PARLIAMENT OF VICTORIA

PARLIAMENTARY DEBATES (HANSARD)

LEGISLATIVE ASSEMBLY

FIFTY-SIXTH PARLIAMENT

FIRST SESSION

Thursday, 29 July 2010

(Extract from book 10)

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By authority of the Victorian Government Printer

The Governor

Professor DAVID de KRETSER, AC

The Lieutenant-Governor

The Honourable Justice MARILYN WARREN, AC

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

Legislative Assembly committees

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

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

Joint committees

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Heads of parliamentary departments

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

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

Parliamentary Services — Secretary: Mr P. Lochert

MEMBERS OF THE LEGISLATIVE ASSEMBLY

FIFTY-SIXTH PARLIAMENT — FIRST SESSION

Speaker: The Hon. JENNY LINDELL

Deputy Speaker: Ms A. P. BARKER

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

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

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

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

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

Leader of The Nationals:
Mr P. J. RYAN

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

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

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

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THURSDAY, 29 JULY 2010

Thursday, 29 July 2010

The SPEAKER (Hon. Jenny Lindell) took the chair at 9.33 a.m. and read the prayer.

BUSINESS OF THE HOUSE

Notices of motion: removal

The SPEAKER — Order! I wish to advise the house that notices of motion 63 to 65, 147 and 212 to 214 will be removed from the notice paper unless members wishing their notices to remain advise the Clerk in writing before 2.00 p.m. today.

PETITIONS

Following petitions presented to house:

Myrrhee: mobile phone tower

To the Legislative Assembly of Victoria:

This petition of residents of Victoria draws to the attention of the house the proposal to erect a mobile phone tower in Myrrhee in north-east Victoria. The petitioners register their concern that in the locality of Myrrhee and its surrounds there is a communication black spot — that is, no mobile phone reception at all.

This has proven to be a serious problem for the residents during fire seasons as there is no communication in or out of the district once landlines are down. Residents are also disadvantaged in business and personally by not receiving a basic service which is available to other Victorians.

The petitioners therefore request that the Legislative Assembly of Victoria draws to the attention of John Lenders, the Minister for Information and Communication Technology, that this situation be rectified by the erection of a mobile reception tower in Myrrhee.

By Dr SYKES (Benalla) (85 signatures).

Liquor licensing: fees

To the Legislative Assembly of Victoria:

The petition of residents of Victoria draws to the attention of the house the need to urgently reconsider the proposed massive increases in liquor licence fees in view of the enormous adverse impact such across-the-board increases will have on many highly reputable liquor outlets, and most particularly those in country areas.

Such huge blanket increases in licence fees will impact on employment, community sponsorships, even business survival in some cases. Risk-based fees should actually address the problems which have arisen in 'hot spot' areas, distinguish activities increasing risk of antisocial behaviour, and be imposed selectively, to address those issues.

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

By Dr SYKES (Benalla) (19 signatures).

Insurance: fire services levy

To the Legislative Assembly of Victoria:

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

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

By Dr SYKES (Benalla) (14 signatures).

Electricity: smart meters

To the Legislative Assembly of Victoria:

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

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

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

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

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

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

By Mrs FYFFE (Evelyn) (29 signatures) and Mr NORTHE (Morwell) (51 signatures).

Rail: eastern suburbs

To the Legislative Assembly of Victoria:

The petition of residents and businesses in the eastern suburbs of Melbourne points out to the house that the Victorian transport plan does not make provision for the extension of

much-needed rail services and improved passenger facilities to Melbourne's eastern suburbs.

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

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

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

3. a greater commitment to the extension of the Metro rail tunnel from Domain to Caulfield;

4. a full and public feasibility study for an increase in capacity on the Belgrave/Lilydale and Glen Waverley lines;

5. improved facilities for passengers, particularly at interchanges in central activity districts — Ringwood, Dandenong and Box Hill;

6. fully accessible public transport facilities and vehicles.

By Ms LOBATO (Gembrook) (2641 signatures).

Bay Road, Sandringham: traffic lights

To VicRoads and City of Bayside:

The petition of the parents of children attending Sacred Heart Primary School, Sandringham, church members and members of the local community.

The petitioners note the current underutilisation of the school crossing in Bay Road, Sandringham, as a result of attendant dangers, including the high volume of traffic on this major road, the obstruction of and distractions relating to street speed signage and a reported number of near misses when vehicles and trucks have proceeded through the crossing even though it was under the oversight of a crossing supervisor.

Prayer

The petitioners therefore request that VicRoads and the City of Bayside prioritise the installation of traffic lights in Bay Road, Sandringham, at the site of the present school crossing.

By Mr THOMPSON (Sandringham) (129 signatures).

Roads: Shepparton alternate route upgrade

To the Legislative Assembly of Victoria:

The petition of citizens of the state of Victoria draws to the attention of the house the urgent need for immediate safety upgrades to the Shepparton alternate route.

Prior to 1984 the road now known as the Shepparton alternate route was a no through road utilised by local traffic only and ended at the Broken River. By bridging the river it became the Shepparton alternate route and now diverts in excess of 6000 vehicles daily including semi, B-double and wide-load trucks from the centre of Shepparton as a crucial part of the Brisbane to Melbourne transport route. Two primary schools and a kindergarten with over 800 children between them utilise this road twice daily, increasing the risk of serious accidents and/or fatalities. No significant upgrades have been made to cater for the increased volume in traffic, and recent accidents have highlighted the dangers of travelling on this road, including the daily risks posed to over 100 residents and their families accessing their properties.

The petitioners therefore request that this house calls on the government to allocate funds to immediately:

widen the full length of the Shepparton alternate route, including piping or filling in of table drains on both sides of the Shepparton alternate route;

construct turning lanes on the Shepparton alternate route at high traffic intersections;

provide warning signs, flashing lights and reduced speed limits at school start and finish times.

By Mrs POWELL (Shepparton) (189 signatures).

Tabled.

Ordered that petition presented by honourable member for Shepparton be considered next day on motion of Mrs POWELL(Shepparton).

Ordered that petition presented by honourable member for Evelyn be considered next day on motion of Mrs FYFFE (Evelyn).

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

Ordered that petitions presented by honourable member for Benalla be considered next day on motion of Dr SYKES (Benalla).

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

VICTORIAN CHILD DEATH REVIEW COMMITTEE

Report 2010

Ms NEVILLE (Minister for Community Services), by leave, presented report.

Tabled.

DOCUMENTS

Tabled by Clerk:

Gambling Regulation Act 2003 — Report of the Gambling and Lotteries Licence Review Panel to the Minister for Gaming in relation to expressions of interest in the grant of a wagering and betting licence under section 10.2A.11 — Ordered to be printed.

Ombudsman — *Whistleblowers Protection Act 2001*: Investigation into an allegation of improper conduct within RMIT's School of Engineering (TAFE) — Aerospace — Ordered to be printed.

BUSINESS OF THE HOUSE

Adjournment

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

That the house, at its rising, adjourn until Tuesday, 10 August 2010.

Motion agreed to.

Mr Wells — On a point of order, Speaker, yesterday during the grievance debate the member for Burwood made a number of claims in his speech. One claim that the member for Burwood made was that the government had abolished eight taxes, and then he proceeded to go through them. He started with land tax and then went on to payroll tax. I interjected and said that he had misled the house. I have examined *Daily Hansard* this morning, and I believe that there has been a material change to *Daily Hansard*. The member for Burwood is reported to have stated:

We have abolished eight taxes; I can go through those. Let us look at some of the abolitions …

I believe a change has been made and the term 'taxes' has been added, which I believe was not part of the speech yesterday. As a result of what the member for Burwood said, I interjected and said:

Stop misleading the house. You have not abolished land tax at all.

My point of order, Speaker, is that I ask you to investigate this matter and check with Hansard to ensure that the record is correct.

Mr Stensholt — On the point of order, Speaker, which I do not believe is a point of order, I also checked *Hansard* because members are asked to check it. That is the option of members. I can advise the house, with respect to this particular matter that the member for Scoresby has mentioned, that I was provided with a proof copy of *Hansard* exactly as it is provided here. I talked about cuts and reductions and I pointed out to the member for Scoresby on a number of occasions that he got it wrong. I did not make any changes to *Hansard* or suggest any in this regard. I merely noted that in fact I was correct in what I said and the member for Scoresby was wrong.

The SPEAKER — Order! I think I have heard enough on the point of order. As all members know, Hansard has criteria and guidelines by which it produces *Hansard*. I will certainly check with the Hansard manager that these guidelines have been adhered to on this occasion.

Mr Wells — On a further point of order, Speaker, the second point of order I would like to raise is the ruling by the Deputy Speaker that the phrase 'stop misleading the house' is now deemed to be an offensive comment by way of interjection. I am wondering if you could clarify her ruling from yesterday so that in future anyone who interjects and says, 'Stop misleading the house', should withdraw that comment. That will be the new ruling from this point forward.

Ms Barker — On the point of order, Speaker, as Deputy Speaker I do not believe I said that.

The SPEAKER — Order! Obviously I will review *Hansard* — —

Honourable members interjecting.

The SPEAKER — Order! Rather than the members for Scoresby and Oakleigh continuing this in the chamber, I will review *Hansard* and come back to the members for Scoresby and Oakleigh.

MEMBERS STATEMENTS

Stamp duty: government performance

Ms ASHER (Brighton) — I wish to draw to the attention of the house the matter of stamp duty and the fact that in the state of Victoria we have significantly higher stamp duty charges than in other states. By way of example, in Brighton on a median value house as at June 2010 the stamp duty in Victoria is $93 500, whereas the stamp duty on a comparable property in New South Wales is $78 990. In Brighton East the stamp duty on a median value house is $65 450, whereas in New South Wales the stamp duty on a property of the same value is $50 940. In Hampton the stamp duty on a median value house is $63 800, yet in New South Wales on a house of the same value the stamp duty is $49 290. In Elwood on a median value

house the stamp duty in Victoria is $78 925, whereas in New South Wales the stamp duty is $64 415 on a property of the same value. Likewise in Hampton East the stamp duty on a median value property is $46 130, whereas in New South Wales the stamp duty is $33 785 on a property of the same value. When you look at other states it certainly shows that stamp duty is a greedy cash-grab by the Victorian government.

Bob Smith

Ms NEVILLE (Minister for Mental Health) — It is with great sadness that today I speak about the death of a well-known and loved Ocean Grove identity. On Saturday, 24 July, Bob Smith, captain of the Ocean Grove fire brigade, passed away after a short illness. In his 45 years with the Country Fire Authority (CFA) Bob attended both the Ash Wednesday and the Blue Mountains fires. He assisted communities that lost lives and property and witnessed the full impact fires can have. Bob worked with the CFA as a volunteer in a number of places across Victoria, including Grovedale, Ballarat, Mildura and Bendigo. For many years Bob supported the CFA in all volunteer-related matters. He was part of multiple committees within the association, and the term 'going the extra mile' was frequently used to describe him. Bob has achieved iconic status in the service.

I remember I first met Bob almost eight years ago. He had come to see me about the need for a new fire station in Ocean Grove. It was something he had been pushing for over many years. We had many meetings together and his passion for the CFA at Ocean Grove was evident. I know that he felt great pride on the day we opened the new station in Ocean Grove. It was one of his great achievements to ensure his team was provided with state-of-the-art facilities to support the essential work it does in that community.

He was involved in many things in the local community. We last saw Bob at the annual fire brigade dinner on 10 July, which he was determined to be at to announce the captain's awards. He had left his hospital bed to share a meal and a beer with his CFA family. My condolences to the Ocean Grove fire brigade members, who I know will miss him greatly.

Fromelles: military cemetery

Mr DELAHUNTY (Lowan) — Last week, on 19 July, I had the privilege to attend the dedication of the Fromelles (Pheasant Wood) Military Cemetery. As shadow Minister for Veterans' Affairs I represented the opposition in a Victorian government delegation with the Deputy Premier and Major General David McLachlan, president of the Victorian RSL. We also visited Polygon Wood, Menin Gate, Pozières, Villers-Bretonneux, VC Corner and Péronne cemeteries, and memorials, including the Cobbers statue based on Sergeant Simon Frazer of Byaduk, western Victoria.

The Fromelles dedication ceremony included family members reading last letters of soldiers who died at Fromelles. This was a solemn and very moving part of the ceremony. A personal highlight was the emotional and most dignified burial of the last unnamed soldier. The whole ceremony made you very proud to be Australian, proud of our diggers and proud of the Commonwealth War Graves Commission, which has, with the support of family members, such as Rob Weir of Nhill and Lambis Englezos and his team, created the Fromelles cemetery, which is a peaceful final resting place for 250 soldiers, over 200 of whom are Australian. Ninety-four of them have been traced and named, and were mostly from Victoria.

Fromelles is a special place of warmth with a peaceful atmosphere; it is a place for dignified pilgrimage and remembrance. I hope many Victorians visit Fromelles and other memorials to pay their respects to the many men who paid the ultimate sacrifice on the Western Front so that we could live in peace. We must never forget these soldiers and our veterans and their families.

Rail: Maryborough line

Mr HELPER (Minister for Agriculture) — On Saturday, 24 July, the community of Maryborough celebrated the return of passenger rail after 16 years of its absence from that town. The community celebrated en masse on the extraordinary platform of Maryborough railway station. I indicated to the gathering that after many years of mystery about why the railway station of Maryborough was built so large, on Saturday we had the answer. It was built so large so that the community could gather to celebrate the return of passenger rail.

The Brumby government is committed to returning passenger rail to our rural communities; it is committed to passenger rail as a form of transport accessible to many communities throughout Victoria. In 2004 passenger rail was returned to Ararat and Beaufort — again accompanied by extraordinary community celebrations in those two communities. On Saturday we saw the return of passenger rail to Maryborough. That line services Maryborough and Creswick and on to Ballarat. Next year the community of Clunes will also benefit from a $7 million commitment to do platform

works, station works and to have the service stop in Clunes and service that community.

I congratulate the many hundreds of people who have worked very hard to deliver this project for their commitment to the community of Maryborough.

Planning: Armadale development

Mr O'BRIEN (Malvern) — Despite 11 years of infrastructure neglect, the Brumby government's Melbourne 2030 planning laws continue to shoehorn high-rise, high-density housing developments into established suburbs in my Malvern electorate; and just as bad is the planning minister's propensity to call in planning applications, sideline local councils and ride roughshod over the rights of local residents. Given the corruption of the planning process exposed by the Windsor Hotel fiasco, no Victorian can have confidence in the current Minister for Planning.

It is feared that the government will call in an application by Lend Lease to develop land at 590 Orrong Road in Armadale. The developers propose to construct a series of residential buildings, including high-rise towers up to 16 storeys high containing around 500 apartments and townhouses. Understandably this has caused significant concern amongst local residents, who are worried about the impact it may have on the local built environment, amenity, traffic and access to open space. The residents meeting on 14 July noted that nearby Toorak station cannot cope with current peak hour passenger numbers, let alone a proposed massive influx of people.

On behalf of these many concerned residents I warn the planning minister he must not call this project in and decide it over his desk. Local residents are entitled to see Stonnington City Council make a decision that takes into account all relevant factors, including the legitimate concerns of the surrounding residents. If Stonnington residents are again ignored by this government, I have no doubt they will respond at the ballot box in November, and it will prove fatal to the career of the member for Prahran.

Youth Parliament

Ms BARKER (Oakleigh) — I congratulate the YMCA on assisting young people to organise and participate in the 24th YMCA Youth Parliament held from 5 to 8 July here at state Parliament. There were 97 young people in 16 teams who participated in parliamentary procedure and the debating of bills, including dealing with the amendment stages of a bill. The issues they debated were contemporary and challenging, and they debated them with enthusiasm and conviction. I was very impressed with the broad range of topics raised in the adjournment debate. A lot of research must have been done by the young people, and they raised the issues in a very confident way. The bills were presented to the Premier during the closing ceremony on the Thursday, and I know that very serious consideration is given to the matters raised by and the final deliberations of the Youth Parliament.

I thank Graham Kent, chairman of YMCA Victoria, and Peter Burns, chief executive officer of the Victorian assembly of YMCAs, who continue their hard work to ensure that young people are afforded opportunity and development. I thank the Serjeant-at-Arms, Anne Sargent, and the Usher of the Black Rod, Andrew Young, Hansard and the staff of the Parliament, who worked hard to ensure the smooth running of the Youth Parliament, and the members of Parliament who assisted by chairing sessions in both chambers.

I congratulate the 2010 Youth Governor, Sarah Brunton, who is an intelligent, articulate and very competent young woman who I am sure has a bright future, and I also congratulate Kieran Ryan, who has been appointed the 2011 Youth Governor. I am sure Kieran will undertake his work enthusiastically to see a very successful 2011 Youth Parliament.

Hazardous waste: Tullamarine

Mr MORRIS (Mornington) — I rise to condemn the Premier and the Minister for Environment and Climate Change for their contempt and obvious disdain for the health of residents living in the north-western suburbs of Tullamarine, Westmeadows and Gladstone Park neighbouring this government's toxic waste dump. These residents want to know that where they are living is safe and free from toxic fumes.

Only last month the Auditor-General found that the government's failure to monitor, report on and regulate hazardous waste has put families at risk. Two reports undertaken by the Western Region Environment Centre found an abnormally high number of cancer clusters in the suburbs surrounding the toxic waste dump. This includes cancer rates between four and eight times higher than the average. For years the families have been asking the Brumby government to undertake a genuine health assessment of the affected area, but their requests have been ignored. Just last week the minister arrogantly dismissed their fears, saying that cancer is a feature of daily life and that residents had chosen to live in these suburbs knowing about the toxic waste dump.

Finally, after pressure from the community, the opposition and the media, the government reluctantly agreed to undertake a health study, the results of which will be released — wait for it — after the state election. If the Premier is serious about this issue and is confident that there is no direct link between his toxic waste dump and cancer rates, then he should release the health report by Cancer Council Victoria before 27 November.

Ashburton: men's shed

Mr STENSHOLT (Burwood) — I rise to support a proposal by the Alamein Neighbourhood and Learning Centre to refurbish and equip the Alamein railway station as a men's shed. The current Ashburton men's shed is located at the back of a garage next to the Craig Family Centre. The shed can only cater for eight men, and there are 25 men enrolled to use it. The centre is seeking $50 000 towards the cost of the project.

Putting together the application was a great example of cooperation between local organisations. The neighbourhood renewal committee organised six meetings to draw up the application, students of the Craig Family Centre helped to write the application, Camcare and Inner and Eastern Health Care provided support, and Boroondara council officers helped by providing planning advice as well as canvassing possible sites. I was happy to suggest to the Alamein centre that it consider the local railway station. I talked to Metro Trains Melbourne and arranged access to the station. We inspected it and received Metro Trains support for the station to be leased to the centre for the men's shed.

This $75 000 project will relocate and expand the current men's shed program, which targets special groups such as unemployed men in Ashburton and surrounding suburbs, disadvantaged public tenants and men recovering from mental illness or drug abuse. Men's sheds are great places. They are mostly located in a shed or workshop and provide opportunities for regular hands-on practical activities such as woodwork. They become a place for men to socialise. They also provide men with health and skills programs that improve their wellbeing. I look forward to the minister considering and approving this application, because the Alamein Neighbourhood and Learning Centre project is well worth funding and is the product of a remarkable partnership between a wide range of local service providers and the local community.

Police: Shepparton

Mrs POWELL (Shepparton) — During a members statement on 25 February I raised with the Minister for Police and Emergency Services the issue of inadequate staffing at the Shepparton CIU (criminal investigation unit). I advised the minister that prior to Christmas 2009 the Shepparton CIU had nine police officers, which I am told was barely adequate. In January this year the Shepparton CIU was advised that its staffing level would be permanently reduced by one detective. I was informed the vacancy was being transferred to the Shepparton sexual offences and child abuse unit (SOCAU), which will take responsibility for the whole investigation of sexual offences from 2012. I am now informed this vacancy has been transferred away from Shepparton to the Wangaratta SOCAU unit.

This means that without any immediate reduction in workload the Shepparton CIU has lost a vacancy for a program that does not start until 2012. This has left Shepparton understaffed again, and the police and community are angry at the removal of more police. The reduction is despite repeated requests since 2006 by police for an increase in staff due to members' excessive workloads. The most recent request for an increase of three detectives as soon as possible was based on workload and staffing of comparable CIUs.

I have raised the issue of police shortages in the Shepparton district many times. I have also asked for a full review of police numbers, taking into account the number of police needed and the number currently working, as many officers are not replaced when they take leave, causing overloading on other police officers and cutbacks to services and specialist departments such as the Shepparton CIU and the Shepparton SOCAU. I call on the Minister for Police and Emergency Services to respond to the request for more staff at the Shepparton CIU and increase police numbers in the Shepparton district.

Gaming: poker machines

Mr HUDSON (Bentleigh) — Yesterday the Auditor-General brought down his report in relation to the state government's 2006 problem gambling strategy Taking Action on Problem Gambling. The Auditor-General found it is not evident that the expansion of the regional caps policy has significantly reduced player losses in capped areas. The regional electronic gaming machine caps review panel, which I chaired in 2005, found that there is a direct relationship between gaming machine density and the level of socioeconomic disadvantage as well as the level of

expenditure and the number of machines at a local government level.

The difficulty of identifying the extent to which caps reduce the incidence of problem gambling in capped areas should not prevent us from taking action to reduce gaming machine numbers in poorer communities. The regional caps policy has not only been successful in reducing the concentration of gaming machines in vulnerable communities; it has reduced the harm that would have been caused by the installation of even more machines in these areas. In total, 949 poker machines have been removed from venues in these communities. But perhaps even more significant is the fact that the regional caps policy has provided a guarantee to local government areas that they will not be oversaturated with poker machines. Without the regional caps policy communities such as Casey could have 920 more poker machines, Hume could have an extra 485 and Whittlesea a further 485. In total the 21 capped areas could today have an extra 5211 poker machines if there were no regional caps and just a municipal limit.

Australian Labor Party: slogans

Mrs SHARDEY (Caulfield) — I rise to castigate members of the Labor Party at both the federal and state level for the appalling way in which they treat the voting public. They use repetitive, moronic phrases ad nauseam in the mistaken belief that they can dupe the public into believing they are doing a good job and deserve to be re-elected. The laughable Julia Gillard's 'moving forward' has been seen as such a joke that it has almost disappeared from Labor's rhetoric. In this state the repetitive 'more to be done' has been Labor's excuse for doing very little, and now according to the Deputy Premier's whiteboard, the priority is to promise nothing.

In this place the commitment to make Victoria the best place to live, work and raise a family, which is repeated embarrassingly by every Labor MP as part of every question, is hollow rhetoric for the thousands of Victorians waiting for hospital treatment, the patients left without an ambulance service in their time of need, the unfortunate victims subjected to violence because of the lack of police, the commuters who cannot get a train to work and the almost 41 000 Victorians waiting for a roof over their head. This is now to be followed by the new repetitive phrase 'strong leadership' when this unelected Premier is desperate for support and Victorians are waking up to the fact that they are being governed by a tired, lazy and out-of-touch government which is all about spin and not much substance.

