2009–10 budget a further $2 million of men's sheds funding was allocated. This has already allowed us to help establish 51 men's sheds across Victoria. Indeed across the Seymour electorate there are already several men's sheds operating, but there are many other towns across the electorate that require assistance to get these men's sheds going. I have been requested to directly support a men's shed application in Flowerdale and one in Marysville. I would particularly like to strongly support those and any other men's sheds where applications have been made.

As members would be aware, men's sheds are very positive places with lots of good reasons for existing. I know the men's sheds in Kilmore, Puckapunyal, Healesville and Yea all take on projects that provide a place for men not only to connect with each other and share their stories but also to undertake positive projects for their local communities. I am aware of projects such as the building of nesting boxes and outdoor furniture. At the Kilmore hospital's recent 150th anniversary I saw a display put on by the Kilmore men's shed, with little toys and other objects its members had made.

Men's sheds can be great resources for people and also great places for people helping other people. They are also great places where people can learn new skills in a relaxed atmosphere and where people can be comfortable in their surroundings. They obviously look after the wellbeing of people who might have been through experiences that have created some trauma and left them unable to work, such as the Black Saturday bushfires. The men's sheds give them a place to go

where other people understand what they might be going through.

Seven months ago an application was put together for a men's shed in Marysville. People there are also very keen to find a site. I met with Mark Lewis from Berry Street, David Atkinson from Mitchell Community Health Services and local community member Richard Holland, who spoke with me about the importance of finding a good site for their men's shed and also their desire to secure funding to provide a good facility for local community members. Again, I ask the minister to look favourably on all applications from the towns in the Seymour electorate for men's sheds.

Doncaster electorate: youth services

Ms WOOLDRIDGE (Doncaster) — I rise to call on the Minister for Sport, Recreation and Youth Affairs to provide additional funding for young people, youth services and facilities in my electorate of Doncaster. This government's funding for Doncaster's young people is woefully inadequate. Much more should be done for our younger citizens. Youth workers tell me that funding from state government sources for youth projects is often not directed to Manningham simply because the need is not seen to be great. Yet despite that perception, young people in Manningham still face the challenges and issues of adolescence and early adulthood in the same way that young people across Victoria do.

As part of the Victorian parliamentary internship program I commissioned a report to study youth services and facilities in Manningham. Chris Venus, my intern, did a great job and importantly highlighted in the report that because someone comes from an affluent background that does not mean they are immune from problems or have it easy. Manningham City Council has outsourced the provision of youth services to the Manningham YMCA. There are over 19 000 young people in Manningham, yet due to the level of funding the YMCA receives — and therefore the range of services it is able to offer — it is estimated that only 5 per cent of secondary school students have ever attended a local Manningham YMCA event.

The YMCA would like to do broader marketing, but that would mean that more young people needing support would seek to access services, and it does not have the manpower to respond to this unmet need. The YMCA's youth services director tells me that it is a priority to get the funding and to recruit a specific youth support worker to help young people who are disadvantaged and in need. At the moment young people are referred to other agencies, often outside Doncaster, and the YMCA has no resources to follow up the referral or to provide additional local support.

The report showed that the lack of public transport, boredom, the lack of things to do and the lack of space specifically for young people are the major issues for young people in Manningham. The lack of public transport is acutely felt by young people aged 12 to 17, who are very reliant on it. It particularly impacts on their ability to access youth services, which are provided only in other municipalities and which they may seek out or be referred to. In addition the only youth-specific space in Manningham for young people to hang out in is the same room where the offices of the YMCA's youth workers are located, which is hardly conducive to encouraging young people to use it.

Manningham's young people have been forgotten by this Labor government. Every young person deserves to have support and facilities which ensure that they can reach their full potential and, when there are bumps along the way, that they can access appropriate support. I call on the government to no longer overlook Doncaster but to ensure that we have the funding to provide appropriate and accessible youth services for young people in Doncaster.

Sunshine Hospital: funding

Mr LANGUILLER (Derrimut) — I wish to raise a matter for the Minister for Health. The action I seek from the minister is that he ensure that the remaining funds to deliver stage 3 of the redevelopment and expansion of Sunshine Hospital are included in the upcoming budget.