Gaming: Jan Juc campaign

Mr CRUTCHFIELD (South Barwon) — I wish to raise a very important community campaign within my electorate which I wholeheartedly support — that is, the campaign currently being run by members of the beautiful and small seaside town of Jan Juc as well as the wider Surf Coast community against the proposal for increased poker machines in the area. Such is the community angst about the proposal by the Beach Hotel in Jan Juc that community members have created a Facebook website called 'Don't poke Jan Juc'. Even children as young as 11 are getting involved with their parents in the campaign, raising their concerns via YouTube videos. Eleven-year-old Jasmine Ham has written and recorded a song about the proposal, and her father Jeremy has placed the recording on YouTube. Jeremy has been campaigning against the machines with numerous other community members.

The video encapsulates the community views opposing an increase of some 30 poker machines. The community is preparing for a hearing at the Victorian Commission for Gambling Regulation on 20 August. Some members of the community will be making representations opposing the proposal. I certainly urge members of the Surf Coast community opposed to this increase in machine numbers to contact Mr Ham directly via his website. He and fellow members of the community who are fighting this proposal have my support, and I encourage other community members with the same concerns to contact Mr Ham. If this were just a development of the existing hotel, then the angst would be nowhere near as broad spread.

Liquor licensing: fees

Mr R. SMITH (Warrandyte) — I rise today on behalf of the North Ringwood Tennis Club, which has faced a rise of almost 300 per cent in its liquor licence fee. Not only has the club had to pay this fee, which is a very large part of its operating funds, but it was never informed about the opportunity to apply for a reduction based on hardship.

The club is a great community and sporting venue with no history of violence in or around its premises by its members. The North Ringwood Tennis Club is yet another example of the failure of the Minister for Consumer Affairs's one-size-fits-all approach to combating escalating alcohol-fuelled violence in the streets of Melbourne and throughout regional Victoria. The minister claims that the measures have been put in place in order that venues serving alcohol take on some of the responsibility for and expense of tackling this violence. How the North Ringwood Tennis Club is to

blame for this violence is certainly beyond the understanding of members of the club. At a minimum members would have expected to see some notification regarding the ability to apply for a reduction in their fee due to hardship, but correspondence from the minister has clearly indicated that it was purely up to the club to make itself aware of this option.

Everything this minister has touched has turned into a disaster, be it the introduction of Intralot, the 2.00 a.m. lockout or the gaming machine auction debacle, which cost Victorians over $1 billion. This targeting of sporting clubs with no history of violence is further evidence of the minister's ineptitude and his total inability to anticipate unintended consequences. The sentiments of Charlie Roberts, club president, as reported in this week's *Maroondah Journal*, described the situation well. He said:

> It just doesn't seem that there's any fairness in it and that's all we ask — some equity and fairness.

I urge the minister to reconsider his disregard for the hardship that his liquor licensing regime has imposed on community sporting clubs and specifically to allow the North Ringwood Tennis Club to apply for a reduction in its fees.

Peter James Centre, Burwood East: anniversary

Ms MARSHALL (Forest Hill) — On Wednesday, 21 July, I was excited to celebrate with the Minister for Health 25 years of care at the Peter James Centre. The Peter James Centre is located in the Forest Hill electorate. It was named after the late Mr C. P. C. James, a former president and chairman of the committee of management of the former Eastern Suburbs Geriatric Centre.

The centre has 60 rehabilitation beds, 38 complex rehabilitation beds, 30 residential aged-persons mental health beds and 30 acute aged-persons mental health beds. Services include aged-persons mental health, aged-care assessment, residential care and transition care. More than 94 100 patients have received treatment at this facility in the last 25 years.

On behalf of the people of Forest Hill, I want to thank the Peter James Centre and its hardworking doctors, nurses, staff and supporters for providing vital rehabilitation and aged-care services for all of this time. The service and the care they provide makes an invaluable difference to the lives of thousands of patients living in the Forest Hill electorate and surrounding area.

2009 Victorian Bushfires Royal Commission: final report

Mr TILLEY (Benambra) — Today marks the last parliamentary sitting day before former Justice Bernard Teague and his fellow commissioners hand down the final report of the Victorian Bushfires Royal Commission. The Black Saturday bushfires were a tragedy on a scale which previously seemed unfathomable. I never again want to witness the death and destruction seen during those fires. If ever there were a moment in our history when the prevailing left-wing, inner city-centric attitude of 'Lock it up and leave it' environmentalism and scepticism of constant and responsible fuel reduction burning was proven wrong, it was Black Saturday.

The Premier, the Minister for Police and Emergency Services and the former Chief Commissioner of Police failed in their sworn duties to protect Victorian families on that day. Their wilful ignorance and incompetence in the face of overwhelming risk to the Victorian community will remain to their eternal shame.

The words I included in my contribution to the condolence motion moved in this place after the Black Saturday fires still ring true today. We must be ever vigilant to the threat of fire in the environment we live in, and I quote from that speech:

> … no government must ever be allowed to abrogate its responsibility or apportion blame on unsubstantiated factors or to make claims that are simply misleading or promises that cannot be realistically delivered. At this time we all must ensure that we do whatever it takes. Victoria is counting on it.

June Bowen

Ms CAMPBELL (Pascoe Vale) — Today I wish to pay tribute to one of my outstanding constituents, June Bowen. June is one of those unsung community angels who goes quietly about making the world a better place to live. A wife and mother of four, June started child minding at her home in Pascoe Vale in the 1970s. She also started teaching Sunday School for the Kent Road Uniting Church and did so for 25 years, which in turn led to a position as assistant teacher at the Kent Road preschool for 21 years. During this time she was also on the kinder committee, and she still attends meetings to this day, 16 years after retirement in 1994.

June then began and continues to teach religious education at Pascoe Vale North Primary School. June is also an elder of the Kent Road Uniting Church. She is one of those people who never forgets a face or a name.

After getting her drivers licence in her 50s, June now helps older and frail members of the community get to their doctors appointments. June also helps run a Friday Fellows breakfast program for widowed or lonely men in the Pascoe Vale area.

I acknowledge June Bowen for her dedication and work in the Pascoe Vale community and say a special thankyou to her for helping to shape the lives of all those past preschoolers in red group and blue group at the Kent Road kindergarten.

Latrobe Valley: heritage assets

Mr NORTHE (Morwell) — I rise today to implore the Brumby government to support the retention of no. 21 dredger as an iconic feature and asset of the Latrobe Valley community. The no. 21 dredger was utilised for brown coal and overburden excavation from 1955 to 1992 and has been on display close to the Morwell PowerWorks site since 1995.

Unfortunately the condition of the dredger has deteriorated over time, and it is in need of significant maintenance to return this vital asset to its past glory. In 2008 the Friends of No. 21 Dredger was established with a vision and purpose to repair and maintain the dredger for future generations to learn from and enjoy. The friends group, consisting of local volunteers, has done a wonderful job thus far in gathering local community support in fighting for the future existence of no. 21 dredger.

The National Trust of Australia has recommended that the dredger be placed on the Victorian Heritage Register. Further to this, the dredger has now been gifted to the Friends of No. 21 Dredger by PowerWorks. Representation has been undertaken to request the Brumby government's support in addressing land ownership matters, and one trusts this request will be given due consideration.

It is imperative that our heritage be recognised and that the preservation of assets such as no. 21 dredger be supported. We know the energy industry is rapidly evolving, but governments must not lose sight of our past. Like Old Gippstown, dredger 21 is a significant attraction for the Latrobe Valley, and I call upon the Brumby government to demonstrate its commitment by securing the future of these two local iconic assets.

Helping Achieve Positive Inclusion awards

Mr TREZISE (Geelong) — Last Tuesday, 27 July, I had the pleasure of launching the sixth annual Helping Achieve Positive Inclusion (HAPI) awards in the south-west region of Victoria. For the information of the house, these important awards recognise the outstanding achievements by kindergartens, day-care centres and schools in accommodating and welcoming kids with special needs into their school communities. The awards recognise kindergartens, day-care centres and schools that really do implement best practice by being inclusive for all children and their families.

In recognising these awards, which are now in their sixth year, I commend Gateway Support Services and Rosemary Malone and her team not only for the work they have done in initiating and promoting the HAPI awards but also for the terrific work they do throughout the community of Geelong.

I also acknowledge the City of Greater Geelong, Warrnambool City Council and G-Force Recruitment for the support they have provided to the awards. The awards launch was held at Kardinia Kids Early Learning and Care Centre, which has won a number of awards in past years, and I congratulate it for the work it has also done.

This government is committed to making sure that every child learns and thrives and has every opportunity to realise a rewarding and fulfilling life. Since 1999 the government has increased early childhood intervention services by 140 per cent, with $61 million being committed in 2010–11 alone. I congratulate the Minister for Children and Early Childhood Development on her commitment and work in this important area.

Kew Residential Services redevelopment: complaints

Mr McINTOSH (Kew) — When government is conducted in secret there is no guarantee of integrity, yet secrecy is becoming the hallmark of the Brumby Labor government, with increasingly real and genuine concerns about its integrity.

New householders of the Kew Cottages redevelopment have been finding out just how secretive the Brumby government is. An overwhelming number of the new residents have been trying, in some cases for 12 months, to get action from the Brumby Labor government to correct significant defects, poor design or workmanship, and now there are even allegations of out-and-out fraud.

The government is owner, developer and planning authority for the redevelopment of Kew Cottages. The Premier needs to be aware that new allegations have demonstrated to me that the government or its agents have failed to provide environmental measures such as

double glazing, yet they have had an auditor, without an inspection, sign off on the environmental rating of homes in a manner that is totally inconsistent with reality.

Now the Brumby Labor government has provided residents with a document demanding that until and unless the new residents sign a confidentiality agreement the government will not even enter into discussions with them regarding the outstanding contractual matters, let alone actually fix the problems.

The incompetence and arrogance demonstrated by the Brumby Labor government is bad enough, but now we have serious allegations of fraud. The Premier needs to understand that he and his government are now directly involved in this cover-up, and they have got to do something about it.

City of Maribyrnong: parking cameras

Ms THOMSON (Footscray) — The issue I wish to raise concerns parking cameras and my constituents in the city of Maribyrnong. Maribyrnong City Council has installed parking cameras with little or no consultation with traders or the community in Footscray, and these cameras are causing great angst. As a matter of fact, a petition I sent out to the Vietnamese-speaking constituents of my electorate has seen over 700 signatures returned in less than a week.

These cameras are hurting the people of Footscray. It is important that the council work with the community and traders to deal with and resolve this issue so we can get back to making sure that Footscray's future as a central activities district is bright. A lot of investment is going into Footscray. It is time for the council, traders and the community to get together to make sure we realise the dream of what Footscray can be and make sure that the issue of the parking cameras is settled once and for all.

It is true that no-one wants to see anyone parking illegally, and I am sure that between the community, traders and the council there is a mechanism that can be put in place to ensure this issue is dealt with and we can bring people into the city of Footscray, which is a great place to come for a really cosmopolitan and multicultural experience with great, cheap food, plenty of activity and a vibrant community. I hope we can resolve these issues soon.

Carranballac P–9 College: Student Environment Council

Ms HENNESSY (Altona) — I rise to recognise the student leaders who are members of the Student Environment Council of Carranballac P–9 College in Point Cook. Last week I had the pleasure of launching a new online wetland education resource which will better enable teachers to help students learn about the importance of preserving and sustaining Victoria's beautiful wetlands.

I was assisted by the student leaders who are members of the environment council of Carranballac P–9 College, and what a terrific group of students they are. I wish to commend these students and their teachers on their activities and interest in environmental leadership. Given their help and passion I have every confidence that they will make a difference in promoting a better understanding of and protecting our wonderful wetlands.

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

CLIMATE CHANGE 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, I make this statement of compatibility with respect to the Climate Change Bill 2010.

In my opinion, the Climate Change 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 will:

include a preamble recognising the overwhelming scientific consensus that human activity is causing climate change and include overarching policy objectives for Victoria's response to climate change, together with guiding principles which the minister is to apply in administering certain sections of the act;

establish a target to reduce Victoria's greenhouse gas emissions by 20 per cent compared with 2000 levels by 2020;

create an obligation for government decision-makers to take into account climate change when making decisions or taking any action under a specified legislative provision;

require the preparation of a climate change adaptation plan every four years which will provide for an outline and a risk assessment of climate change impacts on Victoria and the government's priorities in response to those impacts and risks;

require the preparation of biennial reports on climate change science and emissions data for Victoria, which will include reporting on Victoria's progress in meeting the legislative target;

provide for a once-off independent review of the act by 31 December 2015;

make amendments to the Environment Protection Act 1970 to expressly empower the Environment Protection Authority (EPA) to regulate the emission or discharge of greenhouse gas substances, facilitate the operation of the Climate Communities fund account, and enable the Premier and the minister to enter into climate covenants for the purpose of facilitating measures and activities directed at climate change; and

establish a new forestry and carbon sequestration rights framework to facilitate the development of the emerging carbon sequestration industry on private and Crown land, repeal the Forestry Rights Act 1996 and make consequential amendments to other acts.

Human rights issues

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

Section 19 — Cultural rights

Section 19 of the charter provides that Aboriginal persons have the right to maintain their distinctive spiritual, material and economic relationship with the land and waters and other resources with which they have a connection under traditional laws and customs.

The bill protects the rights in section 19 of the charter by requiring that any carbon sequestration agreement entered into by the Secretary of the Department of Sustainability and Environment relating to Crown land not be inconsistent with the requirements of any relevant law, including requirements relating to native title and Aboriginal cultural heritage.

Further, the bill provides that, in entering into a carbon sequestration agreement relating to Crown land, the secretary must have regard to the interests of indigenous groups in the relevant area.

Section 20 — Property rights

Section 20 of the charter provides that a person must not be deprived of his or her property other than in accordance with law. 'Property' includes statutory rights such as licences.

The bill makes amendments to the Environment Protection Act 1970 to expressly empower the EPA to regulate the emission or discharge of greenhouse gas substances. This has the potential to engage section 20 of the charter if the EPA relies on this power to amend existing licences, so as to limit the discharge or emission of greenhouse gas substances.

The right would only be engaged if such licences were held by individuals, as section 6(1) of the charter specifies that corporations do not have human rights. It is unlikely that licences would be held by individuals.

Even if the section 20 right is engaged, I consider that the bill does not limit property rights. The thresholds for the emission or discharge of greenhouse gas substances will be prescribed by regulations or set out in statutory policies which will be accessible, precise and not arbitrary. Any impact on property rights will therefore be in accordance with the law, as permitted by section 20.

Section 18 — Taking part in public life

Section 18 of the charter provides that the right to participation in public life includes the right, and the opportunity, without discrimination, to participate in the conduct of public affairs, directly or through freely chosen representatives.

The bill promotes the right to participation in public life by including community engagement as a guiding principle which the minister must take into account in certain situations.

The bill requires the minister, when preparing a climate change adaptation plan and reporting on climate change and emissions data, to consider the guiding principles, where relevant in the circumstances. The guiding principles provide opportunities for public consultation on decisions which may affect the community.

I consider that this reflects a balance between promotion of the right to participate in public life and the efficient use of government resources for the protection of the environment, in accordance with the aims of the bill.

The bill does not limit or restrict the existing enjoyment of the right to participation in public affairs.

Conclusion

I consider that the bill is compatible with the charter because it does not limit or restrict any rights under the charter.

The Hon. John Brumby, MP
Premier of Victoria

Second reading

Mr BRUMBY (Premier) — I move:

That this bill be now read a second time.

Introduction

Speaker, this bill is not only landmark legislation for the state of Victoria; it is landmark legislation for Australia.

Climate change is the greatest challenge of our generation. There has never been a stronger case for action. It is a concern common to all humankind and a responsibility shared by all levels of government, industry, communities and the people of Victoria.

The Climate Change Bill 2010 provides a strong framework for Victoria to tackle global warming — it establishes a clear emission reduction target and new legislative provisions to underpin the programs needed to achieve this target.

This bill puts Victoria well ahead of the rest of Australia in taking strong and decisive action and gives effect to the Victorian climate change white paper, *Taking Action for Victoria's Future*, which sets out 10 actions to clean up our environment, cut emissions and stimulate new investment in clean energy and technology.

Through this bill, Victoria will lead the nation by adopting a target to reduce greenhouse gas emissions by at least 20 per cent by 2020, compared to 2000 levels (equivalent to a 40 per cent per capita reduction).

This bill will also provide the Environment Protection Authority with the express power to regulate the emission of greenhouse gases in Victoria and establish standards which provide an effective ban on the construction of new coal-fired power stations based on conventional brown coal technologies.

This bill demonstrates our government's determination to act early and cut our emissions, giving Victoria every possible advantage in adapting to the impacts of a changing climate, leading the nation in renewable and low-emissions energy, and creating new jobs and opportunities across the state.

Two years ago, here in this chamber, I held the nation's first climate change summit, which began the conversation about Victoria's transition to a low-carbon future.

Last November, this house unanimously endorsed a strong resolution recognising the overwhelming scientific evidence that human activity is causing global warming.

This Parliament also urged the federal Senate to pass a national scheme to reduce greenhouse gas emissions, and called on the international leaders gathering in Copenhagen to prepare an effective, binding international agreement.

Regrettably, neither of these things occurred — and if Victoria is to keep up with other major economies that have made substantial commitments to initial, unilateral action, we must once again show strong leadership by implementing change ahead of the nation. Victoria's strong leadership in cutting emissions will not only help our environment — it will also help create new economic opportunities for our state.

In that regard, as noted economist and writer Thomas Friedman has said: 'Demand for clean energy … and energy efficiency is clearly going to explode; it's going to be the next great global industry'.

Climate change is a huge challenge for the state, but also a great opportunity. Perhaps nowhere is this more obvious than when we consider energy.

In the last year alone in Europe and the US more than 50 per cent of new energy capacity was renewable, and total global investment in solar PV reached a record $40 billion.

Globally, nearly 80 gigawatts of renewable power capacity was added in 2009:

China alone added 37 gigawatts of new renewable power;

in Europe and the US, over 50 per cent of new capacity was renewable;

total global investment in solar PV reached a record $40 billion in 2009.

In addition:

India plans to build 20 gigawatts of solar power by 2022;

Japan is targeting 28 gigawatts of solar power by 2020.

Clean energy is also creating new jobs with an estimated 1.5 million people employed now world wide in the renewable energy industry.

In our own state I am proud to say that we have added 434 megawatts of renewable energy to our supply in just the last three years. We are planning a great deal more, because I am determined to position Victoria as the most attractive location for investment in low emission technology. If we succeed, renewable energy production could more than double every five years for the foreseeable future, creating more investment and more jobs, particularly in regional Victoria.

This bill positions Victoria in front of the wave of change coming our way. Our government is committed to taking bold actions to reduce our greenhouse gas emissions and transform our economy. I trust this bill will enjoy the same unanimous support in this Parliament that was shown for these very sentiments last November.

The case for action is clear — we know that climate change poses huge challenges for our economy, our

environment and our way of life. According to the CSIRO, Victoria is already warmer as a result of global warming. We are seeing increasing numbers of extreme weather events: drought, heatwaves, storms and floods. And as we were so tragically reminded just 17 months ago, we live in one of the most bushfire-prone environments in the world.

If we are to limit the impact of climate change, we need to change the way we live and work, the way we produce and use energy, the way we plan our cities and protect our environment.

This is why we are taking action as a state government.

With this bill, Victoria is signalling that we are not prepared to wait for a national carbon scheme to be legislated, or make our commitments dependent on a binding global agreement.

The landmark legislated measures in the bill are backed by substantial investment from the Victorian government and by new initiatives and programs set out in the Victorian climate change white paper action plan.

Through the white paper we will reduce the emissions of Victorian brown coal-fired generators by up to 4 million tonnes within the next four years, culminating in a total saving of 28 million tonnes by 2020 — equivalent to the closure of two units of Hazelwood power station.

These measures are necessary, not only to reduce emissions and clean up the environment, but also to ensure energy security for our state with a clear timetable for new investment in gas and renewable generation.

The white paper action plan also puts our state on track to generate 5 per cent of our electricity from solar energy by 2020 — helping to secure Victoria's position as Australia's 'solar state', and a leading destination for clean technologies.

Most importantly, being ahead of the game means more and better jobs for Victorians from the new industries, the new technologies and the new markets that will flow from a low-carbon future. That is why earlier this year our government released the $175 million Jobs for the Future Economy statement outlining many programs to create these jobs.

Building on Victoria's strong leadership

The bill will continue this government's strong record of tackling climate change in Victoria. This legislation builds on a raft of reforms that the government has already announced, including the land health and biodiversity white paper, Jobs for the Future Economy, the Future Energy statement and Ready for Tomorrow.

When it comes to climate change, we have already well and truly established our credentials. Over the last 10 years, Victoria has taken significant steps to tackle greenhouse emissions and make a smooth transition to a low-carbon economy.

Victoria was the first state to:

set a mandatory energy efficiency target for electricity retailers, implemented through the energy saver incentive scheme;

introduce a mandatory energy, water and waste resource efficiency program for the biggest commercial energy and water users;

adopt the 5-star energy efficiency standard for new homes, which will increase to a 6-star standard from May 2011;

introduce a mandatory 10 per cent renewable energy target to drive new investment (the Victorian renewable energy target);

adopt a market-based approach to managing and protecting native vegetation on private land (Victoria's ecoMarkets programs, including BushTender, BushBroker and EcoTender);

introduce an integrated energy technology development policy and delivery mechanism, through the energy technology innovation strategy; and

introduce Climate Communities, an innovative program, a great program, to promote and support local action on climate change.

So while this bill heralds a new era in addressing Victoria's climate challenges and opportunities, it also represents years of hard work and effort by the state government and by many local councils, communities, industry groups, businesses and other organisations across Victoria.

It also reinforces that responding to climate change is a shared community responsibility. We will all need to make some changes in our daily lives if we are to cut emissions by 40 per cent on a per capita basis, conserve our resources and reduce economic and social impacts, and ensure Victoria remains a prosperous and sustainable state.

Preamble and policy objectives

The Climate Change Bill 2010 begins with an unequivocal statement that the Victorian government acknowledges the overwhelming scientific consensus that human activity is causing climate change; that Victoria is particularly vulnerable to its adverse effects; and that early action is necessary.

Greenhouse gas emissions reduction target

The bill establishes a target to reduce greenhouse gas emissions in Victoria by 20 per cent by 2020, compared to 2000 levels — which equates to a 40 per cent reduction in per capita terms.

Let there be no mistake — this is a very challenging target.

Victoria's emissions must be cut from a projected 130 million tonnes of carbon dioxide equivalent in greenhouse gases to around 96 million tonnes within 10 years.

We will achieve these reductions through energy efficiency, increased use of solar, wind and other renewable energy sources, increased gas and a significant reduction in brown coal generation, improved agricultural practices and carbon sequestration. The white paper sets out the initial actions required to set us on a path to meet this target.

Creating the right conditions for emissions abatement will encourage low-carbon investment within Victoria and make it more cost effective to achieve long-term emissions reductions. It will also support the development and uptake of clean technologies and systems, and position Victorian businesses for international leadership in these areas.

This target is a new benchmark for action in Australia. But we consider it to be a minimum target based on what the state can put in place over the next four years. Going further will require strong action by the federal government by 2014.

The scientific consensus of the Intergovernmental Panel on Climate Change is that if dangerous levels of global warming are to be avoided, developed countries will need to reduce emissions by 25 to 40 per cent by 2020 based on 1990 levels. Therefore, while Victoria's target is a significant step, more may still be needed.

Victoria has for some years called for a long-term national emission reduction target of 80 per cent by 2050, which is the desirable level of reduction supported by this scientific opinion.

This bill provides that if a national emissions trading scheme is introduced, an immediate review of this bill will be conducted.

The bill also provides for an independent review of the act by 2015 to examine whether any further action is needed at the state level to improve on our target — regardless of whether the commonwealth has acted by that time.

Regulation of greenhouse gases

The bill will amend the Environment Protection Act 1970 to establish express powers for the Environment Protection Authority to regulate greenhouse gas emissions through state environment protection policies, waste management policies and regulations, and the operation of the works approval and licensing regime.

As a first step following the passage of this bill, it is intended that the Environment Protection Authority will use this power to set an emissions intensity standard for new power stations. The government is proposing a standard of 0.8 tonnes of carbon dioxide equivalent per megawatt hour (tCO2/MWh), which will prevent the construction of any new power stations based on conventional brown coal technologies. The introduction of the standard will be subject to public and industry consultation, and an assessment of economic and social impacts.

These amendments to the Environment Protection Act will also clarify that regulations may be introduced that set a greenhouse gas 'trigger' to require licensing and works approvals for general industrial and commercial sites that are large emitters and energy users. This will enable the government to ensure that best practice standards and technologies are used by Victorian industry — giving our businesses an edge in a low-carbon economy and avoiding 'locking in' inefficient, long-lasting technologies.

Any changes in this regard will also be subject to consultation through regulatory impact statements or equivalent processes.

This power may be used for other purposes in the future, such as establishing emissions standards for existing power stations — with the aim of moving Victoria's brown coal generators into line with international best practice and providing a strong investment signal to upgrade technology.

Again, any new standards in this area will be subject to full public consultation and regulatory impact statements.

Decision-making framework

The bill establishes a strong climate change decision-making framework to reduce future risks and ensure good long-term outcomes for Victoria, which is a first for Australia.

This framework will require decision-makers to consider both the impacts of climate change on a particular decision, and how the decision will contribute to Victoria's greenhouse gas emissions.

The bill sets out relevant considerations for decision-makers, providing clarity, certainty and consistency across government decision making.

This framework will apply to a range of statutory decisions listed in schedule 1 of the act. This list is a first step and more decisions may be added over time.

The bill also amends the Transport Integration Act 2010. Victoria leads Australia in developing modern transport legislation that supports an integrated and sustainable transport system — and the Climate Change Bill will take this a step further by ensuring that climate change is considered in decisions about Victoria's transport system.

To support the implementation of the framework, a detailed package is being developed to guide decision-makers. This will provide clarity and transparency and arm public sector staff with the knowledge and tools they need to make good decisions.

Climate Communities

The bill also amends the Environment Protection Act 1970 to establish the Climate Communities Fund Account within the Environment Protection Fund.

In November 2009 I announced with the Minister for Environment and Climate Change a new Climate Communities program to support grassroots community efforts to adapt and adjust to climate change, and to give an expanded focus to Victoria's Sustainability Fund. Under this bill, the Sustainability Fund will be renamed the Climate Communities Fund.

The Climate Communities program is being expanded across four streams — households, businesses, community groups and schools — and the fund will be used to support the full range of projects covered by the extended program. It will also support programs focused on more efficient resource use and improved waste management.

Climate covenants

This bill establishes a framework for voluntary climate covenants between the Victorian government and communities, industries and regional bodies.

Based on the successful sustainability covenants implemented by the Environment Protection Authority, these climate covenants will empower organisations that want to move beyond compliance with legal requirements to be more proactive and cutting edge in their responses to climate change.

Climate covenants recognise that many groups and organisations across Victoria are keen to take that extra step and gain that extra edge in taking action on climate change. These covenants provide clear support from the government for this creativity, innovation and leadership.

Climate covenants will also help secure new jobs for Victoria by identifying and responding to skills gaps in our emerging sustainable industries.

Adaptation plans

Even with strong action to reduce emissions, some climate change impacts are now inevitable — and we must adapt to those impacts. The bill provides for a statewide climate change adaptation plan to be prepared every four years to document the progress of impacts on Victoria, analyse future trends, and outline how the Victorian government proposes to respond.

This legislated process will ensure that Victoria is operating from a holistic, whole-of-government perspective; that our strategic response to managing climate impacts is based on the best evidence; and that Victorian communities have a clear picture of what risks they face and what the government intends to do about those risks.

Carbon sequestration rights

The bill will establish a new comprehensive rights-based framework for the exploitation of carbon sequestered by vegetation and in soil on private and Crown land.

The existing legal framework for forest carbon, contained in the Forestry Rights Act 1996, was established a decade ago. It needs to be updated to ensure consistency with the approaches being used in other states and to better reflect the likely requirements of any future national carbon market.

The bill will repeal the Forestry Rights Act 1996 and replace it with a new framework for forestry and carbon rights.

In relation to private land, the bill will:

provide statutory recognition for a new class of proprietary rights for forestry, carbon sequestration and soil carbon as interests in land; and

enable the making of forest and carbon management agreements, which will contain ongoing management obligations and be capable of binding successors in title.

In relation to Crown land, the bill will:

empower the Secretary of the Department of Sustainability and Environment to manage Crown land for the purposes of carbon sequestration;

facilitate the assessment of Crown land available for carbon sequestration; and

enable carbon sequestration rights and soil carbon rights to be granted in relation to Crown land to third parties through carbon sequestration agreements.

These reforms will make it easier and simpler for private land-holders to separately buy and sell land, trees and sequestered carbon — reducing red tape and the costs associated with participating in emerging carbon markets.

They will also improve investor confidence, positioning Victoria to take full advantage of national carbon markets or government-funded programs to establish carbon sinks.

These new laws will also support the establishment of the Victorian Carbon Exchange, which will enable the purchase of Victorian offsets and create a market incentive for Victoria's land-holders and forest operators to create offsets through activities such as soil carbon sequestration, changed farming practices and new forest plantations.

Reporting and review

Finally, the bill will promote transparency and accountability by providing accessible information to the Victorian community on climate change science and emissions data.

This includes a requirement for the minister to regularly report on Victoria's progress towards meeting the emissions reduction target contained in the bill.

The bill also provides for an independent review of the entire act after five years. This will ensure that the purposes and objectives of the act are being achieved in what is likely to be a rapidly changing global environment and context. It will also enable us to ensure that we have the systems and processes in place to provide the high-quality data and knowledge needed to inform our actions and keep us moving in the right direction.

Conclusion

This bill is one of the most important pieces of legislation to come before this Parliament for some time. I want to place on the public record my appreciation of the contribution to this legislation from the Minister for Environment and Climate Change, the Minister for Energy and Resources and the Office of Climate Change, located in the Department of Premier and Cabinet. I want to thank, too, the people of Victoria for the great contribution they have made ever since the summit here almost two years ago, in contributing their ideas, their energy and their enthusiasm and passion for tackling climate change in our state.

This bill is important in terms of the specific measures it contains, such as our benchmark target for reducing emissions.

It is also important in terms of the support it provides for the critical actions and reforms set out in the Victorian climate change white paper.

But most importantly of all, this bill says clearly and unequivocally that Victoria will be a leader on climate change; that we are prepared to set our target in this bill, in law, to meet the challenge and work together to create a cleaner, better environment. Victoria will not sit back and run the risks of higher costs and greater damage from climate impacts, and we will not stand by and let opportunities slip through our fingers as the pressure for action becomes stronger and more urgent day by day.

This is a considered, fair and far-sighted piece of legislation. It will maintain Victoria's leadership on climate change and will create a new 'climate of opportunity' for our state.

l urge the Parliament to support this bill and — in doing so — send a strong message that the case for action on climate change is clear, and unambiguous, and that we need to act now to ensure that our legacy to future generations of Victorians is one of a strong economy, sustainable communities and a better, cleaner world.

I commend the bill to the house.

Debate adjourned on motion of Mr O'BRIEN (Malvern).

Debate adjourned until Thursday, 12 August.

ASSOCIATIONS INCORPORATION AMENDMENT BILL

Second reading

Debate resumed from 26 May; motion of Mr ROBINSON (Minister for Consumer Affairs).

Mr O'BRIEN (Malvern) — I rise to speak on the Associations Incorporation Amendment Bill. At the outset I advise that the opposition will not be opposing the bill. The purpose of the bill is to amend the Associations Incorporation Act 1981 in relation to governance arrangements, reporting requirements, grievance and dispute resolution procedures and other matters.

There are some very sensible measures contained in this bill, which has been the subject of some previous research and reporting. Members of the opposition believe that incorporated associations are a fundamental part of community activity in Victoria. They cover a very wide range of interests and activities, and it is appropriate that their governance be properly regulated. Far be it from us to discourage incorporated associations from undertaking their activities; we want to encourage them, because they add so much to the social and economic aspects of community life of Victoria. However, having said that it, is also important that the rights and responsibilities of the members and the committees and executives of these incorporated associations are properly provided for by statute.

The bill will come into operation on a day or days to be proclaimed; however, I notice that part 3 of the 2009 act that amended the principal act has yet to commence. The purpose of that part was to change the definition of 'public officer' to 'secretary'. I understand the government is looking at proclaiming this on 1 July 2011, which means there may be some requirements for work to be undertaken to ensure that the proclamation of that provision tallies with amendments contained within this bill.

I turn to some of the principal changes contained in the bill. The requirement that the secretary of an incorporated association be resident in Victoria is being removed, and consequential changes are being made throughout the act. Residence in Victoria will no longer be a requirement; residence in Australia will be sufficient. This is probably a very sensible measure, given that a number of incorporated associations would operate in the border towns of this state. If you are in Albury-Wodonga, it is not necessarily the case that an incorporated association will have a membership that will be solely based on the south side of the Murray, so it seems to be a sensible move that residence of Australia rather than residence in Victoria should be a determining criterion.

Another change in clause 5 of the bill is to abolish the requirement for a statement of purposes of an incorporated association. Previously an association was required to have two foundation documents: a statement of purposes and the rules or constitution of the association. This bill provides that those purposes will be incorporated into the constitution or the rules of the incorporated association, which seems to be a clearer way of doing things.

I turn to the key provisions of the bill. Clause 10 of the bill proposes to insert new section 14AB into the principal act, which relates to disciplinary action. As the shadow Minister for Consumer Affairs, on a number of occasions I have been approached in my office by members of incorporated associations who have been upset because they have felt they have been harshly treated by an association or club of which they are a member. They may well have tried to take action internally and have not met with any success. Subsequently they may have written to the minister or to Consumer Affairs Victoria and have felt that they have not had an adequate response, so they have come to me as the shadow minister.

The level of passion that disputes within incorporated associations can create makes question time in this place look like a fairly tame business in some circumstances. While some may think the passions of people who are members of a golf club, a stamp collecting club or a chess club would be inflamed, my experience is quite the opposite. It is very important when it comes to disciplinary action that the rights and responsibilities of members of incorporated associations be set out and fair for everyone.

Clause 10 of the bill, which inserts new section 14AB in the principal act, tries to encapsulate principles of natural justice which operate in a lot of other facets of life. For example, one of those rules or principles of natural justice is that decisions should be made by an unbiased decision-maker, and that is provided for in this bill. It is probably worth reading the relevant part of new section 14AB into the parliamentary record. It states:

> (3) In applying the disciplinary procedure, the incorporated association must ensure that —
>
> (a) the member who is the subject of the disciplinary procedure —

> (i) is informed of the grounds upon which the disciplinary action against the member is proposed to be taken …

I will stop at that point to say that it is a matter of fundamental fairness that if you are going to threaten somebody with some sort of detriment because you believe they have breached a rule or a practice of your club or of your association, then that person needs to know what the charge against them is in order to give them the opportunity to argue their case as to why they should not have action taken against them. That is the first element: letting the person know what disciplinary action is proposed to be taken.

The second part is that the person:

> (ii) has been given an opportunity to be heard in relation to the matter …

Obviously that is also essential; you cannot make an informed decision if you hear only one side of the story. Prior to being elected to this place I worked in the law, and there is a legal precept of audi alteram partem, which literally translates as 'hear both sides'. Hearing both sides is an essential element of fairness, and if people are going to take disciplinary action against a member of an incorporated association, it is essential that both sides be heard.

New section 14AB(3) goes on:

> (b) the outcome of the disciplinary procedure is determined by an unbiased decision-maker.

Again, that would seem to be a fairly basic concept. You do not want to have one person being judge, jury and executioner when it comes to resolving a dispute within an organisation. I am concerned about what that would entail. For example, there may be a club or an association with a very small membership and circumstances in which the members know each other very well. Obviously friendships, likes and dislikes can ferment, and the question might arise: could anybody be said to be an unbiased decision-maker? Would this require an association that had a disciplinary matter before it to bring in somebody from outside to determine an outcome in a disciplinary hearing against a member? What would happen if the association were in a small country town, for example, where everyone knew everyone else? How would that operate?

I raised my concern in the course of the briefing with the department. In the response I received from the minister, and I thank him for it, he said:

> … it is envisaged that an unbiased decision-maker will be a person that:
>
> > has no direct involvement in the circumstances that are the subject of the proceedings, and
> >
> > is prepared to bring an open mind to consideration of the matter.

That sheds a little bit of light on what might be expected of a club or an association in terms of disciplinary proceedings being brought, but I do not think it answers all the questions.

The last thing we want to see is provisions in this bill which attempt to clarify the requirements in relation to disciplinary proceedings for members and committees creating further confusion because nobody quite understands what is meant by an 'unbiased decision-maker'. As I have said, there may well be cases where all the members of an organisation know each other extremely well. Does this mean they are therefore disqualified from being that unbiased decision-maker because they are on very strong personal terms with all the members? I do not know the answer to that. I suspect not many incorporated associations looking at this bill will know the answer to that.

While we endorse the intent of the government in attempting to clarify for clubs and associations the principles of natural justice that they need to apply, the government has not necessarily achieved its outcome. I flag that this is something the opposition will keep a close eye on. If in fact it turns out that these provisions add confusion instead of reducing confusion, then we will certainly seek to have them reviewed and amended.

Clause 11 of the bill provides for amendment to the provisions relating to grievance procedures. It replaces the previous provision which just said grievance procedures must allow for natural justice to be applied with a requirement that:

> … the incorporated association must ensure that —
>
> > … each party to the dispute has been given an opportunity to be heard on the matter which is the subject of the dispute; and
> >
> > … the outcome of the dispute is determined by an unbiased decision-maker …

It is incorporating the same principles of natural justice we were discussing in relation to clause 10, and obviously the concerns I raised there also apply in relation to grievance procedures.

Clause 12 deals with rights and liabilities of members. It inserts some new provisions which I think are quite sensible. One is that a member of an incorporated association must be permitted to inspect the rules of the incorporated association and the minutes of general meetings of the association at a reasonable time. It is important that members have and feel that they have the right to be informed about the rules that govern them as

members of an association and about the business that is transacted at general meetings of an association. We think that is a sensible step.

There are further provisions that relate to voting at general meetings of an association, They provide that notice to members is required so that they have the opportunity to exercise their votes at general meetings of associations. Again, these seem to be fairly sensible measures.

Clause 14 inserts a new section 19A into the act. It provides that an association may execute a contract or other document if it is signed by two members of the committee or the secretary of the committee — or the secretary of the association who may not be a member of the committee — and by a member of the committee. The only thing that concerns me about this provision is that there may be associations that have been set up which have rules or constitutional provisions in place that are more restrictive in terms of who can execute documents.

The ability to commit an incorporated association to legal liabilities, for example, or to sell an asset or a property of the incorporated association is a very serious power. It may well be that certain incorporated associations have been set up with stronger safeguards than are provided for in this bill. It may be, for example, that an incorporated association requires unanimous execution by the members of that committee for a contract over a certain amount of money.

Under this legislative provision the government is stepping in, overriding the internal rules of an incorporated association, and saying, 'We are saying that as long as you have two members of the committee execute that document, that is all you need and that is binding'. My concern is that internal safeguards that have been put in place by incorporated associations to ensure the integrity of their assets may be undermined by this provision. I did not get the impression that there was a terrific rationale for the government deciding to override the internal rules of associations that relate to the execution of contracts and other documents. I put that on the record as a serious concern of the opposition. If government members have good reasons for feeling it is appropriate to override the internal controls of an incorporated association in relation to the execution of contracts and documents, I would be very interested to hear their views on that.

Jumping to clause 19, which substitutes new section 27, it provides for the removal and vacation of office of members of the committee of an incorporated association. The first new subsection says that a member of the committee of an incorporated association must retire and may be removed from office as provided for by the rules of the incorporated association. That is all fairly obvious, I would have thought. Subsection (2) of new section 27 is a little bit more interesting. It provides that:

> … A member of the committee vacates office in the circumstances (if any) provided in the rules of the incorporated association and in any of the following circumstances …

I will stop there to point out that this is where the government, through legislation, is ensuring that no matter what the rules of the incorporated association are, we, by statute, are going to say, 'Here are additional circumstances where members of the committee of an incorporated association are deemed to vacate their office'. The circumstances are:

> (a) the member of the committee absents himself or herself from 3 consecutive meetings of the committee without its leave;
>
> (b) the member of the committee resigns his or her office by written notice addressed to the committee;
>
> (c) the member of the committee is removed from office by special resolution at a general meeting of the incorporated association —

or the member of the committee dies, becomes bankrupt et cetera, becomes a represented person et cetera or ceases to reside in Australia.

In relation to the first circumstance — a member of the committee absenting himself or herself from three consecutive meetings of the committee without its leave — I suppose it is always a form of art as to how many meetings you can miss without an excuse before you are essentially abdicating your responsibility. I suppose the answer is it will depend on the type of committee. If it were a committee that met 14 times a day, and I cannot imagine a committee would do that, but if it were a committee that met extremely frequently and particularly if it met at unreasonable times, missing three meetings without leave could occur.

What I would not like to see is this provision being used by some members of a committee to try to force the resignation or vacation of office of other members of that committee. Is there anything to prevent, for example, a secretary who wants to get rid of somebody who they know is overseas or they know is ill calling three committee meetings, one at 8 o'clock in the morning, one at noon and one at 4 o'clock in the afternoon, and then saying, 'You have missed three consecutive meetings; the act says you have lost your

position'? I am concerned that committees might have rules that are perhaps more appropriate or provide greater safeguards. The danger in this provision is that it could be used by cynical people who want to try to isolate individuals — —

Mr Nardella — You have to give notice.

Mr O'BRIEN — The member for Melton says you have to give notice. That is the case, but if the notice provisions are complied with, you could still have three committee meetings within a very short space of time where if a particular committee member is absent or unable to attend for reasons that are to our mind reasonable, this act would still have the effect of causing them to lose office. I think that is a concern.

Subclause (d)(iv) provides that a committee member is deemed to vacate office when they cease to reside in Australia. I understand from brief discussions with the minister that the government is considering amending this provision in the bill. I have not seen what those amendments are so I am not in any position to give an indication whether the opposition will support, oppose or have any other view on those amendments.

I understand from the minister that he has had representations that there might be bodies which have people on them who reside overseas and yet still want to be members of a committee that operates here in Victoria. I think there would be a pretty strong onus on a person who resides overseas — I am not talking about travelling temporarily or living temporarily overseas but having their principal place of residence overseas — to explain why they should be able to remain a member of a committee. The minister appears to have had representations to this effect, and he appears to have been convinced by them. I am still waiting to see the substance of those representations. I am also waiting to see the text of any amendments the minister might propose, but from my discussions with the minister I know that the time allotted today does not allow for that issue to be thoroughly debated. I think the bill will be debated as it is and these matters can be considered further when it gets to the other place.

Clause 21 of the bill provides for the use of technology at committee meetings. I think it is similar to clause 27, which provides for the use of technology at general meetings. I would say this is long overdue. We are operating in the 21st century. We might be in a 19th century building but hopefully we are debating 21st century law. Many committee meetings, including committees of this Parliament, operate using technology. We use video links and telephones to get access to members and to witnesses who are interstate, overseas or otherwise unable to meet face to face.

Clause 21 inserts new section 29AA, which says:

> (1) The committee may hold meetings, or permit members of the committee to participate in its meetings, by using any technology that allows members to clearly and simultaneously communicate with each other participating member.

It is very important that members have the ability to hear each other, at the very least. Obviously with the advent of things like Skype it would be great if people could always see and hear each other, but I think it is important that we update the statutory provisions to keep pace with technology which allows for greater convenience and also allows for more people to participate in committee meetings other than just those who can get together in a room at a particular time.

Moving to clause 22, we see some new provisions. Previously there have been punitive provisions governing where an office-holder of an incorporated association acts dishonestly in relation to information they obtain through their membership of that association and use it for their personal use. What is proposed in new section 29A is to introduce new categories for where someone uses information they have gained through being on the committee of an incorporated association for their personal benefit. You would not quite call them offences, because they are actually civil penalty provisions; it is almost a halfway house between improper and dishonest conduct, which is designed to enrich somebody. They are doing it dishonestly, corruptly, however you want to phrase it, and that has a penalty provision, but there is a lesser standard which is incorporated by some new provisions here. To give you an example:

> (1) An office holder or former office holder of an incorporated association must not make improper use of information acquired by virtue of holding that office —
>
> (a) to gain an advantage for himself or herself or any other person; or
>
> (b) to cause detriment to the incorporated association.

That is a slightly lesser standard of culpability than is contained in the criminal provisions.

New section 29A deals with the improper use of information and position. Further, in clause 23 new section 29AB deals with duty of care and diligence and new section 29AC deals with breach of duty of good faith and proper purpose. These are all new civil penalty provisions, which provide for a maximum civil penalty of up to $20 000 and are modelled on the same

sorts of provisions that apply in corporations law in relation to the obligations of directors. However, directors can incur civil penalties of up to $200 000, which recognises that incorporated associations are almost invariably volunteer groups where committee members act in a voluntary capacity. The government has, I think rightly, acknowledged that a lesser penalty should apply, so instead of the $200 000 that applies under the corporations law for directors a $20 000 maximum civil penalty can apply under these proposals.

I do not want to steal the thunder of my colleague the member for Lowan, who is planning to speak on the bill. I will say simply that some organisations have queried whether civil penalty provisions are a good idea. They would prefer to see acts of culpability by committee members who do not do their job correctly and who do something for their own benefit dealt with just through criminal provisions. They are worried that if organisations have members who come on board and are exposed to civil penalties by making mistakes, for example, it will discourage people from wanting to take up positions on the committees of those voluntary associations. I understand that concern; I think it is a reasonable one to register.