The doctors, nurses and other health professionals at Sunshine Hospital do a fantastic job of caring for over 61 000 emergency department presentations and 52 600 admissions and of treating 57 500 outpatients. Unlike members opposite, who just continue to criticise the work of our doctors and nurses, the Brumby Labor government continues to invest in our health services and to stand up for families in the west. Most recently the opposition accused Western Health of having a secret waiting list. Of course we all know there is no such list — all of those patients alluded to by the opposition have received their treatment.

Associate Professor Trevor Jones, clinical services director at Western Health, wrote to the Minister for Health on 12 February 2010 saying:

> Western Health does not and has never had 'thousands … on secret waiting lists'.

This Labor government has a strong record of delivering for Sunshine Hospital, having boosted funding for Western Health by 148 per cent. In the 2007–08 budget $20 million was provided for the first stage of the expansion of Sunshine Hospital. This included upgrading of the central sterile supply department and the maternity ward and a range of priority infrastructure works. The 2008–09 budget provided a further $73.5 million for a new radiotherapy facility, day surgery procedures and a new teaching, training and research facility. This will deliver the first public radiotherapy services in the west. The new teaching, training and research capacity will link Melbourne University and Victoria University with Sunshine Hospital and play a key role in research-led clinical education.

Only the Brumby government is committed to improving health and other services in Melbourne's western suburbs, and I ask that the Minister for Health continue this record by funding the next stage of the Sunshine Hospital expansion and redevelopment.

I think those of us who have followed politics, for a long time particularly those in the western suburbs, would remember that it was a Whitlam government minister, Jim Cairns, who laid the foundation for the Sunshine Hospital and said that we should have a hospital in Sunshine. I remind those opposite — and my electorate knows about it — that it was the Bracks and Brumby governments that effectively built a proper hospital which provides generalist services and an emergency department and is a teaching hospital. It is only this government and those on this side who look after the western suburbs.

Stud Road: bus lanes

Mr WELLS (Scoresby) — I raise a matter for the Minister for Roads and Ports. The issue I raise is the new bus lanes on Stud Road. The action I seek is for the minister to immediately stop building bus lanes on Stud Road until proper consultation has taken place.

Let me make it very clear that the Liberal Party and The Nationals support bus lanes where they are in addition to existing road capacity. But this is not the case on Stud Road. VicRoads has taken away an existing lane carrying cars on Stud Road between Ferntree Gully Road and Kelletts Road. I note with respect that on Tuesday in a member's statement the member for Bayswater mentioned exactly the same issue and referred to a section of the road north of Ferntree Gully Road, up into the electorate of Bayswater.

This has caused absolute chaos on Stud Road. In fact this morning constituents contacted my office stating that when you turn from the right-hand lane of Ferntree Gully Road into Stud Road you cannot move because in Stud Road you move from three lanes into two lanes.

The issue of reducing lanes on Stud Road is yet another broken promise by the Labor government. Let me tell the house why. The Premier, Steve Bracks, on 29 April 2003 in an answer to a question without notice about tolls on the Scoresby freeway stated:

> Secondly, the government will not be closing or narrowing roads, so people will have the choice of using existing roads or the freeway.

This is another broken promise by the Labor government to the people in the outer east. The Premier at that time made a rock-solid commitment that there would be no closing or narrowing of any roads. And now we find a situation where in Stud Road three lanes have been changed to two lanes and the third lane has been converted into a bus lane. As I said, and I make this point very clear, the Liberal and National parties support bus lanes where they are in addition to existing road capacity, but this is instead of a car-carrying lane. This is wrong. We ask the minister to take immediate action to stop the building of these lanes until there is proper consultation with constituents in the area.

Berwick Springs Sports Club: funding

Ms GRALEY (Narre Warren South) — The matter that I wish to raise this afternoon is for the attention of the Minister for Community Development and concerns plans for an extension to the Berwick Springs Sports Club pavilion. The action I seek is that the minister provide advice through her department to the Casey City Council and the Berwick Springs Sports Club on potential state government funding opportunities for an extension to the Berwick Springs pavilion.