I congratulate the government, because at the same time as it is introducing these new civil penalty provisions, it is also introducing what is known as 'safe harbour' provisions which are modelled on the Corporations Law. A couple of careers ago I was working on those Corporations Law provisions in federal politics, and at the time the federal government toughened up the Corporations Law and put stronger requirements on directors to act honestly and diligently, and imposed tougher penalties if they did not do so. But at the same time the federal government said, 'Basically, if you do the things that any reasonable person would expect you to do as a director, then even if you make what turns out to be a bad decision you will not be held liable for it in terms of any criminal or civil penalties'.

Clause 23 provides:

> An office-holder of an incorporated association must exercise his or her powers and discharge his or her duties with the degree of care and diligence that a reasonable person would —

and it goes on, but time does not permit me to read it. Basically there are what are known as the safe harbour provisions or the business judgement rule provisions. If you act sensibly and reasonably; if you read your meeting papers and you make an informed decision, even if that decision turns pear-shaped, you will not be liable, and we think that is a very important safeguard. We want to encourage people to get involved with their local community activities, with their Country Fire Authority, with their local sports club and with their local community organisations. We do not want to see people scared away from joining up and being a part of their community by the thought of some civil liability hanging over their heads. We think those provisions are very important to try to give a sense of confidence to people who take on that extra job.

In the brief time available to me I will refer to clause 25, which provides for a significant change. It used to be the case that if a contract were being considered by a committee and a committee member had an interest — for example, if my football club were considering who was going to get the cleaning contract for the club rooms and I was on the committee and my cleaning company was up for the job, I would not be able to speak on the matter, which is fair enough — he could be present. The bill changes that significantly and says that a committee member with an interest cannot be present while the matter is being considered at a meeting and that he cannot vote, and there is a criminal sanction of 10 penalty units.

This is a significant change, and the government has an obligation to make sure that message gets out to people. We do not want to see people breaking the law inadvertently because the government has changed the criminal law relating to the obligations of committee members when contracts are being discussed in which they might have an interest. I make the point that the government had better make sure it gets out there and explains this change, because it will be responsible if people inadvertently break the law.

Lastly, I am very supportive of the move to reduce the level of audit compliance for smaller organisations. Getting accounts audited annually is a very expensive business. The move to say that organisations with an annual revenue of between $250 000 and $1 million only have to have their accounts reviewed by an independent accountant rather than being audited will save a lot of money, and it is a very good move, as is the move for organisations with revenue below $250 000 to have their accounts approved at their annual general meeting and provided to the registrar. That is a very positive move.

Ms D'AMBROSIO (Minister for Community Development) — I am very pleased to rise in support of the Associations Incorporation Amendment Bill 2010. The bill outlines several measures which form part of a larger reform process undertaken by this government, which process is very much designed to strengthen Victoria's community organisations.

The Victorian Labor government has long recognised the huge contribution that our not-for-profit sector makes in this state. The sector delivers services across a huge spectrum of community need and it certainly plays a vital role in making our communities livable, inclusive and fair. When we reflect on it, we realise the sector delivers an estimated $2.2 billion in government services each year, and most of them rely heavily on volunteers.

As a government we are very keen to continue our support for the sector to ensure it can continue its work in the most efficient and effective way possible. This is why in 2008 the Brumby Labor government released its action plan, Strengthening Community Organisations. This plan outlines a number of actions that would be undertaken in order to increase government support for the not-for-profit sector. Among these actions was a commitment to reduce the regulatory burdens on our community organisations by making some very important legislative changes.

This bill implements the second stage of reform of the Associations Incorporation Act 1981. It introduces into legislation some very practical measures to enable associations to function far more efficiently and at lower cost — for example, it allows a general meeting for an incorporated association to be held in more than one location through the use of technology, removing the inconvenience and cost of long-distance travel. This is especially important for communities in remote locations, or for people who are time poor or not able to get about.

A provision will also be inserted into the act that allows financial records and minutes of meetings to be kept in any language provided the organisation can provide a copy in English upon request from a member of the association or the registrar. This is obviously most important for Victoria's ethnically based community organisations. It removes the hassle and expense of having all records automatically translated into English where it may not be necessary. I am very well aware of the language challenges facing many of the community organisations in my own electorate of Mill Park. Whether they are senior citizens clubs, clubs for particular ethnicities or cultural clubs they do a wonderful job in strengthening our community and building social inclusion. The amendment to the act will assist them in their functions and in doing very good work for the community.

The bill also seeks to simplify the process for the execution of documents, and clarifies the rights and duties of members and office-holders. Again reflecting on my own electorate of Mill Park, I am very well aware that the rights and duties of committee members and office-holders of community organisations can often present difficulties for many members of the organisation, especially those who are volunteers. Many of them have become members of committees of management because of a simple passion and drive to extend their volunteering effort beyond just being a member of an organisation and because they want to roll their sleeves up and do some terrific work through such committees.

Often I have had the committees of management of community organisations present themselves to my electorate office with concern and in confusion about the rights and obligations of particular committee members, whether they be secretaries, presidents or treasurers. It is certainly important to clarify those rights and responsibilities so we can reduce the level of anxiety that can sometimes come about when there is confusion about functions and responsibilities not just of individual committee members but amongst and between members.

Certainly the issue of the rights and responsibilities of ordinary members of community organisations has often been a very taxing concern for those organisations. This bill is about ensuring that community organisations are able to effectively represent their communities. It is vital that community organisations adopt governance arrangements that enable them to run as efficiently as possible, and this legislation will help them to do just that.

Our government is committed to working in partnership with the community. That is why, for example, this bill was preceded by the release in March of an exposure draft which allowed for public consultation. Many submissions were received, and there was general endorsement for the exposure draft. Some changes were suggested which led to some changes being made to the bill.

I am very pleased to rise in support of this bill. It is one chapter of many chapters this government is working through to strengthen the capacity and efficiencies of community organisations in the not-for-profit community sector. I restate that community organisations in Victoria are highly valued by this government. We want to make sure that we work with them. We are working with them very collaboratively to work out ways of ensuring that their operations are made easier and that the services and the job they have in hand to benefit local communities can be delivered in ways that are easy for them and less burdensome in terms of the regulations that surround their functioning.

We are very pleased that this is, as I said, another chapter in our commitment to making life easier for not-for-profit sector community organisations in terms of doing the terrific work they do in helping communities, many of which need a lot of support and assistance, either through services or advocacy or simply through people coming together in social environments so that they remain valuable contributors to our community and are able to increase their level of wellbeing in our community. With those few words I commend the bill to the house.

Mr NORTHE (Morwell) — It gives me great pleasure to rise to speak on the Associations Incorporation Amendment Bill 2010. This bill seeks to amend the Associations Incorporation Act 1981. Among other things the bill makes further provision relating to the prohibition under the Associations Incorporation Act against the distribution of the profits of an incorporated association to its members. The bill also seeks to enhance government arrangements for incorporated associations; revises annual reporting requirements and audit thresholds, which I wish to speak in detail about shortly; repeals limitations on trading by an incorporated association; and seeks to improve grievance and dispute resolution procedures for incorporated associations. The amendments as proposed in the bill before us will ultimately apply to a significant number of incorporated associations across Victoria. I understand there are approximately 36 000 incorporated associations on the register of incorporated associations in Victoria. Many of these incorporated associations play a pivotal role in communities across Victoria and are vitally important, particularly in regional Victoria.

In the second-reading speech the minister referred to both the Associations Incorporation Amendment Bill 2008 and the government's document entitled *The Victorian Government's Action Plan — Strengthening Community Organisations*. During debate in this chamber in March last year the coalition did not oppose the Associations Incorporation Amendment Bill of 2008, and the legislation before us today follows on from certain aspects of that 2008 legislative process. In particular, parts 3 and 4 of the bill, which did not receive royal assent, are now dealt with in the bill before us. Part 3 specifically refers to the transfer of functions of the public officer to the office of secretary of an incorporated association, and part 4 introduces new matters to be included in the rules of an incorporated association. It is intended that the operation of these changes will commence in 2011, as the member for Malvern pointed out.

In terms of the government's action plan to strengthen community organisations, it is hard to deny the goodwill behind the principles in that document. However, unfortunately this government has a history of delivering such fanciful documents without delivering on the action. One hopes the particular aspect of reducing the regulatory burden and streamlining interaction with government is acted upon under this legislation, along with some of the other key principles that are outlined in *Strengthening Community Organisations*.

The part of the bill I wish to refer to now concerns the introduction of duties and civil penalties. The bill seeks to clarify the duties of an office-holder of an incorporated association and talks about the duty of care and diligence required with respect to these matters, and they were very well articulated by the member for Malvern.

Some of those matters might be that the judgement from a person as part of an incorporated association was made in good faith, that the office-holder does not have a material personal interest in the subject matter of the judgement, or that the office-holder informed himself or herself about the subject matter of a judgement to the extent that they reasonably believed to be appropriate.

They are sensible elements of what you would call fulfilling your duty of care and diligence, and in that respect too, on the same topic, the bill does seek to impose a civil pecuniary penalty for contravention of specified provisions under the act. It seeks to introduce these along a similar line to that established under the Corporations Act 2001. However, the difference is that whilst the Corporations Act provides for a maximum civil pecuniary penalty of up to $200 000, the maximum amount that can be applied to an associated incorporation is limited to $20 000.

The member for Malvern also spoke about improving meetings, and one of the challenges, particularly in regional Victoria, is ensuring that you get the community on board to be part of an organisation. One of the difficulties is the requirement to attend face-to-face meetings. Therefore I think this is a very sensible provision. We now have the ability to use technology — whether that be by video or whatever it might be — to ensure that people from the community who might be incapacitated or outside the region or for whatever reason unable to attend can participate in meetings. It is a sensible step in the right direction, and hopefully it will encourage greater participation in many of our community organisations across Victoria.

I want to speak in particular about the annual reporting requirements, and I will shortly raise an example that was highlighted to me late last year; but essentially, in terms of the annual reporting requirements, the bill seeks to introduce a three-tiered system based upon total revenue of an organisation. Tier 1 comprises total revenue up to $250 000; tier 2 would include those associations with revenue exceeding $250 000 and up to $1 million; and tier 3 would capture all those associations with total revenue exceeding $1 million.

The reporting requirements of associations in tier 1 can be approved at an annual general meeting and provided to a registrar. Tier 2 accounts can be reviewed by an independent accountant, and tier 3 accounts would be audited by an independent accountant.

An issue was brought to my attention late last year by the Lions Club of Traralgon, which is a very good club. In the financial year of 2008–09 its gross receipts exceeded $200 000. This was out of the ordinary to some degree because our region was impacted by the bushfires of Black Saturday and those in late January, so the Lions Club of Traralgon, along with a host of other service clubs, did a substantial amount of fundraising. It brought to my attention the fact that for the first time it had exceeded that $200 000 threshold.

Upon further investigation it was highlighted that the $200 000 threshold had not altered in about 10 years and that CPI had not been applied to it. Therefore they were required to apply for an exemption to ensure that they did not have to get somebody to audit their books, which could cost anywhere between $2000 and $8000. On behalf of the Lions Club of Traralgon we duly wrote to the minister, who acknowledged the fact that the threshold had not been addressed for a number of years and said that the government was in the midst of examining a different tiered system, the one we have before us today. So in terms of these provisions for a three-tiered system, from a personal perspective I note that those clubs, which over time might have come across such tragedies where they have worked on behalf of the community quite diligently to raise a substantial amount of funding, would be happy to see these particular provisions addressed.

In summary, it is an important bill, as other members have pointed out. Incorporated associations are a vital ingredient to many communities, and they are particularly so in the electorate of Morwell. I raise the Lions Club of Traralgon as just one example of the great work they do within our community, and certainly following the tragedy of the bushfires not only the Lions Club of Traralgon but service clubs in general and other community groups and organisations rallied behind our community.

I am pleased to see that the provisions within this bill are a positive step in the right direction, which will satisfy some of the anomalies that have previously existed. In terms of the technology now available, hopefully the bill will also encourage greater participation from community members to not only support their local communities but also hopefully join local groups which do a fantastic job on behalf of communities throughout Victoria.

Mr CARLI (Brunswick) — It is a great pleasure to rise in support of the Associations Incorporation Amendment Bill 2010. One of the reasons for my support is that when you are in Parliament there are a number of pieces of legislation that seem to recur in your electorate and you get to know them over time because they become very useful. There is no doubt that the original Associations Incorporation Act 1981, with its subsequent amendments, is an act that probably every member of Parliament knows pretty well.

Associated with that act are the model rules and the various constitutions. This is because there are many hundreds of organisations in everyone's electorates that are incorporated associations, and both the rules and the act are very important for the functioning of those organisations.

They are particularly important when those organisations have conflict and internal difficulties. Invariably they all do, and certainly other members have spoken about how groups come to your office with difficulties and it becomes very useful to know the act. These changes, which are the second stage of reforms to the Associations Incorporation Act, are really there to simplify and ensure that the rights of individuals are protected and understood. They were identified by working with community organisations.

Looking back, we see that the process of reform began in 2004 and was endorsed by the government in the *Victorian Government's Action Plan — Strengthening Community Organisations*, which was very much about dealing with some of the issues that have arisen with organisations. What we are seeing in this area are some significant changes.

I must say I, along with other members, attend many annual general meetings and often see the rules or the constitutions at play, or even changes made to constitutions. Last year the local soccer clubs which were part of Football Federation Victoria were all instructed to democratise and ensure that the players

and parents of juniors were able to be members and vote, and they were told that they could not be part of the federation unless they did that.

I happened to go to a number of those meetings last year, and it was terrific to see people participate and to see the robust argument and debate about it and, most importantly, to see the use of the model rules and constitutions to democratise and involve people and communities and to demonstrate that community clubs are genuinely run by communities. It was a great experience to see that in practice. These amendments are significant in as much as they are reinforcing the use of the act and the rules.

Part of this bill is about making improvements in governance arrangements by ensuring that there are not separate documents dealing with the purpose of association and incorporated association rules — they become the one document; ensuring that the functions of the association and the powers that they exercise are consistent with the purposes provided in the association's rules; and ensuring that the procedure to revive and change those rules is very clear in the act and also clear in the schedule of the act itself. As honourable members are no doubt aware, over time the schedule in the act actually changes the model rules. Often those changes are not written in the actual rules of the organisation and they become very dated, so it is important that there is a very clear reading between the two — the rules of the organisation and any changes in the act which will be part of that.

There are some very important changes in terms of the annual reporting requirements and audit thresholds. Rather than the current system of prescribed or non-prescribed incorporated associations, there will be a three-tiered system. Other honourable members have spoken a bit about the changes. The changes essentially mean that if you are in a small organisation, all you need to do is go through an annual general meeting and provide the records. Organisations in other tiers need to have their accounts reviewed by independent accountants. It is time to take off the regulatory burden but protect those associations.

The grievance and dispute resolutions have significant changes being made to them, particularly in defending and articulating the rights of individuals concerned by ensuring that procedures comply with natural justice. I think every honourable member who has been involved in a community organisation where there have been grievances and conflict knows that there is nothing like having good rules to ensure that individuals are protected and that the processes clearly function within a system of natural justice.

With those brief comments, I very much support this bill and wish it swift passage.

Mrs SHARDEY (Caulfield) — I too rise to speak on the Associations Incorporation Amendment Bill. This bill will amend the act in relation to governance arrangements, reporting requirements, grievance and dispute resolution procedures and other matters. The Associations Incorporation Act was first established to provide a simple and inexpensive means by which unincorporated non-profit associations — in other words, community organisations — could attain corporate status. It regulates the creation, operation and dissolution of incorporated associations, and it is the most popular vehicle for the incorporation of community groups and non-profit groups in Victoria.

I note that in the second-reading speech the minister talked of some nearly 36 000 incorporated associations being on the register. I would not mind betting that almost half of those are in the electorate of Caulfield. We have a vast number of community organisations, which cover teachers, health professionals, sporting clubs, research foundations, heritage groups, historical associations, opportunity shops, an array of not-for-profit groups and political parties.

The Jewish community of course has an enormous number of community organisations which are very well known for the large number of volunteers who give so generously of their time and of their financial capacities to help those in need. I belong to some of those groups. We have roof bodies that cover the whole of the Jewish community organisations; synagogues; women's groups, such as the National Council of Jewish Women and the Women's International Zionist Organisation — and I belong to those two groups; rabbinical groups; sporting groups; appeal groups; and youth groups. There is a very large network of groups within my electorate that help support the entire community and give people an opportunity to participate and mix socially.

As we have a short time to speak I just want to mention some of the changes that are brought in by the amendments in this bill. First of all it removes the requirement for an association to have separate statements of purpose. These are now going to be incorporated in the rules of each association, with the purpose, the rights and the obligations of members in the one document. The definition of office-holder is to be broadened to include an employee who participates in making substantial decisions affecting the organisation. The bill provides that associations can execute a document or contract by two committee members or a committee member and the secretary,

therefore making it easier to deal with issues. It also facilitates the holding of meetings using technology. How wonderful that is! We can use Skype, telephones or whatever we like and have conferences by phone, which will facilitate the achieving of a great deal by these community groups.

The bill removes the requirement for the secretary to live in Victoria but still requires that the person must live in Australia. The shadow minister has raised some issues about that. As the position of secretary is a very important position, the bill requires that a new secretary has to be appointed within 14 days. There are also penalties that can now be imposed — civil pecuniary penalties — on office-holders, and they are set at $20 000. The shadow minister has raised the concern that that might put people off from wanting to be involved in these organisations.

One thing that the shadow minister raised in relation to dispute procedures is the requirement that each party must be given an opportunity to be heard and that the outcome of the dispute must be determined by an unbiased decision-maker. He raised the fact that in a small community that might be difficult to achieve because everyone might in fact know everybody, so how would one get hold of an unbiased decision-maker or someone who would not be aware of the situation?

In any event the opposition does not oppose this bill. There are some very sensible changes, and in the interests of time I therefore conclude my remarks.

Mr STENSHOLT (Burwood) — I wish to join others in supporting this bill. As has already been mentioned, the Associations Incorporation Act was established to provide a simple and inexpensive means for organisations, particularly unincorporated non-profit associations, to obtain corporate status. Obviously the act regulates the creation, operation and dissolution of such incorporated associations. It is very popular.

I should advise the house that I am a member of a number of incorporated associations in my local area, as listed in the *Register of Members' Interests — Cumulative Summary of Returns*, and I am on the committee on a number of those associations. Many of these associations are very fine bodies.

The bill seeks to amend the principal act in order to enhance governance arrangements for such associations; revise annual reporting arrangements and audit thresholds; repeal limitations on trading by incorporated associations; improve grievance and dispute resolution procedures; and introduce a number of administrative amendments.

As I have mentioned, I have been involved with quite a number of associations in my electorate. I am sure most other members have had the same kind of interaction with local organisations. Members often assist organisations find help to incorporate themselves. The Wattle Hill reference group, which has now become the Wattle Hill Community Association, is a group of people in public housing in Livingston Close in Burwood. I helped them organise their constitution and with the procedures to be followed in order to become incorporated. Being incorporated gives the government and other funding bodies confidence that they can provide support and grants to such organisations because funding bodies will then know there is a constitution behind the organisation, that there is a framework in which this body is operating legally in terms of meetings, committees and the objects the association is seeking to achieve.

Several years ago I helped the Burwood and Glen Iris senior citizens association to incorporate. It is indeed a very fine body which meets at the Camberwell Central Bowls Club. The members sought to set up a senior citizens group in their particular area in order to get grants from the Boroondara City Council. I thank the council for the grants it gives to senior citizens throughout the municipality. The group had to be incorporated in order to receive a grant from the council, but also to receive a grant from the Victorian Multicultural Commission, as the Burwood and Glen Iris senior citizens association is a multicultural group. Becoming incorporated enabled the association to obtain those grants.

Many other fine organisations in my electorate have been incorporated, whether it is other senior citizens groups or groups that provide services for the aged in our community. I am on the committee of management of Ashburton Support Services, which started as an incorporated association and has now become a company. There is also one next door, which is Samarinda Aged Services, which is an incorporated association that runs a nursing home as well as day programs for people with dementia or indeed the frail aged needing high care. Samarinda Aged Services has served a very good purpose for our local community indeed as an incorporated association in order to achieve the ends of that organisation.

I should also mention some other local associations. There are many football clubs of course which are incorporated associations in the way that they conduct their business. There are other sporting associations like local soccer clubs; for example, the Ashburton Soccer Club, which had three teams. The senior men's team and the juniors have been amalgamated, so there are

only two teams now with the women's team. There is also the Ashburton United Soccer Club. These are incorporated associations doing wonderful work in their local community.

Traders organisations are similarly incorporated associations. I am very familiar with the Burwood Village Traders Association — I am on the committee — and also the Ashburton Shopping Centre Traders Association, the committee meetings of which I attend. These associations are very community minded, and they ensure that they promote small business in their local community, whether it be in Burwood, in the Burwood village or in the Ashburton community.

There are associations that are involved in environmental work, such as the Friends of Wattle Park and the Friends of Back Creek. I think they will be out working next Sunday — many of the members will be planting trees and grasses alongside our local creeks and waterways and in our local parks. They are doing a wonderful job as incorporated associations.

It will obviously be necessary to make sure that any changes made by this bill are very clearly explained to these organisations. I note there are provisions in the bill that will allow that to be arranged before the commencement of the bill. I think this is a very fine bill, and I commend it to the house.

Mr THOMPSON (Sandringham) — Incorporated associations provide an important vehicle to give corporate status to organisations on a cheaper and more cost-effective basis. Since the introduction of the Associations Incorporation Act in Victoria about 27 or so years ago many entities and organisations have taken advantage of the opportunity to incorporate. Members who have contributed to this debate have outlined the range of organisations, sporting clubs, community groups, environmental groups and welfare agencies that have taken up the opportunity. Members would be attending annual general meetings of incorporated associations in the course of their regular parliamentary work.

There is one issue I would like to comment on in relation to the improved provision under this bill enabling people to attend meetings through the use of technology. Clause 27 suggests that:

> A member of the incorporated association who participates in a general meeting in a manner permitted under subsection (1) is taken to be present at the meeting and, if the person votes at the meeting, is taken to have voted in person.

In cross-referencing that with the Parliamentary Committees Act, there seems to be a prerequisite for a quorum to be present in the first instance. Section 25(5) of the Parliamentary Committees Act states:

> (5) A joint investigatory committee may only use an audio link or audio visual link if —
>
> (a) the joint investigatory committee has by a unanimous resolution approved the use of the audio link or audio visual link; and
>
> (b) the joint investigatory committee is satisfied that the quality of the audio link or audio visual link will enable members who are present at a meeting to verify the identity of a member participating by the audio link or audio visual link.

The general query I raise for the house is whether there is an obligation for a quorum to be present first or whether the use of audio link or Skype will facilitate the provision of a quorum that otherwise may not have been present.

There is another issue that I wish to raise for the attention of the house. The Scrutiny of Acts and Regulations Committee *Alert Digest* report on this bill refers to a number of issues. One concerns the modification of a section of the Corporations Act whereby it is an offence to have been a member of the committee of an incorporated association that took on a debt when there were reasonable grounds to expect that the debt would not be paid.

This is a serious issue. As I discern there has not been a reply to the question written to the minister in relation to a number of issues raised. I would value the opportunity to be made aware of what the response of the minister is to the concerns raised by the Scrutiny of Acts and Regulations Committee in *Alert Digest* No. 8 of 2010 in relation to a couple issues that have arisen.

There is another issue in relation to self-incrimination. It is noted in the *Alert Digest* that the committee will write to the minister expressing its concern about the statement of compatibility's failure to address the human rights effect of section 596B(1)(b)(ii) of the commonwealth Corporations Act 2001, and those are matters that the minister may wish to comment on in the summing up of the debate.

The bill improves the accounting procedures by establishing a number of categories which determine, subject to the discretion of the registrar, the level of financial reporting required: there are tier 1 associations, where the total annual rent revenue is less than $250 000; tier 2 associations, where the total revenue is between $250 000 and $1 million; and tier 3 associations, where the total annual revenue is greater than $1 million.

The methodology under which organisations establish their policies and practices and conduct their operations — whether they be community organisations working in the welfare field or whether they be sporting clubs — is nevertheless contingent upon the spirit of each organisation and its rules and regulations being applied. We have the unusual example where in the Parliament today there are a number of freedom of information requests that have been approved to be granted but another party — in this case the incumbent government — has appealed these matters to the Supreme Court, which delays access to information. Across Victoria the wellbeing of community organisations is subject to people upholding the spirit and the principles of an organisation, and that might be contrasted with the Labor government, which is sitting on information that is otherwise available under freedom of information processes or questions on notice in this place.

The very matter I raised in the chamber this morning related to access to information on the number of fines levied at an intersection, which for a number of years the government said was too onerous to provide. I said, 'What a whitewash. What a fraud is being perpetrated upon the people of Victoria', and then funnily enough the government was able to provide the data. But the government has been sitting on delayed responses for three months now, and my electorate certainly requires that information to get a better understanding of the railroading of Victorian motorists under the current government.

Mr DONNELLAN (Narre Warren North) — It is an honour to speak today on the Associations Incorporation Amendment Bill 2010. I will make a brief contribution.

One of the more interesting things in the bill is the repealing of the restrictions on trading by incorporated associations. The act currently provides under section 51(1) that incorporated associations are not able to trade either in their own right or as a trustee, with some exemptions. These restrictions on the activities of incorporated associations no longer reflect the contemporary environment in which associations conduct their activities and in themselves are difficult to interpret and apply.

Since the original act, or variations thereof, was introduced, organisations in the not-for-profit sector have experienced significant changes in the way they operate. Their relationship with government has substantially changed, and many of them are actively involved in providing services to the community through funding from government. They are actually trading in the marketplace, so it is very necessary that that amendment be put in.

The second amendment of interest is the repeal of the requirement for a separate statement of purposes and the provision that purposes of incorporated associations be included in the rules of the association. This very much brings the legislation into line with the Corporations Act, so that you have both the statement of purposes and the rules of association in the same document — you do not have them separated — which makes perfect sense.

Another amendment is the revising and reordering of the matters set out in the schedule that must be addressed in the rules of the incorporated association.

Additional matters have now been inserted into the schedule to improve the utility of the rules of an incorporated association, including some of the basics like the name of the incorporated association; the purpose, which I have previously mentioned; the rights and obligations of members of the incorporated association; the resignation and cessation of members of the incorporated association; and the process for appointment and termination of the secretary of the association. I think that will all be added into that one document, which, as I was saying, is pretty much like the provisions in the Corporations Act, which makes a lot more sense.

There will now also be provisions like those in the Corporations Act inserted in the rules, including things like duty to avoid trading while insolvent and defences to breach of duty provisions, which again are very much like the provisions in the Corporations Act, so it will bring that into line, which makes perfect sense. There will also be the introduction indemnity for members of the committee of an incorporated association as long as they acted in good faith and believed they were doing the right thing.

With that small contribution, I believe the act certainly improves the governance of incorporated associations, and I commend the bill to the house.

Mr DELAHUNTY (Lowan) — I rise on behalf of the large electorate of Lowan and also in my role as sport and recreation shadow minister to talk on this very important bill, the Associations Incorporation Amendment Bill. As we know, the purpose of the bill is to amend the Associations Incorporations Act 1981, but I believe we need to note that the original act was established to provide simpler and cheaper methods or means of obtaining corporate legal status for a

community, sporting or other voluntary non-profit organisation.

The act regulates the establishment and ongoing operations and devolution of incorporated associations. In my role as the member for Lowan I am familiar with many community groups, and as the shadow minister for sport and recreation I am very much aware of the enormous amount of work that not only community groups but also sport and recreation groups do in supporting our communities, particularly those in country areas. They play a vital role in our communities.

This was highlighted by the member for Morwell, who spoke about the Morwell Lions Club. Many of our organisations do an enormous amount of work supporting their local government, supporting government in general and supporting their communities. The member for Morwell raised some other issues, but I need to mention some of the challenges that are out there to improve the ability for our voluntary administrators to deal with the increasing demands placed on them to manage sport and recreation.

We have seen the demands in this area increase in the last few years, whether they be in risk management, the working with children legislation, the complex lease arrangements many of them are involved with, in the appointment of coaches or in the managing of the finances of these clubs.

In my area and right across country Victoria the sports assemblies play an important role in assisting these clubs, and I also note that various sport and recreation associations play an important role in assisting their various sporting clubs.

One of those associations is Vicsport, which is a peak body representing Victoria's sport and activity recreation sector. That association has written to me about its views on this bill. It starts by saying that Vicsport welcomes the release of the Associations Incorporation Amendment Bill and that many of the proposed changes will benefit the incorporated associations. But it does have some concerns. While Vicsport appreciates that the civil penalties are modelled on those in the Corporations Act, which are about $200 000, and that concessions have been made to lower the maximum amount to $20 000 in recognition of the not-for-profit and voluntary character of these organisations, it says that that figure seems arbitrary. But the main concern it has is that if concessions are to be made to consider the voluntary characteristics of individual organisations, Vicsport maintains that monetary civil penalties should not exist at all and that any inappropriate or illegal conduct should be punishable by criminal rather than civil law.

As we know, the shadow Minister for Consumer Affairs spoke about that. I have spoken to the minister about it, and I have raised it with him in relation to the sporting groups too, but overall, like many members of this house, I have come to the position that I am not opposed to the legislation. It takes a major step forward in a lot of areas, which will support our community and volunteer groups. I was going to go through them, but I will speak to the agreement.

We need to remember that clause 4 inserts new definitions of 'general meeting' and 'office-holder', and clubs need to be aware of that. The other thing the bill does is bring in three tiers of associations. Tier 1 associations have revenue of up to $250 000, I think; tier 2 associations have revenue above that; and tier 3 associations have revenue of over $1 million. There are many sporting groups that are not for profit. I believe even the Essendon Football Club is a not-for-profit organisation, but it is a multimillion-dollar organisation, so it is obviously going to be treated differently from others.

I will just finish off by saying that these laws and others are putting a lot of pressure on community and sporting organisations. We need the government to work with these organisations, particularly by providing education programs. The government can support associations and sporting assemblies to assist clubs to adjust to these new laws by providing fact sheets. I will go back to my initial point, which was that the original act was intended to provide simpler and cheaper methods of establishing community and sporting organisations, and hopefully these amendments will help. With those few words, I wish the bill a speedy passage.

Ms KAIROUZ (Kororoit) — It gives me great pleasure to rise to contribute briefly to the debate on the Associations Incorporation Amendment Bill 2010. From the outset I would like to congratulate the Minister for Consumer Affairs and his department on delivering reforms in the regulation of incorporated associations. I would also like to acknowledge the stakeholders that took the time to put in submissions when the draft bill was released for public consultation. There is no doubt that their input was valuable.

The objective of the bill is to implement a review of the Associations Incorporation Act 1981, a review which commenced in 2004 and is endorsed by the government in a document entitled *The Victorian Government's Action Plan — Strengthening Community*

Organisations, together with a number of reforms identified by the State Services Authority's review of not-for-profit regulation.

The Associations Incorporation Act 1981 was established to provide a simple and inexpensive means by which unincorporated not-for-profit associations could obtain corporate status. For almost three decades this has been the most popular method for incorporating community and not-for-profit groups in Victoria, because the act regulates the creation, operation and dissolution of incorporated associations in a way that is easy to adopt and is used by thousands of diverse incorporated associations across Victoria. That includes ethnic, sports and multicultural groups. The government recognises the value and importance of this act to our diverse community, and the bill before us today represents the second stage of important reform to ensure that the act continues to meet its original aim.

As we all know, the first stage of the reform was completed in 2009 through the Associations Incorporation Amendment Act 2009, and the majority of the provisions are now set in place. The second stage of the reforms to the Associations Incorporation Act improves and simplifies the governance arrangements of incorporated associations. The bill revises annual reporting requirements and audit thresholds, repeals the limitations on trading by an incorporated association, improves grievance and dispute resolution procedures for incorporated associations and improves provisions relating to the winding up and external administration of incorporated associations.

The bill also contains a whole series of amendments that improve the internal governance arrangements of incorporated associations and the rights of members so that they can now more effectively serve and represent their communities. These reforms also make it simpler for community groups to adhere to the responsibilities and requirements of the associations. For example, the purposes of an incorporated association will now be included in its rules rather than there being a requirement for a separate specific document outlining the rules. This will simplify the process for incorporation by eliminating the need for a group to file a separate statement of purposes and a separate copy of the rules.

The bill also improves the general utility of the rules of an incorporated association. The names and purposes must be listed in the rules, together with the rights, obligations and liabilities of the members. The resignation and cessation of members and processes for termination and appointment of an association's secretary must also now be included in the rules. A new definition of 'office-holder' is to be inserted in the act to recognise that people other than members of a committee, including employees who participate in decision making in the association, may also undertake significant roles and exercise responsibilities.

The bill also clarifies the duties of the office-holder by making clear that an office-holder must at all times fulfil their duty of care and diligence and must always act in good faith when a decision is reached, which decision should be in the best interests of the incorporated association. If a decision is not made in the best interests of the incorporated association — whether that be for self-gain or to cause deliberate detriment to the association — the act of making that decision becomes an offence under the act.

The bill amends section 29A to introduce civil pecuniary penalties where a person makes improper use of their position. The bill also contains a number of measures that enhance transparency and the participation of members, which may assist in reducing disputes. The bill also makes a number of amendments to improve the provisions relating to meetings, the filling of vacancies and the removal from office processes. It improves the annual reporting requirements and applies various provisions for voluntary administration and winding up. Another important element of this bill is that it allows incorporated associations, particularly those of ethnic groups, to keep their records in any language, provided that they can be translated upon request.

To sum up, these are excellent reforms. I am very proud to be part of a government that continues to develop and support our diverse community, particularly a community such as mine in the electorate of Kororoit. I once again commend the minister and wish this bill a speedy passage.

Mr JASPER (Murray Valley) — The original Associations Incorporation Act was established to provide a simpler and cheaper means of obtaining corporate legal status for community, sporting and other voluntary and non-profit organisations. The act regulates the establishment and ongoing operation and dissolution of incorporated associations. This bill goes further to review the act and make its operation more effective.

I refer members to the *Alert Digest* No. 8 of 2010 report on this legislation by the Scrutiny of Acts and Regulations Committee (SARC), of which I am deputy chair, which was also referred to by the member for Sandringham in his contribution to the debate. There are two or three issues in that report that I would like to

refer to. I suggest that members read SARC's report so that they are able to understand the work done by that committee.

Delayed commencement was one of the issues raised in SARC's meeting last Monday. What we seek is that legislation that comes before Parliament should be fully enacted within 12 months. This legislation indicates that the act be fully proclaimed by 1 December 2011. Members of SARC feel this delayed commencement needs to be explained. I refer to the comment made by the committee in *Alert Digest* No. 8 that:

> The committee would have preferred that the explanation for delayed commencement in this bill included the same reasoning provided to the Parliament in the 2008 bill's explanatory material (December 2008).

We referred this issue to the minister.

I also refer to the Charter of Human Rights and Responsibilities which is now a huge issue for the committee, not only in respect of regulations but also the review of legislation to ensure it meets the requirements of the charter. Comment has been made on this bill, particularly in relation to clause 41. The SARC's *Alert Digest* summary on clause 41 states:

> … Clause 41 applies a modified commonwealth law on compelled self-incriminatory questioning to the affairs of associated incorporations, including question of people who have not chosen to participate in regulated activities in which they have assumed duties and obligations. The committee considers that the applied scheme may be incompatible with the charter's right against compelled self-incrimination.

Further comment is made by the committee in its report. As a result it was decided that the committee would write to the minister and seek clarification, particularly on clause 41 and its application to the legislation before the house.

The other difficulty the committee has is that after it had reviewed the legislation earlier this week it wrote to the minister to ascertain whether the government believes there should be some changes to clause 41 to ensure the provision meets the requirements of the Charter of Human Rights and Responsibilities and there has been no response.

The other issue I want to talk about is the representations I have received over many years, particularly recently, from a number of smaller organisations such as the Peechelba Water Supply Co-Operative Ltd from whom I received correspondence. This very small cooperative draws water from the Ovens River to supply a small number of townships in the Peechelba area. The organisation told me it was required to produce annual statements which had not only to be looked at by an accountant but also audited. The bill increases the minimum requirements for an audit to be undertaken for organisations with total revenue of up to $250 000 and provides that for organisations with total revenue up to $1 million the accounts will be reviewed by an independent accountant. Beyond that level the normal procedures for having an appropriate audit undertaken will apply.

This is a step in the right direction. I have made representations to the minister on behalf of the secretary of that cooperative, Ray Butters, going back to 2007. I acknowledge from the information provided by the minister at the time that there was an issue that needed to be referred for further investigation and addressed. I wrote to the minister again earlier this year and he indicated in his response that changes would be introduced in the legislation we have before the Parliament to reduce the demands on these smaller organisations to fulfil requirements under the act. He indicated that he recognised the importance of doing that.

Another issue which comes into play is where being incorporated protects people involved in associations and organisations. If they undertake their responsibilities appropriately, they will not be sued. It will be the association that is sued, not the individuals.

A final issue I want to mention is that we have a situation where we need to protect organisations that go into liquidation and make sure that all the people who are members of an association can benefit from any funds which may have been accumulated by that association, should it eventually be disbanded and closed down. This is also an area on which I have made representations and I believe this is an issue that needs to be responded to. This legislation is a move in the right direction. However, I would like to see better responses to the issues raised by the Scrutiny of Acts and Regulations Committee before this legislation is debated in Parliament.

Mr FOLEY (Albert Park) — It gives me great pleasure to make a few brief comments in regard to the Associations Incorporation Amendment Bill which, as the minister outlined in his second-reading speech, is the second part of a series of reforms necessary to ensure that incorporated associations remain modern, relevant and engaged with their communities. Registered associations such as those covered by the bill have performed, and continue to perform, an entire spectrum of important and increasingly diverse range of activities in our community. As the minister noted, since the inception of this act many years ago there are

now 36 000 incorporated associations operating right across many different areas of the state's operations.

Having started many years ago in a relatively simple regulatory context, those organisations have developed and proliferated into an enormous range of different areas and there is a need to ensure that the legislative environment stays relevant, modern and engaged with the needs of those organisations. That is what this bill is all about. It continues to make sure that that is the case.

Both in the house and publicly the minister identified a number of key areas in which the bill will continue that journey of modernisation and relevance. Firstly, the bill enhances the governance arrangements for incorporated associations, which the member for Murray Valley has touched on during his contribution and which he said were worthy of support. Secondly, the bill revises annual reporting requirements of incorporated associations and the audit thresholds. This is a very important amendment, given that these organisations range from smell-of-an-oily-rag volunteer organisations to large commercial organisations with quite large turnovers, in some cases in many hundreds of thousands of dollars.

Thirdly, the bill repeals limitations on trading by incorporated associations, which is an important amendment in terms of modernising and ensuring an up-to-date and flexible system of operation for incorporated associations. Fourthly, the bill improves grievance and dispute resolution procedures for incorporated associations. Whilst many incorporated associations operate in good faith and in a community spirit, the truth of the matter is that in more than 36 000 associations there are bound to be various disputes. I am sure that many members of this place would have copped some of the fallout from disputes involving incorporated associations in their electorates. From time to time many members will have had knocks on their doors from people asking them to lend assistance to the resolution of those disputes.

The last area the minister outlined as the thrust of the reforms of the bill is to improve provisions relating to the winding up and external administration of incorporated associations. Many years ago I was a public officer of an incorporated association and had to deal with issues of planning and heritage control in St Kilda. The winding-up process of that association took an inordinate amount of time. Of course that happened under the former Liberal government, but one would not expect that to be the case under a Labor government. That process took a significant period of time, but fortunately it did come to a satisfactory conclusion. Often an association runs its course, which is often because it has achieved the purpose for its being formed. Such an organisation matures and develops, and if it meets its objective or its members become worn out, then clear arrangements for winding it up become necessary.

To my mind, as has been said today, this is an important piece of legislation that continues the process of modernising and ensuring the relevance and flexibility of the legislation to give this important sector, which contains a very wide group of organisations, continued relevance in the modern and complex society that Victoria has become. I wish the bill a speedy passage through the house.

Mr WELLER (Rodney) — It gives me great pleasure to speak on the Associations Incorporations Amendment Bill. The purpose of the bill is to amend the Associations Incorporation Act 1981 to make further provisions relating to the prohibition against the distribution of the profits of an incorporated association to its members, to enhance governance arrangements for incorporated associations, to revise annual reporting requirements and audit thresholds, to repeal the limitations on trading by an incorporated association and to introduce a number of miscellaneous administrative amendments. At this point I should declare that I was once a public officer for the Lockington Cricket Club Inc. There is no doubt that my skills in that area matched my skills on the field, which were second to none!

Incorporated associations form a very important part of all our communities. All of the football clubs in my area are incorporated. Whether they be Rotary, Lions, Apex, Probus or senior citizens clubs, most clubs these days are incorporated, which is a very wise thing for them to do, and they are very supportive of the functioning of our community. During the time I have been a member of Parliament I have occasionally found cause to write to the minister about the audit threshold for incorporated associations, which is currently $200 000. Some football clubs have come to me and said that the cost of an audit report is an extra expense that they did not need, and this bill addresses that matter, which shows that the minister has listened. The member for Murray Valley also pointed that out during his contribution to the debate. It is a sensible move on the part of the government to lift the threshold for having audited accounts to $1 million. I also think that requiring an association to have an independent accountant review its books is a wise move if those accounts involve annual revenue between $250 000 and $1 million.

Another aspect of incorporated associations that has not been spoken much about is the threshold for assets. This became a problem for a retirement incorporated body in Rochester, which had assets of more than $500 000 but did not have a great turnover, as most of it was for the purpose of providing accommodation for elderly residents in Rochester. The imposition of a $20 000 auditing bill on top of that would result in $20 000 that the association could not provide to its residents, so the residents would have had to pay extra. It is sensible to remove the threshold for assets as well.

This bill brings the legislation into the contemporary world. Through this legislation office-holders of incorporated bodies will no longer be required to hold face-to-face meetings, which means those people can use the latest technology. This legislation was enacted in 1981, and it is important that we adapt it to the needs of this century, which may mean that people can conduct meetings with modern technology. That is a sensible move.

Clause 19 is interesting and involves the removal of members from a committee. The clause provides that if a member is absent for three consecutive meetings without leave from the committee that that member can be removed. If we are going to have a committee, then we want people to participate, so I think this measure is sound, unless the absent person asks for leave not to be present. The clause provides that a member of a committee can resign from the committee by giving written notice of doing so, and that is straightforward. The clause also provides that a member can be removed from office by special resolution of a committee, which gives members of a committee the power to make a decision about someone's behaviour. If a member of a committee is deemed to be performing in a wrongful manner, then the other members can remove that person.

Clause 19 also provides that a member of a committee can be removed from office if the member dies. I think it is appropriate that if a member dies he or she should no longer be a member of a committee. Often when dealing with incorporated bodies members of Parliament find that the people who are meant to sign documents have not been here for a while. I think it is a good amendment that if a member of a committee dies they can be removed from a committee. The clause further provides that a member of a committee can be removed if that person becomes bankrupt or applies to or takes advantage of any law relating to bankruptcy or insolvency. That is another wise amendment to safeguard committees.

Clause 19 further provides that a member of a committee can be removed if a member becomes a represented person within the meaning of the Guardianship and Administration Act, which is sensible. A member of a committee can be removed if that person ceases to reside in Australia. That is a very good change. We need to make sure that the people who are making decisions are here to answer for those decisions. The clause also provides that a statutory manager can be appointed to conduct the affairs of the incorporated association under section 31D of the act. That means that if the manager goes in, the members of the committee are removed, which is fair enough.

Lastly, clause 19 provides that for the purposes of section 27 the secretary of an incorporated association is deemed to be a member of the committee, which makes a lot of sense. The amendments in this bill improve the original act of 1981, and I will not be opposing the bill.

Ms BEATTIE (Yuroke) — Obviously the member for Rodney has not seen *Weekend at Bernie's*, in which none of Bernie's activities were curtailed because of his death. But seriously, it gives me great pleasure to support the Associations Incorporation Amendment Bill 2010. This bill brings arrangements for the running of associations up to date. The objective of the bill is to implement the recommendations of the review of the Associations Incorporation Act which commenced in 2004. The review has been endorsed by government and nicely complements the Victorian action plan.

There is limited time to speak on this bill, because many members want to make contributions to the debate. Each and every one of us has a number of incorporated associations in our particular electorates. However, there is one aspect of the bill that I would like to focus on. I would like to congratulate the Victorian Multicultural Commission, which made a submission through the draft exposure process which recommended that records of incorporated associations be allowed to be kept in languages other than English.

For electorates like mine, that is very important. A number of new associations have been formed among the culturally and linguistically diverse community. It is pointless if people from a CALD (culturally and linguistically diverse) background cannot participate because they cannot read the minutes in English. This enables them to read the minutes and the financial statements. Upon a reasonable request by a member of the association or by the registrar the association must within a reasonable time produce a copy of those documents in English. I think that is all very fair to the CALD community and to others as well.

I would like to focus on a couple of aspects of the bill. The bill clarifies the minimum rights of members. It provides for a committee member's position becoming vacant when without the leave of the committee the member fails to attend three meetings of the committee, and I think that is very good. The bill also provides that the rules of an incorporated association may allow a general meeting or a committee meeting to be held in more than one location with the use of technology — it could be a phone hook-up or something like that. That is very good for associations in country areas.