It is a real pleasure for me to visit the sporting clubs in my electorate and witness families enjoying and participating in outdoor activities and being part of our new community. I am especially pleased that many of the clubs are continuing to grow, some very quickly. Around two years ago the Casey council built a new pavilion at Berwick Springs Park to accommodate the Berwick Springs Sports Club. The pavilion that was built is too small and can no longer properly accommodate the growing area and the growing club. In addition to sporting use, the pavilion is used as a community facility.

The Berwick Springs Residents Association — a terrific group of people dedicated to improving the local community — holds its meetings at the pavilion. I understand that Hillsmeade Primary School and Alkira Secondary College are also keen on using the facility. Many other local groups approach my office looking for a place to gather.

After writing to the council on the matter I was advised that the council was planning an extension to the pavilion. This is welcome. The sports club welcomes it, but any new works on the pavilion need to be done strategically, with the projected growth of the area in mind and the club's desire for the pavilion to be both a sports and community facility.

In this area young families are moving into their new homes every day. Berwick Springs is a great place to live and raise a family. The Berwick Springs Sports Club needs bigger and better clubrooms. The community is looking for extra rooms and meeting spaces. I know that including a community facility as part of the Berwick Springs Sports Club pavilion extension will be a winner with everyone.

The Minister for Sport and Recreation recently visited the pavilion and advised council officers that an extension to the pavilion that provided both sports and community facilities may attract funding from two sources within the Victorian government. I look forward to continuing to work hard with the members of the Berwick Springs Sports Club to achieve their dream of a newly extended sports and community facility. I ask that the minister provide advice through her department to Casey council and the Berwick Springs Sports Club on potential state government funding opportunities for an extension to the Berwick Springs pavilion.

Autism: student funding

Mrs VICTORIA (Bayswater) — I rise to ask the Minister for Children and Early Childhood Development to investigate the method by which funding is assessed for children with autism who attend mainstream primary schools. Last week a very concerned mother and the deputy principal of the school which her son attends came to visit me to explain the situation.

Karen's son has begun prep, after attending Irabina and a mainstream preschool. I had an email from the integration aide who worked with Connor last year, who has since been employed by the school, at the school's expense, to assist him. In part it reads:

> It seems a travesty to me that because his wonderful parents have done everything they could for him, and it has worked for him, our government is now prepared to set him adrift and force his primary school community to try to find the resources to support him through this very important educational year. Had Karen and Ron not tried so hard, had he not received early intervention, support in mainstream kinder, and all of the best specialist help available, Connor's education would represent a far greater and ongoing financial cost to our government and us as taxpayers.

Connor has a high IQ. Like so many others with his condition, he aims to please, so assessment can be quite difficult. A one-on-one situation where he feels safe is a very different environment for assessment to a classroom of over 20 preps and only one teacher. Connor has sometimes quite severe behavioural issues. Ritalin is a help but cannot control the external factors which trigger his behaviour, like a sudden change of routine.

The autism state plan, released in May 2009, has made accessing funding for children like Connor far more difficult. Those with Asperger's syndrome generally do not experience a speech delay, which is one of the main criteria for obtaining an aide. One education department staffer suggested the best thing for the family and school to do is leave Connor unaided for the year, watch him fail, then apply again next year. Anyone working with these children will tell us that the earlier the intervention the greater chance of long-term normality in their lives, so this suggestion is simply not an option.

Without a full-time aide Connor, as a skilled escapologist, presents a huge flight risk and is sometimes unable to control his emotions, becoming a potential threat to other students. Officially, according to the education department, the school is liable if Connor escapes and goes missing or if, God forbid, he is hit by a car or if he assaults another child or teacher. The school does its best to provide assistance for him, at the cost of other programs to the wider student body — for example, there is now no specialist aide for very young students in the computer lab.

Talking with a senior education specialist from the autism and disability sector raised many questions for me about the autism state plan and its role in the diminishing number of children eligible for funding this year. According to her, many thousands of children missed out on aides because their pragmatic language ability was high, with no regard to the other, often quite severe, challenges these children face. Again, I ask the minister to review the method by which aide funding is assessed for Connor and children like him.