There are many terrific associations, but some of them need some guidance in their rules. I remember one incident when I was the member for Tullamarine involving a residents association in the area of Sunbury. When others tried to become members the association would reject their applications, so another group tried to set up an association. Unfortunately those within the existing organisation did not want to democratise their association but did not want another residents association formed either. A public meeting was held to form the other organisation, and police had to be called to control people in the undemocratic organisation. I am no longer the member for that area, but I certainly hope democracy has come to that organisation.

This is a good bill that continues the process of modernising legislation. I thank those who participated in the consultation. There were 10 submissions in all from organisations including the Law Institute of Victoria, the Victorian Bar, PilchConnect, Volunteering Victoria, Clubs Victoria and the Insolvency Practitioners Association. All of those submissions expressed broad support for the proposed reform. This is a good bill that will provide associations with guidelines. Most associations meet those guidelines, but for those who do not, these rules will be in place. I wish the bill a speedy passage.

Mr CRISP (Mildura) — I rise to make a contribution to debate on the Associations Incorporation Amendment Bill 2010. The Nationals in coalition are not opposing this bill. The purpose of the bill is to amend the Associations Incorporation Act 1981 in relation to governance arrangements, reporting requirements, grievance and dispute resolution procedures, and other matters. Broadly the bill has a number of provisions to do with governance arrangements, duties and civil penalties, reporting requirements, and grievance and dispute resolution procedures.

However, most of us are here today to welcome some of the changes that are in this legislation and to pay tribute to incorporated associations. This is the backbone structure of most of our community groups. Most of the clubs that MPs work with in our electorates have this structure of incorporated associations.

As members we know, because we all attend a great number of their annual general meetings (AGMs), that the groups all have difficulties with the cost of compliance. There are issues with thresholds of revenue, particularly with the tiers of associations that are now being considered. If an association's revenue is under the threshold of $250 000, it is sufficient for the accounts to be approved at an AGM and provided to the registrar. If a group receives over $250 000 and under $1 million, the accounts need to be reviewed by an independent accountant. If its revenue is greater than $1 million, the procedure of accounts being audited by an independent accountant is in fact sensible.

Most of our groups are well aware of how hard a dollar is to earn, and to see money being used in a non-productive way is always a concern to them. If the matter is not raised at the AGM it is always raised over the cup of tea afterwards.

The assets threshold is also of interest because most of these groups are serving our community and are backboned by volunteers. Asset accumulation for the community good is therefore what is important to them. They want to put their efforts into maintaining and expanding those assets. I think excluding the assets from that threshold is useful for these groups. It helps them focus on what they believe is their primary purpose, which is delivering a good service to the community rather than paying someone to look over their shoulder.

Without these groups our communities would be the lesser, so we owe them a great deal, particularly, as I have said, as they are volunteer based. These groups go across a wide range of areas — health, education, sport and culture, to name but a few — and they are all out there helping. Many of them are helping to make government dollars go further and so deliver a greater benefit to our communities.

I welcome the new provisions in the bill for telecom technology sessions and teleconferencing for meetings. This will help these committees, clubs or whatever types of organisations they are to run better. As all members know only too well, it is possible to be at a meeting every night of the week if you want to be. For a lot of people in the community — and some of these are our older people — using this technology will help many of these organisations retain their vigour and to function better. These provisions will help to overcome

some of the isolation that goes with the country community service some of these clubs are based on.

With that contribution, and paying tribute to the volunteers that are mostly involved with incorporated associations, I indicate that The Nationals are not opposing this legislation.

Mr SCOTT (Preston) — It gives me great pleasure to speak on the Associations Incorporation Amendment Bill 2010. This is a bill which enhances governance arrangements for incorporated associations, revises annual reporting requirements and audit thresholds, repeals the limitations on trading by incorporated associations, improves grievance and dispute resolution procedures for incorporated associations, and improves provisions relating to the winding up and external administration of incorporated associations.

I too would like to touch on the provisions the member for Yuroke mentioned relating to the authorisation for incorporated associations to keep their records in any language provided a copy in English can be produced upon request. A number of associations within my electorate conduct their business, frankly, in languages other than English, particularly pensioner groups where persons come from non-English-speaking backgrounds. As members would be aware, as persons age their ability to remain bilingual declines, and there are large numbers of people who live in our society who do not speak English, or who certainly do not read and write English at the level required to operate an incorporated association; however, their language proficiency in their mother tongue can often be retained for many more years as they age. Participation in pensioner groups is often conducted in languages other than English, and for the records to be kept and be available in languages other than English, of course with the caveat that if there is a need for the records to be provided in English, they can be, is a sensible measure which will improve participation in incorporated associations, particularly those serving communities with non-English-speaking backgrounds.

I would also like to touch on other changes I think are positive, including the codification of duties of office-holders such as members of the committee and the expansion of the definition of 'office-holder' to include certain employees of associations. Employees of associations can play pivotal roles. Often the chief executive officer or financial officer is critical to the functioning of a committee, and the expansion of that definition I think is a sensible reform. It is also sensible to codify the requirements on holders of offices, including the need to follow what is defined as the business judgement rule. This includes such things as judgements being made in good faith and for a proper purpose, office-holders not having a material personal interest in the subject matter of the judgement, office-holders informing themselves about the subject matter of the judgement to the extent that they reasonably believe to be appropriate and office-holders rationally believing that the judgement is in the best interests of the incorporated association. These sort of requirements upon office-holders in incorporated associations will bring them into line with other areas of the community where the decisions being made must reflect the interests of the organisation, not the private interests of either office-holders in or members of that organisation.

The legislation provides for civil pecuniary penalties for breaches of the act, although I do think it is appropriate that those penalties reflect a lesser amount than those which apply under the commonwealth Corporations Act, the maximum amount limited to $20 000 rather than the $200 000 penalty in the Corporations Act. I think that is a sensible reflection of the different nature of incorporated associations as compared to business incorporations.

Another aspect I will touch upon in my brief contribution is the removal of the limitation on trading, with some caveats. Many associations now provide welfare and community services. That is a process that has been ongoing for over a decade in the state. Many of the associations I know of in my electorate — and I am sure associations in other members' electorates — provide fantastic services to the community, particularly in the welfare sector. I think it is sensible to remove the limitation on trading as they are in effect social enterprises that conduct trading operations for the benefit of the community, not for profit. The feeling was that as the law stood some of the socially beneficial operations of existing incorporated associations may have fallen outside the current provisions of the principal act. I think this amendment is a sensible one which will lead to an improved level of community services over time.

I think this will be an excellent act of Parliament, which I am glad to see is supported across the house. I commend the bill to the house.

Mr LANGUILLER (Derrimut) — I am happy to rise today in support of the Associations Incorporation Amendment Bill 2010. The objective of the bill is to implement a review of the Associations Incorporations Act of 1981 which commenced in 2004 and which has been endorsed by the government through the *Victorian Government's Action Plan — Strengthening Community Organisations*, together with a number of

reforms identified by the State Services Authority review of not-for-profit regulation.

It is important in our brief contributions that we place on record the extraordinary contributions made across the state by volunteers and by organisations and associations that on a daily basis provide fantastic support and services to their communities in a whole range of areas — social, cultural, sporting and otherwise. I think it is really good that we pass this legislation because it will make their lives, to put it plainly, simpler.

The specific reforms contained in the bill have been the subject of wide consultation, including public release of an exposure draft version of the bill in March 2010.

I also wish to take up the point made by the member for Yuroke that the Victorian Multicultural Commission made a very good submission. Arising from that submission, which we commend, provisions have been introduced so that incorporated associations will be able to keep their organisational minutes in their own languages.

The bill contains a number of amendments, transitional provisions and consequential amendments. One of these amendments seeks to address the high levels of new associations among Victoria's migrant or refugee communities. Of course as you would know, Acting Speaker, as in other electorates in Victoria, in the electorate I proudly represent there are more than 120 nationalities and languages, and they all do wonderful work and provide fantastic activities in the community. The provision allowing them to maintain their records in their own languages is a terrific one.

With these few remarks I will conclude in order to ensure that other members, particularly the member for Melton, can make contributions to the debate. I am delighted to put on record my support for the Associations Incorporation Amendment Bill 2010.

Mr NARDELLA (Melton) — I rise to support the bill before the house. I do so on the basis that within my electorate, and certainly within the state of Victoria, there are numerous volunteers and numerous groups operating and that this legislation will help them in their day-to-day operations. One of the groups I know this will benefit, and the honourable member for Derrimut would be well aware of the group, is a Spanish-speaking group in Melton. While all of its members have English as their second language, they cannot read or write it. This legislation will assist them to keep the minutes and make sure the group operates effectively and efficiently.

Within my electorate there are numerous groups ranging from the Melton Garden Club and the Friends of Melton Botanic Gardens to the Melton branch of the Australian Red Cross. As people will know from my declaration of pecuniary interests, I am a member of a number of those groups. This legislation will assist them in the future. These groups do fantastic work. Without volunteers the work they do in our communities and our suburbs would grind to a screaming halt. This legislation will help them to continue their fantastic work within the community.

It is really important that we keep up to date with what is occurring to assist our communities. For example, there has been some concern about what will happen if people miss three meetings where one is held in the morning, one is held at lunchtime and one is held in the evening. If those types of rorts are going to occur, then they will occur. But there are also problems with people putting forward their names to be on a committee and not doing any work and not turning up to meetings.

This legislation is about making sure people who are on a committee to serve their community turn up, do the work and assist in those processes. If people are going to rort the system, they will do it anyway. As the member for Yuroke said, residents associations that are shonky will continue to be shonky. This legislation is about protecting the good ones; it is about doing the right thing. I applaud the government for making further amendments to the act.

Debate adjourned on motion of Mr KOTSIRAS (Bulleen).

Debate adjourned until later this day.

ENERGY AND RESOURCES LEGISLATION AMENDMENT BILL

Second reading

Debate resumed from 27 July; motion of Mr BATCHELOR (Minister for Energy and Resources).

Mr SCOTT (Preston) — In order to facilitate the contributions of other members I will keep my contribution succinct. This is a bill to amend the Electricity Industry Act 2000, the Electricity Safety Act 1998, the National Electricity (Victoria) Act 2005, the Energy Safe Victoria Act 2005, the Mineral Resources (Sustainable Development) Act 1990, the Petroleum Act 1998, the Gas Industry Act 2001, the Victorian Energy Efficiency Target Act 2007, to repeal

the Mines Act 1958 and to amend other acts and for other purposes.

The objective of the legislation within the energy and resources portfolio is to implement legislative changes as set out by the state in its response to written submissions to counsel assisting the 2009 Victorian Bushfires Royal Commission in respect of the energy sector, to encourage the efficient expansion of the electricity distribution network, to mitigate the risk that the essential services commissioner may revoke a retail distribution or generation licence during an electrical or gas supply emergency, to empower the Governor in Council to make orders to facilitate the orderly transition of Victorian customers to time-of-use tariffs, to promote regulatory and investment certainty for electrical distribution businesses engaged in the Victorian advanced metering infrastructure (AMI) rollout by displaying the national AMI provisions, to ensure adequate incentives are available to support the uptake of low-cost abatement activities under the Victorian energy efficiency target scheme, to remove redundant occupational health and safety provisions in the energy and resources portfolio legislation, to support the process of reforming Victoria's occupational health and safety framework and to make minor and technical amendments to other acts.

As I said I will not speak in detail because other members wish to speak on the bill, but I wish to touch on the issues relating to time-of-use tariffs and the uptake of low-cost abatement activities under the Victorian energy efficiency target, because I think they go to the heart of an important issue that will come before the Parliament — in fact, it was touched upon in debate regarding another bill before us this morning. The amendments are about reducing the demand for electricity. Reducing the demand for electricity is often described as a 'low-hanging fruit' in dealing with climate change, because if you are not a climate change sceptic and you believe in human-created climate change, you will know one of the simplest mechanisms for reducing carbon dioxide emissions is to reduce demand for electricity. In Victoria we obviously produce carbon dioxide when we burn mostly brown coal, but gas as well, to generate electricity, setting aside renewable energy generation. If you can reduce demand commensurately, you can reduce the emissions of CO_2.

In fact, modelling I have seen shows that as we get wealthier there is a decline in the amount of energy used per unit of gross national product, or gross state product for that matter. Usually that runs at about 1 per cent per year, which is less than the rate of growth when adjusted for inflation. Therefore, it is sensible to take action to increase the amount of energy efficiency beyond the 1 per cent that is generated by technical change and general improvements in efficiency within the economy in order to reduce demand for electricity, thereby reducing the CO_2 emissions in society.

Time-of-use tariffs are a mechanism to achieve that goal by ensuring that people use power outside peak demand times. If you have the use of power during peak demand times there is a commensurate need to increase the supply of electricity, which means that infrastructure costs rise as people have to ensure that energy generation expands in order to meet increasing peak demand. Some energy use is not flexible, but some is. For example, if in a household there are times when people can save money by turning on a washing machine or a dishwasher at a later time that creates circumstances in which people use time-of-use tariffs. Those tariffs can smooth out energy demand by providing incentives for people to use energy supply for certain areas of demand where there is flexibility to do so at times when there is a lower cost because there is no peak demand within the rest of the electricity generation system, and there is therefore a lower cost.

As I said, energy efficiency is one of the classic low-hanging fruits. Improvements to energy efficiency do not require the construction of large power stations in order to meet demand. In fact such improvements reduce the requirements for capital expansion and thus over time lower the cost of energy generation. I will keep my comments to that, as I understand others wish to speak. This is an excellent bill, and I commend it to the house.

Mr K. SMITH (Bass) — It is a pleasure to get up to speak in the debate on the energy and Resources Legislation Amendment Bill. However, I do not think there is going to be too much pleasure built in for the electricity consumers of Victoria with some of the incentives in the bill. We have all been talking about smart meters, and that is something I would like to concentrate on. The smart meter is not that smart. The minister who implemented the smart meters is not that smart either. He is the same minister who brought in myki and a few of the other disasters that have been suffered by the people in Victoria and brought in by this government. Smart meters are being forced on every electricity consumer in Victoria on the basis of the time-of-use tariffs, which are supposed to be of great use to people so they can see what level their power use is at and whether it is a high tariff or a low tariff. I cannot imagine my wife getting out of bed at 2 o'clock in the morning to put on the washing machine or the dryer, because that is a really good time to get cheap electricity.

Mr Nardella interjected.

Mr K. SMITH — I cannot imagine too many people out in Melton, an electorate represented by the member over there, getting out of bed at 2 o'clock in the morning to put their washing on either. What a joke this is! It just does not seem to be right.

The government has put a moratorium on the time-of-use tariffs and on further discussion about them until after the election, and we can only wonder why. We can only wonder whether it is so there cannot be too much conversation about them out in the community. The cost of the not-so-smart meters brought in by the not-so-smart minister has gone from some $800 million to $2.5 billion — $2.5 billion to have these meters forced on the people of Victoria who are not really going to get any benefit out of having smart meters connected to their houses.

The meters are being put in for the electricity companies so that they do not have to send around meter readers. Their staff are going to be able to do all that while sitting on their bums in offices making sure that the companies can send the bills out as quickly as they like. The companies will be able to turn people's power off — take their power away — or reduce the amount of power they can use, all because of these smart meters, which the people have to pay for and which are going to be forced on them and put into their homes.

The minister says that in fact the meters will only cost a few hundred dollars, but a few hundred dollars is a lot of money to some people. The cost has gone up. This year people are supposed to be paying $68 for the smart meters, and they are going to be paying $76 next year. The people are paying for them, yet the only ones who are going to benefit from them are the power companies. Next year it is going to be $76; how much is it going to be after that, year after year? We know the total cost of the meters is going to be spread around. We know it is $2.5 billion. That has to be spread over prices and the number of consumers we have. It works out at $900 for a smart meter — a very expensive, not-so-smart meter.

When I looked at the legislation I saw the F-factor talked about as having been built in. I could not figure out what the F-factor was about, but then I thought, 'I know what the F-factor is about'. It is going to be for when people open up their electricity bill and they say, 'Effin' hell! I can't believe how much this has cost me'. The government calls these meters smart meters; I call them rip-off meters and not-so-smart meters, and I think I will conclude with that.

Sitting suspended 1.00 p.m. until 2.03 p.m.

Business interrupted pursuant to standing orders.

QUESTIONS WITHOUT NOTICE

Kinglake West Primary School: building program

Mr BAILLIEU (Leader of the Opposition) — My question is to the Premier. I refer the Premier to Kinglake West Primary School, where key school buildings being altered under the Building the Education Revolution program have stood unfinished, exposed to the weather and untouched for months, and I ask: given that the responsible minister responded on 18 June to the school's earlier pleas and claimed that these buildings would be finished by the end of August and yet nothing has happened since, what specific action will the Premier take to fix this mess by the specified date, or did the minister mislead the community?

Mr BRUMBY (Premier) — I thank the honourable member for his question in relation to the Kinglake school, and I am obviously concerned to ensure that work is completed on that project at the earliest opportunity. I was not aware that there were any continuing delays, and I will seek advice to ensure that this work can be expedited at the earliest opportunity.

Skilled Stadium: redevelopment

Mr TREZISE (Geelong) — My question is to the Minister for Sport, Recreation and Youth Affairs. I refer to the Brumby Labor government's commitment to make Victoria the best place to live, work and raise a family, and I ask: can the minister update the house on how the Brumby government's investment in Skilled Stadium will benefit the wider Geelong community, and is the minister aware of any other comments on this project?

Mr MERLINO (Minister for Sport, Recreation and Youth Affairs) — I thank the member for Geelong for his question. No government has been stronger in its support of Geelong and Skilled Stadium than this government. We have invested in both stage 1 and stage 2 redevelopments, we have supported the local cricket and netball clubs at Kardinia Park and we have stepped in to ensure that a successful 2022 World Cup bid will deliver World Cup football to Geelong.

Most recently it gave me great pleasure to join with the Premier and our local members at Skilled Stadium, where the Premier announced that the Brumby

government would commit $25 million to stage 3 of the ground's redevelopment. This is a terrific win for Geelong and the south-west region, for the club and for the community.

For football fans the capacity of the stadium will increase to 35 000 seats. For Geelong business and the broader community the facility will include a 1000-seat function room for private and business functions — the first of its size in Geelong. For the Geelong Cricket Club there will be new training, playing and spectator facilities, and there will be a wellness and community education centre. There will be a dedicated community live site so the community can get together for major international events — again, a first for Geelong. The redevelopment will include a significant upgrade of the Geelong Netball Association's facilities to make them a truly regional netball hub.

Any way you look at it, this is incredibly significant for Geelong and the south-west of Victoria. The announcement was best summed up in the *Geelong Advertiser's* headline the following day, 'Brumby's $25 million stand and deliver'. There were some critics, however. I would like to quote from a report featured in Gippsland's *Great Southern Star* editorial as follows:

> Gippsland South MLA Peter Ryan was dismayed Geelong Football Club received $25 million for a new stadium …

Dismayed!

The SPEAKER — Order! I ask the minister to confine his comments to government business.

Mr MERLINO — For the benefit of Hansard, this was on 22 June this year. Just one day later, the following was said in the chamber:

> That is a great initiative; we very strongly support it …

That was said by the same person — the Leader of The Nationals. He was dismayed one day, supportive the next. A new day, a new audience, a new message.

The SPEAKER — Order! I ask the minister to come back to the question.

Mr MERLINO — Finally, I would like to add the economic credentials of this project: $34.9 million in direct new expenditure during construction, 94 full-time jobs during construction and an additional economic benefit of $28 million per year once it has been completed. What part of those figures warrant dismay? They do not, and people in this chamber know it, but it does not stop the opposition from continuing its pattern of saying one thing to one audience and another thing to another.

The SPEAKER — Order! I warn the minister. I will refuse to hear him if he continues to debate the question.

Mr MERLINO — Only the Brumby Labor government delivers for all of the state. We are as proud and as committed to Skilled Stadium in Geelong, to Eureka Stadium in Ballarat, to Deakin Reserve in Shepparton and to the showgrounds in Wangaratta as we are to AAMI Park, the MCG and Rod Laver Arena in Melbourne. It may be just that the Leader of the Opposition is simply too weak to insist on a coherent policy from those opposite. Only the Brumby Labor government will deliver for all of this state.

Bushfires: refuges

Mr RYAN (Leader of The Nationals) — My question is to the Premier. I refer to comments made by Alan Myers, QC, as counsel for the state government at the 2009 Victorian Bushfires Royal Commission on 3 July 2009, when he said:

> It will not be possible for refuges to be established before the next fire season. The state first of all has to develop appropriate standards … The development of those standards, I'm instructed, is something that realistically will take a couple of months …

I ask: why is it that more than one year after those comments were made, the state government has failed to even propose what form such standards might take?

Mr BRUMBY (Premier) — I thank the honourable member for his question. The honourable member I am sure would be aware — because I have commented on this in the past in the Parliament and of course publicly — about the arrangements that will be put in place this Saturday when the final report of the royal commission is released. For the record and for the honourable member, the report of the commission will be handed to the Governor on Saturday morning. The Governor sometimes subsequently will hand the report to me, and as soon as I have that I will then present the report here at Parliament House to the clerks, where for all legal intent it is then published and becomes the property of the Parliament. I think it is important that we wait for the final report, which is now obviously just two days away.

Mr Ryan — On a point of order, Speaker, the Premier is debating the question. The question relates to the two-month time frame which was set in July 2009, and I am asking the Premier why the government has

not complied with the time frame its own counsel specified.

The SPEAKER — Order! I am not prepared to uphold the point of order.

Mr BRUMBY — It is best, I think, that we wait for the final report of the commission, because while obviously I have no knowledge of what it is that the commission might or might not recommend, I think it is likely there will be some discussion and some focus, obviously, on the issue of neighbourhood safer places, about the stay-or-go policy and about bushfire refuges. It would make good policy sense for all those matters to be considered together as a whole, holistically and comprehensively, not in a piecemeal process.

I believe we have made great progress as a state in relation to neighbourhood safer places, and on last count close to 100 neighbourhood safer places have now been approved across Victoria. The commission's report will be released, as I have said, on Saturday. I will be eager to read it. I am sure the Leader of The Nationals will be eager to read it. I await with interest its recommendations in relation to fire safety, neighbourhood safer places and any reference that is made to refuges.

Rail: government initiatives

Mr HOWARD (Ballarat East) — My question is to the Premier. I refer to the government's commitment to make Victoria the best place to work and raise a family, and I ask: can the Premier outline how the government is progressing with its program to return passenger rail services to Victorian communities?

Mr BRUMBY (Premier) — I thank the member for Ballarat East for his question; it is a very good question. I was very pleased to see the member for Ballarat East at Creswick station last Saturday morning. I was pleased to see the member there, and I was pleased to see too the hundreds and hundreds of local people from the Creswick community who were there, joined of course by the Minister for Public Transport and the Minister for Agriculture, the member for Ripon, as we then caught the V/Locity train from Creswick through to Maryborough. It reminded me of the significant new investments we have made in country rail over the years that we have been in government. I am reminded of course that when we won government we had the terrible legacy of 6 Victorian train lines that were shut and 25 train stations closed.

In 2003 we began major construction on the regional rail project. In 2004 we returned passenger services to the communities of Ararat and of course Bairnsdale that had been closed down by the Kennett government. In 2005 we introduced the first fast rail services to and from Ballarat using the V/Locity trains — and they were just a fantastic service and innovation.

In 2006 we introduced the first rail services to and from Geelong, Bendigo and the Latrobe Valley using the V/Locity trains. In 2007 we announced that V/Line fares would be slashed by 20 per cent, which is what we did. In 2008 we introduced even more V/Locity carriages. In 2009 we completed the $73 million upgrade of the freight line to Mildura. In 2010 we returned passenger rail services, as I have said, to the communities of Maryborough and Creswick. Also we welcomed the 105th new V/Locity carriage to come off the manufacturing line.

There is more. I am pleased to say that in 2011 we will return passenger services to Clunes. Won't that be fantastic? You will be able to catch the train up there from Melbourne on this new service that we have reopened. You will be able to go to Clunes, a beautiful town. You will be able to go to the book fair, Booktown. You will be able to get all of the benefits of that beautiful part of the state, opening up new tourism opportunities. Of course the people of Maryborough and Clunes will be able to go to Ballarat, and they will be able to go to Melbourne. It is a huge improvement. People in those areas did wait, and they were patient. I thank them for the huge support they provided to our government in reintroducing these services.

On Saturday the mayor of the Shire of Central Goldfields, Chris Meddows-Taylor — I think he said this on television on Saturday night — said:

> People love living in … smaller towns … but need the connectivity to the big places and all the things that it offers, in terms of work, health, education, shopping and social activities.

I agree with everything that the mayor has said, because we have got magnificent small towns across our state. We have been supporting them, building them up and encouraging them through our small towns scheme, through our Regional Infrastructure Development Fund and through the support we have provided to local government, but connectivity is really important. When you connect the rail again to Bairnsdale, when you connect the rail again to Ararat, with the benefits that has brought to Beaufort, and when you connect the rail again to Maryborough, with the stop reopening next year in Clunes, you get that connectivity, you get that improvement and you get that quality of life and of course the jobs and new opportunities that come with it.

We have been proud to make this investment in our state.

I am pleased to say that we are now seeing more than 1 million trips on the regional rail network every month. In a sense — that old saying — if you build it, people will come — and they will. Each week, each year, we are seeing almost twice the patronage on our regional network that we saw a decade ago. What a far cry that is from the days of closing stations and closing rail lines, when people left our state in droves.

This is a great investment. It is a $50 million investment by our state. I believe this great investment is worth every single cent. I do not know how many people there were at Maryborough station, whether it was 800, 1000 or maybe more, but it is a wonderful thing for that town in terms of employment opportunities, a wonderful thing in terms of connectivity and a great thing in terms of opening up that beautiful area of the state to tourists from Melbourne. What a great investment. I thank the honourable member for Ballarat East for his great support for the project and of course the member for Ripon too for his towering support for this project.

Children: protection

Ms WOOLDRIDGE (Doncaster) — My question is to the Minister for Community Services. I refer to the minister's claim in November last year that her workforce package would 'reduce workload pressures on child protection workers'. I also refer the minister to today's report into the death of children known to child protection, which highlights the continuing 'corrosive effect of chronic staffing shortages and workload pressures'. I ask: is it not a fact that the minister has not fixed the chronic, ongoing child protection workforce problems and that the minister is clearly incapable of doing her job?

Ms NEVILLE (Minister for Community Services) — I thank the member for her question. Can I firstly say that the death of any child in our community is a tragedy. It has huge impacts on parents, families, friends and neighbours. The member for Doncaster mentioned the report I tabled in Parliament today. As members of this house know, each year — in fact it has been happening since 1996 — we have tabled a report that relates to the deaths of children known to child protection. In fact this is the first report since this government passed legislation last year that widened the scope and the eligibility of cases to be reviewed by the child safety commissioner and the Victorian Child Death Review Committee. Sadly, we knew that this would mean there would be more cases that would come into scope and become eligible for review. That is exactly why we took the hard decisions and passed the legislation to expand on opportunities for reflection, for improved learning and for greater accountability.

It is worth remembering that under the previous government the child death review process was handled internally by the department. In fact in tabling the 1996 report the responsible minister described the process for conducting inquiries and explained that the department then made recommendations as to whether inquiries ought to be conducted into the deaths. That was the member for South-West Coast. So the previous government was happy for an internal bureaucratic process to control whether deaths were investigated.

Honourable members interjecting.

The SPEAKER — Order! The minister will not debate the question.

Ms NEVILLE — We in government have established an independent and transparent process, including the Office of the Child Safety Commissioner, setting up the independent Victorian Child Death Review Committee and more recently widening the scope and eligibility for reviews. However, when we look at why deaths occur we see that it is for a range of reasons. The report illustrates that in the majority of cases it is because children are born with congenital illnesses. In fact many of those children never leave hospital. It is because they are involved in road accidents or accidents in the home or, sadly, because of abuse.

Ms Wooldridge — On a point of order, Speaker, the minister is clearly debating the question with her pre-prepared response. The question was in relation to the staffing and her inability to address the chronic workforce shortages, and I ask you to ask her to answer the question.

The SPEAKER — Order! I am not prepared to uphold the point of order. The minister is clearly discussing the report that was tabled today.

Ms NEVILLE — The report highlights that there are a number of reasons for children's deaths in our community, and that is why, as a government, right across the government, we have indicated that the safety of children in our community is a priority. That is why we have invested in a new Royal Children's Hospital, improved medical and health services for children, improved road safety, putting more police on the beat, reforming violence services — it is all about keeping children safer in our community. But we have also moved to improve and strengthen our child

protection system. We are investing more funding than ever before — a 160 per cent increase in funding over the last decade — and bringing on more staff than ever before.

The package of initiatives the Premier and I announced last year included an additional $77 million to employ an additional 101 front-line child protection workers. Since October last year we have employed over 400 new child protection workers. This is about ensuring not only that we have the staff but also putting in place the training and support we know those staff need in order to protect some of our most vulnerable children and ensure their health and welfare.

Locusts: control

Mr HARDMAN (Seymour) — My question is to the Minister for Agriculture. I refer to the Brumby Labor government's commitment to make Victoria the best place to live, work and raise a family, and I ask: can the minister update the house on what action is being taken by the government to get our farming communities prepared for a spring offensive against locusts?

Mr HELPER (Minister for Agriculture) — I thank the member for Seymour for his question and for his interest in making sure that, come springtime, we absolutely minimise the damage that locusts will cause to this state in so many different ways. On 11 June the Premier announced the government's resourcing of the war against locusts. That response is encapsulated in the announcement of $43.5 million to be spent in various ways to minimise the impact of locusts in our state.

I would like to put on the record a comment that was published in the *Weekly Times* of 16 June which I think goes to the quality of the government's response:

> We probably couldn't have asked for a better response …
>
> If we finish up with locust problems in spring we couldn't blame the state government for inaction on this.

That quote comes from Andrew Broad, the president of the Victorian Farmers Federation (VFF). I take this opportunity to thank both Andrew and the federation for the extraordinary amount of work they are doing through their network and their membership to get ready for the fight against locusts.

The details of the locust package are too numerous to run through in detail here; however, I will discuss some of the important parts of it. Firstly, there is a 100 per cent rebate to farmers for chemicals used in 22 declared shires to combat locusts come spring this year. There is also a component of $850 000 to support local government, again with a full rebate for chemicals used and with advice and capacity building for local government to respond to locusts on roadsides and on council land.

There is a strong program of engagement with the community, because this war on locusts can only succeed if land-holders, whether they be farmers, public land-holders or local government — whoever it is in affected areas — work together so we have the maximum chance to minimise the damage.

The Department of Primary Industries (DPI) has already conducted 61 briefing sessions across the state, and we are planning many more. For example, in Raywood there was a briefing session for land-holders which 40 land-holders attended, and at Normanville there was a briefing of 35 land-holders. At DPI in Horsham we briefed agronomists, who play a very important part in our response to locusts, and in Murrayville the VFF branch made its meeting available and 30 VFF members were briefed on the response to locusts.

I believe the comprehensive response the government is producing to locusts maximises the opportunity for us to minimise the damage. As the Premier said, this is war on locusts. I thank members of Parliament who attended a briefing provided by the Department of Primary Industries yesterday morning in order to provide information to their constituents. I encourage members of Parliament to take advantage of these briefings, as we hold them throughout this particular locust condition and circumstance, and I look forward to working with the community to maximise our effort in combating locusts.

Kew Residential Services redevelopment: complaints

Mr McINTOSH (Kew) — My question is to the Premier. I refer to the fact that the developers of the Kew Residential Services project have written to new residents refusing to discuss fixing widespread and significant construction defects until residents sign confidentiality agreements, and I ask: given that Major Projects Victoria is a partner in this development, will the Premier now withdraw his demand, or is this just another example of the way this government intimidates local communities?

Honourable members interjecting.

Mr Hulls — On a point of order, Speaker, in relation to the question, the honourable member made

the assertion that the Premier had made some form of demand. I simply ask him to give some evidence to establish such demand.

Honourable members interjecting.

The SPEAKER — Order! I ask government members to come to order. The member for Kew does not need to produce evidence, but he does need to give an assurance that he can corroborate the accusation that he has made.

Mr McINTOSH — Certainly, Speaker. I am happy to pass over to the Premier for his benefit a letter from Walker Corporation on behalf of the Kew Development Corporation and Major Projects Victoria. As I understand it, the Victorian government is a partner up to its neck in this redevelopment. It is your confidential agreement and you need to explain it!

The SPEAKER — Order! The member for Kew!

Mr McINTOSH — Do you want it?

Honourable members interjecting.

The SPEAKER — Order! The member for Polwarth can consider himself warned. The member for Kew will not take advantage of the situation and make points in debate. He has asked his question.

Mr BRUMBY (Premier) — I thank the honourable member for Kew for his question, and true to his form, he has asked a question which is wrong in fact.

Hospitals: Geelong

Mr CRUTCHFIELD (South Barwon) — My question is to the Minister for Health. Can the minister inform the house how the Brumby government, in partnership with the Gillard Labor government, is securing world-class health services for the growing suburbs of Geelong, and are there any impediments to this investment?

Mr ANDREWS (Minister for Health) — I thank the honourable member for South Barwon for his question and for his long-term interest in making sure that the growing suburbs in his community are well serviced in terms of their health needs.

As a government we are very proud to have supported Barwon Health in strong terms with ongoing funding, with boosts in each and every year of our term in office, but also with important capital works in the form of many different projects totalling very substantial amounts of money. This is to make sure that patients in Geelong and right down the Surf Coast and the other areas that make up that region and catchment, and indeed right down the south-west coast, can look to Barwon Health and get the support that they need in world-class facilities. There are many different examples of those facilities.

There is $72 million for the McKellar Centre redevelopment, $26.1 million for the Geelong Hospital emergency department redevelopment, which is the biggest redevelopment of an emergency department in country Victoria, and $30 million to enhance capacity with additional theatre and ward bed capacity. These are all important investments, but none is more important than the one outlined in this year's state budget of some $33.6 million to not only boost acute capacity at the Geelong Hospital but also to purchase land and fund important planning work for a second hospital for the Geelong community in its growing southern suburbs.

That is a very important project that has won strong support from doctors and nurses, staff and the board of Barwon Health, local councils, members of the local business community and members of the local community in a broad sense. There is very strong support for this additional investment to purchase land, to do the planning and to make sure that we do not just keep pace with growth in Geelong but stay out in front of it and make sure that we have a new community hospital for the Armstrong Creek area and the growing southern suburbs. It is a very important project and one that has strong and widespread support; it certainly has strong and widespread support on this side of the house.

There can be no doubt whatsoever of the support of our government and indeed the commonwealth government, which partners with us in terms of a new national health reform plan under which it will over time commit 60 per cent of capital funding as well as 60 per cent of ongoing funding. It is a historic agreement that is all about putting patients first and providing better care. It is such a strong and fantastic project, and one that has won overwhelming support, that you can imagine my surprise when I looked at the *Geelong Advertiser* and found that sadly there is one group in the community that does not support this fantastic investment.

I was asked about impediments, and reading the *Geelong Advertiser* earlier this week it was apparent to me that one group would not provide its commitment. Just to paraphrase, this group was apparently withholding a commitment on this project until a series of important concerns had been dealt with. I am aware of no concerns. No concerns have been put to me in writing or otherwise about this project. This project has

won strong and widespread support in the Geelong community because it is a good project. It is a very important project and is strongly supported. I was asked about impediments. The failure to commit came from Sarah Henderson, the Liberal candidate for Corangamite. She cited as the basis for her failure to commit, concerns that were held by another group in the community.

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

Mr ANDREWS — We are concerned about impediments to this project. It is the business of this government to make sure that we deliver this important boost to health infrastructure in Geelong's southern suburbs. That is why we funded the purchase of land. That is why we funded planning for this important proposal. All those on this side of the house and members of the commonwealth government in partnership with us are supportive of this particular proposal. We are clear about our support; there is no barrier to our commitment to this — none whatsoever. There are no concerns on this side of the house as to the merit and value of this project. Those who have been quoted as being concerned are those opposite. They ought to come clean about what concerns they have.

Honourable members interjecting.

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

Member for Derrimut: allegations

Mr McINTOSH (Kew) — My question is to the Premier. I refer to a media release issued today by Mr Costas Socratous, a former electorate officer to the member for Derrimut, a parliamentary secretary, which states that Victoria Police has found no evidence against Mr Socratous of any criminal activity and does not intend to pursue allegations against Mr Socratous which were made in a complaint filed by the member for Derrimut in an effort to discredit and destroy the reputation of Mr Socratous after he had exposed corruption at the heart of the Labor government. I ask: will the Premier now require the member for Derrimut to withdraw his claim and apologise, or is this just another example of the way this government bullies and intimidates its critics?

Mr Batchelor — On a point of order, Speaker, the basis behind this question is not anything to do with government business; it concerns a dispute within the Labor Party. Under standing orders those matters that are of a party political nature are not part of government business.

Mr McIntosh — On the point of order, Speaker, if the Leader of the House had been listening to my question, he would know that clearly I was asking about corruption in the Labor government; I mentioned that specifically. On top of that, the media release actually refers to the parliamentary secretary, the member for Derrimut. His being a parliamentary secretary means he is a member of the executive, and accordingly, I ask the Premier to answer the question.

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

Mr BRUMBY (Premier) — I thank the honourable member for his question. I am happy to take it on notice.

Police: operational response unit

Mr LUPTON (Prahran) — My question is to the Minister for Police and Emergency Services. I refer to the Brumby Labor government's commitment to make Victoria the best place to live, work and raise a family, and I ask: can the minister inform the house of the work of the new Victoria Police operational response unit, of how it is achieving results and whether there are any challenges?

Mr CAMERON (Minister for Police and Emergency Services) — I thank the honourable member for Prahran for his question, for his support of policing measures across this great state, his support of what we have seen in the last decade with a record increase in the numbers of police in Victoria, his support of the record increase in numbers projected and locked into Labor's budget for the next five years with 1966 additional front-line police, and for his support of the record budget to police of $2 billion this year.

As part of that, in August last year the Premier announced $47 million in funding. That was to support the Chief Commissioner of Police in his desire to establish the operational response unit (ORU) with a strength of 120, using funds that have come about as a result of the new risk-based licensing regime. That funding was provided to Victoria Police for it to establish the operational response unit, which is effectively a flying squad that is able to act very flexibly and rapidly in responding to areas where resources need to be deployed or alternatively to work on operations with local police. The operational response unit started its work last March, and the member will be aware that in the first week there was a

large operation at Broadmeadows. In more recent days he would have seen Operation Gold in the north-western and southern metropolitan areas.

The chief commissioner wants to grow the operational response unit — he has made that very clear — because he believes that is very important to the way he wants to conduct policing in Victoria into the future. That builds on the measures for tackling problems on our streets and the laws we have introduced such as banning notices in entertainment precincts, which opposed by the Liberal Party; the infringement notices we have put in place for drunks; the new offence of disorderly conduct and the infringement notice that goes with that; move-on powers for police; and knife searches. We believe these measures are very important, and I note the comment made on the weekend by a police superintendent in the city, Rod Wilson, that these laws are being used and being used very effectively.

But there are ongoing challenges, because we know that not everyone wants to fund the ORU. We know the Liberal Party does not want to do that. We know that drunks do not want to do that. We know that louts would not want to do that. However, it is good to see the former shadow Minister for Police and Emergency Services, the honourable member for Kew, breaking ranks and recognising the good work the operational response unit is doing to make the city safer.

We support the chief commissioner, and we support Victoria Police. That is because we are Labor, the party that supports policing in this great state.

ENERGY AND RESOURCES LEGISLATION AMENDMENT BILL

Second reading

Debate resumed.

Mr EREN (Lara) — I rise to speak in support of the Energy and Resources Legislation Amendment Bill. This bill seeks to make a range of amendments to a total of 15 acts and to repeal one act. These amendments represent a number of significant reforms that demonstrate this government's commitment to ensuring a safe, efficient and secure energy system.

The importance of electricity and resources in everyday life cannot be understated. In the 21st century electricity has become an essential part of life, and the way in which we work, live and communicate often relies upon this very important resource. That being said, it has to be pointed out that the use of electricity is extremely hazardous and its use should be made as safe and secure as possible. We all depend on electricity every day. Members of Parliament depend on their BlackBerrys and mobile phones, and in particular their computers. Of course energy is important not only to us but also to people in the wider community.

I turn to some of the important amendments contained in this bill. In particular I would like to highlight the bill's amendments to the Electricity Safety Act 1998 and the Energy Safe Victoria Act. The bill will amend the Electricity Safety Act 1998, expanding the role of Energy Safe Victoria as the technical safety regulator, which will oversee the mitigation and management of bushfire risks by the electricity industry. The amendment to the Energy Safe Victoria Act will subsequently increase the independence of the director of Energy Safe Victoria. These two very important amendments will ensure that we are making the necessary changes to help reduce the risks involved within the electricity industry and help to improve safety.

Further to the improvements I have mentioned already, other improvements include: strengthening the bushfire mitigation regime, which introduces an economic incentive scheme for reducing the number of fires started by electrical infrastructure; the introduction of a new penalty on electrical businesses that fail to have an approved bushfire mitigation plan in place by 1 November each year; the introduction of an incentive scheme for reducing the number of fires started by electrical infrastructure; and providing incentives for distribution businesses to minimise bushfire risks associated with their electrical assets.

I have mentioned only a few examples of the improvements this bill seeks to make in relation to the electrical safety regime, all of which are very important to my electorate. The electorate of Lara covers an area which includes urban and rural areas, including Anakie, which has had its share of bushfires that have devastated the area, and the large grasslands in the Lara area. The Brisbane Ranges and the You Yangs Regional Park are also in my electorate. Obviously those areas are extremely important not only for my electorate but for the broader Geelong area and for Victoria.

The safety of electrical infrastructure plays a very important part in protecting the diverse environment in my electorate and in many electorates across Victoria. It is pleasing to see that this bill recognises the importance of safety measures and that it seeks to make improvements to provide for a safe and secure energy system as well as protection of our native flora and

fauna. Reducing the risk of fire associated with electrical assets and infrastructure is paramount, as is our duty to provide a reliable, safe and secure energy system to the people of Victoria, and this bill seeks to fulfil that duty.

I know that other members wish to speak on this bill, so I will keep my contribution brief. I commend the bill to the house.

Mr CRISP (Mildura) — I rise to make a contribution to the debate on the Energy and Resources Legislation Amendment Bill. The Nationals in coalition will not oppose this bill; however, I will have to be up-front about our concerns that this bill pre-empts some of the findings of the bushfires royal commission.

The purpose of this omnibus bill is to make a number of changes to energy-related acts and to implement some of the government's responses to the submissions of the counsel assisting the bushfires royal commission, particularly in relation to the powers of Energy Safe Victoria and the requirements of electricity businesses in relation to their bushfire plans, and they are the areas on which I wish to focus my contribution to the debate. The amendments to the energy-related acts deal with bushfire mitigation, tree growth, Energy Safe Victoria's governance and the fire factor or F-factor — and no-one can make a contribution to this debate without talking about smart meters.

Firstly, we need to look at some of the measures to minimise risks, including the risk of cross-arm fires on powerlines, which are sometimes called pole fires. For many years the cross arms on power poles were made of wood. Insulators are fastened to those cross arms, which in turn support the powerlines that carry the electricity. Dust accumulates on the insulators, which can facilitate an arc forming that ignites the wooden cross arm. It does not take long for a power pole to catch fire, with all the risks that ensue from such a fire.

A number of measures have been taken to reduce this risk and potential bushfire threat, including the aerial inspection of powerlines. I have even seen and been involved with the application of silicon to remove dust on insulators. On some occasions I have even seen silicon applied from the air. Another solution is to replace the wooden cross arms with steel or composite cross arms. There is considerable cost involved in such a replacement, and our electricity distribution companies will need assistance to undertake this valuable work because of that extreme expense. However, the resultant fires have a far higher expense.

The bill provides for what is known as the F-factor — that is, fire factor — which introduces a framework for an economic incentive scheme for distribution businesses to reduce the number of fires started by their electrical infrastructure. The F-factor scheme will run for five years, from 1 January. The scheme is supplementary to what is known as the S-factor — that is, service factor — that provides economic incentives for maintaining levels of service. The scheme will be established by an order of council, and it is intended to reward distributors for good performance, which will be measured by the number of bushfires caused by the distributors' assets. Under this scheme the Australian Energy Regulator would issue a determination advising the pass and fail benchmarks and specify activities that could be undertaken to achieve a pass. The determination would include the criteria for assessment of the activities and the benefits of and penalties for passing and failing. Benefits or detriments would apply two years after the relevant year of assessment, meaning that the distribution businesses could recover more or less returns on their infrastructure assets depending on the F-factor determinations. Obviously cross arms are one of the many measures that these distributors can use to assist in lowering the risk.

Tree growth near powerlines is another concern. In his contribution the member for Malvern raised the issue of different regulations and legislation that regulate the removal of trees in certain circumstances from near powerlines and from anywhere else. Time will judge the effectiveness of this measure; however, one of the concerns that coalition members have is that if people are stuck in a difficult situation with a tree about which there is a dispute over its removal, to prevent an F-factor problem people might find that they incur an S-factor problem — that is, they would have to shut down supply along that line and inconvenience customers because of that problem. Hopefully the minister has resolved those issues with this legislation.

One cannot talk about this legislation without mentioning smart meters, which are the myki of metering. Consumers who are paying for smart meters will shudder when the cost blow-outs are announced. The Auditor-General tells us that the cost of installing smart meters is now going to be $2.25 billion. Paying power bills is already difficult for some people, and the extra cost of smart meters will make life more difficult. These people are also wary about when this myki-like nightmare might end. The smart meter project has risen from $800 million to $2.25 billion, and many people are concerned about the government's assurances that power bills will reduce under this new interval pricing. Will the cost reduce enough to cover the ever-escalating cost of smart meters? That is what

everyone in charge of a family budget is concerned about. Is it any wonder that confidence in smart meters is collapsing? Many people consider this initiative to be expensive, and many people are referring to them as dumb meters.