Housing: Munro Manor

Ms CAMPBELL (Pascoe Vale) — I raise a matter for the attention of the Minister for Housing. I am very pleased he is here in the house tonight. There is a real and immediate need for affordable housing in my electorate. In suburbs such as Pascoe Vale, Coburg North, Coburg and Hadfield property prices and rents are on the increase. Increasingly, low-income families and single people are simply being priced out of the private rental market. There are also a large number of people in my electorate waiting for public housing.

The most recent published waiting list data for public housing indicates that over 3000 people are waiting for public housing in the Broadmeadows area, which includes the suburbs in my electorate. In particular there are a high number of single people there who are struggling to find affordable housing. However, I am aware that a great deal of construction is going on in my electorate and right across the state to provide increased affordable housing. That is a result of the Brumby government's commitment to tackling the issue of housing affordability. I compliment not only the minister and his team and the Premier and his team but also the wonderful people in other departments who are working flat out to try to get this affordable housing stock increased as fast as possible.

As members are aware, in 2007 our government made a record investment of $510 million in public and social housing. We heard the minister outline that very impressively in question time today. As a part of that investment an important project in my electorate received funding and is currently under construction. It is called Munro Manor, which is a social housing project that is being constructed in partnership with Yarra Community Housing (YCH) — another organisation, I put on the record, that has turned around people's perceptions of the value of having public housing and support services in their neighbourhood.

People who once objected to social housing — and I visited them three weekends ago — and who some years ago lodged a campaign against social housing now can do nothing but compliment Yarra Community Housing and the wonderful residents who reside in their accommodation. They are better than the other tenants in the street, and so I have sent many people in my electorate who might have questions about public housing to talk to the residents and neighbours who have had the benefit of Yarra Community Housing's impressive team.

Yarra Community Housing purchased Munro Manor in May 2008. It was formerly a 41-bedroom hostel. As a result of work by YCH and the local community it has been converted into 24 new self-contained apartments for singles and couples. I ask the minister to open the project.

Responses

Mr WYNNE (Minister for Housing) — I will deal with the matter raised by the member for Pascoe Vale. I thank the member for her very long commitment to housing not only in her electorate but more generally in her advocacy for housing in Victoria.

The member for Pascoe Vale is correct to point out that the public housing waiting list is changing and there are an increasing number of single people waiting for public housing. We need to significantly reconfigure our stock, because much of our stock is two or three-bedroom stock and the waiting list has significantly changed to include many single people. It is a challenge for us.

We also know that the number of single people relying on inappropriate rooming-house accommodation is increasing right across metropolitan Melbourne, and that is why, through the excellent work that the member for Albert Park undertook in consulting around standards of rooming houses and the implementation of that program, and through the task force work that he undertook and the funds that we made available to ensure that women and children in particular are exiting rooming houses because we believe that is inappropriate accommodation for them, the project is now being rolled out very satisfactorily. I know it is strongly supported by the member for Pascoe Vale.

The project highlighted by the member for Pascoe Vale tonight is called Munro Manor in Munro Street, Coburg. By any measure, as the member indicated, this project ticks all the boxes. The project will provide 24 self-contained apartments for singles and couples at a cost just a shade short of $4 million. The development will have a communal garden and other communal facilities. As the member quite rightly indicated, Yarra Community Housing will provide tenancy management and support staff on site.

Ms Campbell — And exceptionally well, too.

Mr WYNNE — It is a fantastic housing association which has never lost its focus and has always dealt with people who have struggled. It has struggled to get accommodation, and YCH is now one of the biggest service providers in the rooming-house area. Dr Robert Leslie and his team do a fantastic job. This type of accommodation, as members know, is an important

shift from the traditional rooming-house model but does not provide for independent living or long-term security of tenure.

Yarra Community Housing is one of our fastest-growing housing associations, as I indicated. It specialises in affordable accommodation for some of our most vulnerable groups, as well as singles who are eligible for public housing. I note that only a few weeks ago we had a ceremony in Wellington Street, Collingwood, where we indicated that we were at the halfway point of our Nation Building target of 4500 units. That project in Wellington Street, Collingwood, will be managed by Yarra Community Housing.

Apart from this, with the member for Footscray I officially opened the Barkly Hotel redevelopment in Barkly Street, Footscray. This is a beautiful development. It is a perfect example of how we have been able to utilise old sites such as old hotels for social housing. This is a perfect example of where we can intervene in the market to refurbish old hotels and build out the back of them. I think there are 71 units there in just a magnificent facility. The ground floor of that facility is being let out to one of our social enterprises, Lentil As Anything, which is operating at the Abbotsford convent as well. It brings a lot of life into the Footscray site.

As the member for Pascoe Vale indicated, the Barkly Hotel, along with Munro Manor, was funded out of the record $510 million which the Brumby government provided for social housing outcomes a couple of budgets ago — the biggest investment ever in public and social housing by a state government.

I thank the member for Pascoe Vale for inviting me to join her in opening these new homes and celebrating the great partnership with Yarra Community Housing. I will be delighted to do so. It has been quite a time. I know the member for Pascoe Vale has advocated for this for some time, for a number of years now. This is a wonderful outcome, and I know she is justifiably proud of what is a first-class development there. I know that it will be a cause of great celebration for her to provide 24 new homes in an area of great need such as Coburg. It is tangible evidence yet again of this government's commitment to public and social housing, in not just inner city locations like Coburg but right across Victoria, because of the unique partnership we have with the Rudd government.

As I indicated today in the house, in the next couple of years we will put on 13 500 units of housing — a huge number — in the public, social and subsidised private rental market. This will make a big difference going forward to the lives of many low-income people. I know that across the Parliament people have an interest in ensuring that we get quality outcomes, and there is no better quality outcome I can recommend to the house than Munro Manor. It is an absolute beauty.

The member for Brighton raised a matter for the attention of the Minister for Water, seeking that Melbourne Water report on inflows of the north–south pipeline on a weekly basis through the weekly Melbourne Water bulletin. I will make sure the minister is aware of that.

The member for Forest Hill raised a matter for the Minister for Public Transport seeking that the minister provide further advice to residents within her electorate in relation to two bus routes, the 735 bus route and the 902 SmartBus route, which is part of the wonderful new bus network which is circling metropolitan Melbourne. That is a fantastic initiative, and I will make sure the minister is aware of that.

The member for Swan Hill raised a matter for the Premier in relation to the Murtoa Stick Shed. Although this building is on the historic buildings register — I do know a little bit about this particular project; it is an extraordinary structure — he is seeking that further consideration be given to the demolition of the stick shed for it to be replaced by an interpretive centre. I know that the member for Swan Hill is in active engagement with the Premier's office on that matter. I will make sure the Premier's office is advised of it.

The member for Seymour raised a matter for the Minister for Senior Victorians seeking funding support for men's sheds in his electorate, particularly in fire-affected communities. Members across the board who have men's sheds in their area know just how important they are to both the physical and the psychological health of men. I will make sure that that matter is brought to the minister's attention. Men do not look after themselves as well as they should, in this respect.

The member for Doncaster raised a matter for the Minister for Sport, Recreation and Youth Affairs seeking funding support for youth services in the Manningham City Council area. I will make sure that the Minister for Sport, Recreation and Youth Affairs is aware of that request.

The member for Derrimut raised a matter for the Minister for Health seeking the minister's continued support for stage 3 of the redevelopment of Sunshine Hospital in his electorate. I will make sure that the minister is aware of that strong advocacy.

The member for Scoresby raised a matter for the Minister for Roads and Ports seeking the cessation of the program of building bus lanes on Stud Road until further consultation has occurred with the local community. I will make sure the minister is aware of that matter.

The member for Narre Warren South raised a matter for the Minister for Community Development seeking the minister's support for the extension of facilities at the Berwick Springs Sports Club and asking her to provide further advice to the Casey City Council in relation to how funding could be achieved for that particular development. I will make sure the minister is aware of that.

Finally, the member for Bayswater raised a matter for the Minister for Children and Early Childhood Development seeking funding support for an educational aide for a child of one of her constituents who I think is seeking to address issues around Asperger's syndrome and autism. I will make sure the minister is made aware of that funding request. That is it for the week.

The SPEAKER — Order! The house is now adjourned.

House adjourned 5.37 p.m. until Tuesday, 13 April.