Having said that, let me indicate that The Nationals are not opposing this legislation.

Mr LANGUILLER (Derrimut) — I rise today in support of the Energy and Resources Legislation Amendment Bill 2010. The main purposes of the bill are to amend the Electricity Industry Act 2000 to extend the application of provisions of the act designed to facilitate cost sharing between small electricity generators for suitably sized and designed augmentations to distribution networks, to require the Essential Services Commission to have regard to a ministerial direction given under part 6 of that act before revoking a licence and to make further provision for the rollout of advanced metering infrastructure.

The bill will also amend provisions of the Electricity Safety Act 1998 relating to the functions and powers of Energy Safe Victoria, the clearance of vegetation around electric powerlines, bushfire mitigation plans and electricity safety management schemes. In addition to that, the bill will amend the National Electricity (Victoria) Act 2005 to disapply the smart meter rollout provisions under the National Electricity Law to prevent an overlap with the arrangements under the Electricity Industry Act 2000 and to provide for an economic incentive scheme with respect to fire starts to be established and administered by the Australian Energy Regulator in respect of electricity distribution companies operating in Victoria.

Furthermore the bill will amend the Energy Safe Victoria Act 2005 in relation to Energy Safe Victoria's corporate governance arrangements. It will amend the Mineral Resources (Sustainable Development) Act 1990 and the Petroleum Act 1998 to improve the operation of those acts, and it will repeal the Mines Act 1958.

This is good legislation, and given the limited amount of time I have, there are other issues I wish to raise in the context of this debate. Members of the house may have noticed in today's *Herald Sun* an article on electricity prices which in the judgement of those of us on this side of the house tells only part of the story.

We need to be clear that electricity prices are going up everywhere due to the need to replace ageing infrastructure and the rising cost of generating more expensive renewable energy. We cannot control that, and anyone who claims that he or she can is not telling the truth. What we can do and have done is set up the most competitive retail energy market in the country and the best hardship protections for those consumers who are the most vulnerable members of our community.

We encourage constituents who believe they are not getting a good deal on energy to shop around for an energy deal that best suits their individual needs. I certainly talk up doing your research in my community. There is a competitive market, and research has shown that customers can save up to $500 by switching retailers. Constituents can check out the *Your Choice* website for more information on what different energy and gas retailers are offering. I will put that website address on record: www.yourchoice.vic.gov.au.

The other thing that all of us can and should do is to be smarter and more prudent with our energy use by being more efficient around the home, thus saving energy, reducing energy bills and, as a number of members on this side have put on record, reducing greenhouse emissions as well. Much can be done at the personal or family level by being more efficient at home.

In relation to that, I would recommend that our constituents, the people that I represent in my electorate and others, visit the *Save Energy* website at www.saveenergy.vic.gov.au. It is important to note that there are a number of things that constituents can do to help themselves.

It is also important to note that the Melbourne consumer price index for electricity prices actually went down in the June quarter — it fell by 2.8 per cent. We cannot stop prices rising, but we can put policies in place to mitigate them. An important article in the *Australian* newspaper suggests that we have been doing just that. The article says:

> Buried in yesterday's consumer price index is a telling comparison between Sydney, the city Gillard takes her political advice from, and Melbourne, the city that generates Labor's best policy ideas. Yesterday's inflation release provides a neat 15-year time frame to consider … electricity prices. They have risen in Sydney by 7.2 per cent a year on average since the June quarter 1995.
>
> … the cost to the Melbourne consumer: 5.4 per cent a year.

That is an important point made in the *Australian* article, which I encourage people to read.

We on this side of the house are happy to very strongly support the Energy and Resources Legislation Amendment Bill 2010.

Mrs VICTORIA (Bayswater) — I too rise to make a contribution to the debate on the Energy and Resources Legislation Amendment Bill 2010. This bill before us seeks to amend a few energy-related acts and also to introduce some of the government's response to the submissions of counsel assisting the 2009 Victorian Bushfires Royal Commission. I will come back to that in a second because the timing on this is quite interesting as the findings are due to be released in just a couple of days on Saturday of this week.

The bill amends a couple of the powers of Energy Safe Victoria (ESV) and the requirements on our electricity businesses for bushfire mitigation plans. As I said, the interesting thing about this bill is the timing in which it has come before the house, bearing in mind that the bushfires royal commission final report has not been handed down for Victorians to peruse. That is only two days away, and yet we find ourselves debating this bill in the house this week when it has been based on the submissions of counsel assisting at the bushfires royal commission. It is quite interesting in its timing.

Dr Napthine — Which the Premier wouldn't respond to in question time.

Mrs VICTORIA — Which of course the Premier would not respond to in question time today, no matter how many questions we asked, and this seems to be an ongoing trend.

There is also provision to expand cost sharing of the expansion of the electricity distribution network.

The bill provides for further regulation relating to smart meters, and smart meters are something completely different. If we have a look at what they have cost the state — over $2 billion for a system that nobody seems to want — we see that they are just another great expense, similar to myki, for the Victorian public. The bill also makes some changes to the Victorian energy efficiency target, and is supposed to promote low-cost energy efficiency activities. It also amends some resource-related acts.

There are a couple of things we need to take into account when it comes to bushfire mitigation. One of them of course, as I said, is that the 2009 Victorian Bushfires Royal Commission final report is coming out on Saturday. We do not have a crystal ball, so how can we possibly be talking in a holistic manner about how to move forward — that is a great Labor saying: 'Let's move forward and make things better' — when we do not know what is in the report? Some of these things are good initiatives, but we certainly do not have a holistic approach.

The bill introduces provisions to ensure that electricity companies have bushfire mitigation plans in place. Those plans need to be in place by 1 November every year and will be in effect until 31 March — effectively for the bushfire season.

Distributors will also need to have bushfire mitigation plans. If a distributor does not come up with a plan, the ESV can introduce a plan on its behalf. If the distributor is not happy with a plan that has been introduced, it can appeal to the Victorian Civil and Administrative Tribunal, but something can be put in place in the meantime. However, there are no provisions in the legislation allowing for subsequent parliamentary scrutiny of this, so we have got to get it right. I do not know if it has gone as far as it needs to go.

One of the things the second-reading speech says is that there will be an explicit duty to minimise bushfire danger. One of the initiatives is what has been known as the F-factor. We already have an S-factor in electricity supply here in our state, which relates to service delivery, with the energy companies getting bonuses for providing service at a certain level. They will now also be rewarded for not being involved in the starting of fires. This is for a period of five years from 2011. The companies will need to ensure that a lot of fires are not started due to their infrastructure. What the legislation does not cover in talking about the F-factor is the damage caused by those fires or the duration of them. It may be that only a couple of fires have been started but they have caused a lot of damage. I think there is a strange anomaly there.

As I said, the bill also deals with smart meters. The cost blow-out there is just incredible. Although the opposition is not opposing the bill at this stage, I think it is untimely, and I think there is a great deal that has been left out of it.

Mr HOWARD (Ballarat East) — I would like to take a couple of minutes to comment on a few areas of the bill before the house, the Energy and Resources Legislation Amendment Bill, which aims to ensure the safety, efficiency and security of the energy industry across the state but also makes some changes to mineral resources legislation in relation to issues within the mining industry so that we can ensure the safety of workers and general public safety in regard to mining.

As previous speakers have identified, a key focus of the bill is a recognition of the need to respond to bushfire risks associated with the transmission of electricity. One of the changes in the legislation is to expand the role of the technical safety regulator, which is Energy Safe Victoria, in overseeing the mitigation and

management of bushfire risks within the electricity industry. The bill puts specific responsibility on the electricity industry to minimise bushfire danger associated with transmission and so forth. I think this is a very sensible underpinning of some of the issues that clearly will need to be addressed by the government in its response to the Victorian Bushfires Royal Commission, and it is simply very sensible to get such underpinnings in place at this time.

The bill also brings about changes with respect to the development and provision of advanced metering, which we know means smart meters. Although we hear some negative statements from the opposition in regard to smart meters, clearly there is a need to update the aged metering system we have across Victoria and to offer members of the public the opportunity to reduce their energy bills in the future by either simply cutting back their energy usage overall or by using energy at times other than peak periods. The public can get some very useful feedback from the capabilities of smart meters, which clearly take advantage of the advanced new technology available in metering.

I was very pleased this week to have an email on the matter of smart meters from a constituent who said he had been over to the United States — I think he referred to California — where smart meters are in operation. He said he could see great benefits to consumers and the electricity industry overall in having smart meters in place as they will allow us to reduce overall energy consumption and plan energy consumption more easily. Smart meters will provide energy consumers with more information, which will enable them to plan their usage of electricity and reduce their bills. By using new technology smart meters we clearly provide great opportunities to consumers as well as the energy sector overall.

I do not wish to say more in regard to this bill. It is a sound, sensible bill that reviews legislation in a range of areas to ensure increased safety and to prepare for changes that are coming.

Dr SYKES (Benalla) — I wish to make a brief contribution on the Energy and Resources Legislation Amendment Bill, concentrating on two aspects. One aspect is the clearance of trees from near powerlines, and the second is the not-so-smart smart meters. I have a personal interest in the clearance of trees from powerlines, because I planted a row of trees along the boundary of my paddock and subsequently built a house in a new location which required the powerlines to go above that row of trees. With my tender loving care the trees grew and subsequently got to the stage where the people inspecting the powerlines deemed the trees to be unsafe and trimmed them back. Supposedly they trimmed them back and poisoned them so they would not grow any more, but they did not do it properly. That story has been repeated three times. I now look after the management of the trees, so there is a little problem with how things are operating right now.

Worse still is the issue that while those responsible focus on the trees growing under the powerlines and about 10 to 15 metres either side of them, they completely ignore taller trees growing beyond that designated corridor even though those taller trees, if they were blown over, would fall on the powerlines and there would be a risk of a fire starting. In addressing this aspect of the legislation I hope common sense prevails and that we look at the logic of whether a tree might fall across a powerline and, if it might, regardless of whether it be within a 5 or 10-metre corridor, it may need to go.

Interestingly the same illogical approach applies to the clearance of fence lines between public and private land, where again there is a 3 or 4-metre corridor which you can clear. If a tree is beyond that corridor you cannot clear it even if the tree has the potential to present a danger to you or to the person putting in the replacement fence, or even if down the track the tree presents a danger of falling over your fence line and losing its integrity. Let us put some common sense into the management of risk as it relates to powerlines and not just be bureaucratic about the application.

In relation to smart meters, it has all been said. I think the member for Bass said it as well as anyone could, but let me reiterate — let me say it one more time. The rollout of the not-so-smart meters is being driven by the Minister for Energy and Resources. The minister, who is at the table — he is showing great interest as he looks at his BlackBerry telephone! — was also responsible for the rollout of the myki system, which has been a disaster. There has been a cost blow-out of in excess of $1 billion in the case of each system. In the case of the smart meters the costs have been front-ended so that the consumer pays the cost. That means we have consumers paying for something that is not going to be delivered — and for them to take advantage of what the smart meter technology offers they have to spend another $100 or $200 to buy the technology.

Of course, the government got windy — it got nervous — and it has delayed the rollout of the time-of-use component because it knows the whole system is another myki. It is a disaster. What we need is a system that looks after people, including those in the fabulous electorate of Benalla. We need a system that

will look after our vulnerable and socially disadvantaged people — the people who are living at home, who are the ones this time-of-use charging will disadvantage. I say to the minister that the people who are most vulnerable are the ones who stay at home. They are the unemployed, the people who are aged or who are on welfare or disability pensions. They are single parents with young kids who need their accommodation to be warm in the winter and cool in the summer. They have limited opportunity to change their time of use to take advantage of the so-called benefits of the new system. As usual we have another piece of legislation which, while the intention behind it may be good, is fundamentally flawed in its delivery.

Mr STENSHOLT (Burwood) — I rise to speak briefly in support of the Energy and Resources Legislation Amendment Bill. I commend the minister for his action on many fronts in relation to the bill. There is a minor change to the Victorian energy efficiency target, which I think is a very good scheme.

I also commend the minister for the stance he has taken on the new and advanced metering infrastructure in order to ensure that its rollout will deliver a net benefit to Victorian electricity consumers. It needs to be explained carefully, and I know the minister is quite capable of doing that, and has done it on occasions. It is clear that the member for Benalla does not really understand what is going on. I commend the minister on the provisions of the bill which are designed to ensure that the rollout will deliver a net benefit to consumers and on the arrangements he has put in place in relation to orders in council. I commend the bill to the house.

Mrs SHARDEY (Caulfield) — I too rise to speak on the Energy and Resources Legislation Amendment Bill. This omnibus bill seeks to amend a number of energy-related acts to implement some of the government's response to the submissions of counsel assisting the 2009 Victorian Bushfires Royal Commission, particularly in relation to the powers of Energy Safe Victoria (ESV) and the requirements on electricity businesses for bushfire mitigation plans. I note that the legislation comes prior to the final report of the bushfires royal commission. The government does not seem to have a problem with that, but of course the Premier had a great deal of trouble answering the opposition's question today in relation to refuges in bushfire-prone areas. He wants to wait for the final report of the royal commission, and I think that is rank hypocrisy.

The bill also expands cost-sharing provisions to support the expansion of the electricity distribution network, it provides for further regulation relating to smart meters — and I will come to that later — and it makes some changes to the Victorian energy efficiency target legislation to encourage low-cost energy efficiency activities. It also amends several resources-related acts to require holders of mining licences or extractive industry authorities to advise the chief inspector of risk to the hydrogeological or geotechnical stability of a mine or quarry and clarifies the minister's powers regarding exploration permits. It repeals the redundant Mines Act 1958 and updates legislation to reflect the coverage of occupational health and safety issues coming under the Occupational Health and Safety Act 2004 rather than individual industry statutes.

In relation to the energy acts, the bill has three focuses: enhancing bushfire mitigation planning, providing for measures to restrict the growth of trees near powerlines and further empowering Energy Safe Victoria. The bill seeks to restrict the use of electricity assets during the bushfire season — that is, between 1 November to 31 March — unless the electricity distributor has a bushfire mitigation plan. I think that is something that will be supported. The bill imposes a general obligation on specified operators to minimise, as far as is practicable, the bushfire danger arising from the operation of electricity assets or face a penalty of up to 1500 penalty units.

In relation to tree growth, the bill also empowers ESV to direct a specified person to restrict or clear specified trees in the area around an electricity line if it is considered necessary to prevent future unsafe electrical situations. The member for Benalla raised some concerns about that and offered some very sensible advice to the Minister for Energy and Resources, who is at the table. One other comment in relation to this is that if local council provisions restrict the felling of trees, it is not clear which authority would take precedence. I therefore ask the minister to address that issue in his response.

The member for Bass had some quite amusing words to say about the F-factor and what people might be thinking when they receive their bill after they see the enormous increases in the cost of energy these days — —

Dr Napthine interjected.

Mrs SHARDEY — Yes, and we have the S-factor. I will not go into further explanation about that at this time — I will perhaps just refer to the member for Bass!

In relation to smart meters, there are some regulatory changes which I will refer to a little later.

I turn to some areas of concern. The measures contained in the bill may or may not be consistent with the findings and recommendations of the bushfires royal commission, and I think that is of some concern. I spoke previously about the way the Premier behaved in relation to this issue. Many of the provisions in the bill give the government significant power through orders in council to impose a wide variety of obligations on electricity distribution and retail companies. This involves a major degree of trust, might I say, that the government will in fact get the detail right, as the instruments do not facilitate subsequent parliamentary scrutiny. To see the problem one only has to look at the way this government fails in many instances to get the detail right. The smart meter provisions are very broad and could conceivably be used to require particular technological platforms to provide customers' information.

None of these measures, as has already been made clear, covers up the government's total incompetence in relation to smart meters, the blow-out in costs and the up-front costs to consumers, which I think most consumers really resent.

Mr LIM (Clayton) — I too am happy to rise in support of the Energy and Resources Legislation Amendment Bill 2010. Rather than paraphrasing or repeating the points that previous speakers have touched on, including the technical aspects, I just want to say that this is a most appropriate bill to come on at this time, and I would like to commend the minister at the table for bringing the bill to the house. Without much more to say, I commend the bill to the house, because it is definitely a bill that will make the necessary amendments to the acts in the minister's portfolio with the aim of promoting certainty in this legislation. Of course the bottom line is that the consumer will benefit through every aspect of this bill.

Mr MULDER (Polwarth) — In joining this debate I raise an issue of concern I have in relation to the people who live in my electorate, particularly those in farming areas and more particularly in the Otways. I draw the house's attention to an article that appeared in the *Weekly Times* of 31 March reporting that:

> Electricity distributor Powercor is considering cutting power supplies to high-risk towns on catastrophic fire alert days to minimise the risk of bushfires.

The article goes on to say that:

> Such an initiative would require extensive community consultation and Victorian government involvement prior to implementation. An initial feasibility study would be required to consider the practicality of disconnecting supply to these high-risk areas.

The *Weekly Times* editorial says:

> Sure, households in these high-risk areas should have backups in case the power goes off due to wind, tree or fire damage.
>
> And, yes, Powercor is right in saying shutting down large parts of the grid would help prevent their 'electricity assets' starting fires.
>
> But turning off the power in response to a code red (catastrophic) fire-alert day would isolate thousands of Victorians, many of whom would be forced to huddle around portable radios in sweltering conditions.
>
> Households would be disconnected from their TVs, the internet, even (cordless) telephones.

As I say, that article appeared on 31 March, yet within a matter of a few months we have before the house this bill, which, as I understand it, gives power distributors the power to do just that.

I refer to provisions in clause 17, which inserts proposed sections 83B and 83BA. Proposed section 83B(1) says:

> A specified operator must design, construct, operate, maintain and decommission an at-risk electric line to minimise as far as practicable the bushfire danger arising from that line.

Proposed section 83BA(1) says:

> A specified operator must, before 1 July in each year, prepare and submit to Energy Safe Victoria, for acceptance … a plan for the operator's proposals for the mitigation of bushfire in relation to the operator's at-risk electric lines.

Proposed section 83BB(1), concerning compliance, says:

> During the specified bushfire risk period, a specified operator must not commence to commission, or operate, an at-risk electric line unless a bushfire mitigation plan that applies to the operator's at-risk electric lines has been accepted or provisionally accepted under Subdivision 3.

The concern I have is: do these provisions allow a power distributor in Victoria, whether in my electorate or any other, to carry out minimum maintenance on their assets in areas that have high fire risk or probability and use the powers provided under this bill to switch the power off to those high-risk areas at a time when the power distributor thinks there is a risk of a fire being caused by its assets due to a lack of maintenance?

This is a very serious issue, particularly, as I say, for the people who are in my electorate. This is enabling legislation. It does not say an awful lot — in relation to the preparation of these plans — about the feasibility

study mentioned in the relevant submission to the royal commission, and it does not say an awful lot about what level of community consultation is going to take place as a result of these plans.

I put it to the house and to the minister, whom I ask to provide an explanation in summing up, that my community needs to know how these plans are going to be implemented. Will an operator be able to use the fact that they have not maintained their assets in a fit-for-state condition as a reason to switch off power on catastrophic fire-danger days?

One would hope that in this day and age a lot of those assets are maintained to a degree where they are suitable to operate throughout those periods. Could members imagine what it would do in the Otways to tourist operators and particularly to farmers who have 400 or 500 cows waiting to be milked if we had two or three of these days in a row and the power was turned off, given everything else that would go with that and the destruction that would cause to their businesses?

I ask the minister and the government to consider this as a matter of absolute importance for people in country Victoria, because the consequences of these provisions could be dramatic if the intent of the bill is not met by the operators and the government of the day.

Mr THOMPSON (Sandringham) — A key factor of the Energy and Resources Legislation Amendment Bill is that a distributor has a mitigation plan to ensure that there will be the safe distribution of electricity during the bushfire season. I have a constituent whose concerns about the maintenance of electricity assets over a period of time are well justified. I would like to note for the record that on 31 January 2009 the electricity to her house had been turned off for 19 hours; on 15 October 2009 there was a power outage from 8.50 p.m. to 4.00 a.m.; on 10 January 2010 the electricity was off between 7.30 p.m. and 4.00 a.m.; on 19 February 2010 she experienced significant radio interference; and on 20 February 2010 the electricity was turned off between 9.50 a.m. and 2.10 p.m. These events caused significant inconvenience. She complained to her retailer, to her distributor, and liaised with many different people within the process.

It was originally suggested it may have been a possum or recent rains, but she was persistent that there was a continuing breakdown of the reliability of her power supply. Ultimately in the scheme of things the distributor organised 15 trucks, some of which came from country Victoria, to replace a significant range of transformers within the Sandringham electorate and upgraded the system where there had perhaps not been the maintenance to maintain the distribution network that was required to ensure reliability of supply. It is important in the context of the matters raised by the member for Polwarth that the maintenance run-down of the distribution network does not become a basis or rationale or reason for the supply to be interrupted in regional Victoria in areas that are more prone to bushfire activity. I had the experience a couple of weeks ago, upon arriving home from a work commitment at about 11.00 p.m., where a local light pole was on fire. I was not sure whether it was due to the shorting of the power supply, but I called the local fire brigade, which arrived promptly and put out the fire, which it attributed to other causes rather than an electrical fault, which sometimes can arise.

The bill before the house addresses a range of wider issues, a number of which include the repealing of the redundant Mines Act. A number of provisions in that act are covered under the occupational health and safety legislation that deals with smart meters, and I have had a number of complaints through my electorate office from pensioners concerned about the impost of paying for a service and supply of an item of which they do not have the benefit.

The *Herald Sun* this week has outlined the massive uplift in utility costs for Victorian taxpayers in terms of their water and electricity bills. A number of my constituents were affected by the fires in Victoria last year, but in the context of energy savings it is salutary to point to the announcement made by the Premier earlier this week about savings of carbon emissions. A number of years ago the government had a black balloon education campaign, which illustrated savings through the replacement of light globes. I should add at this point that there is great dissatisfaction with the quality of light globes within my electorate. Many have exploded or do not last very long; some have burnt and people judge them to be a safety risk. One constituent, a senior lady, had one explode bedside her bed, so there are significant safety issues regarding the light globes that were distributed under green programs in Victoria. But the key point I wish to make is that under the black balloons campaign, which cost the Victorian taxpayer a fair amount of money, it was proposed to save 40 000 tonnes of greenhouse gas emissions.

The bushfires in Victoria, in 2003 and in 2006–07, not counting the fires from Black Saturday, distributed some 100 million tonnes of carbon emissions into the atmosphere which, on my rough calculation, is 2500 times more than the annual government savings program, or, if I can put it another way, the bushfires in Victoria contributed to the atmosphere in that period the same amount that would be saved over the next

2500 years under the well-advertised government black balloon program. So I think there are some wider elements to be considered in addition to the carbon issues that affect Victorians and the role of energy provision in this state.

In concluding I note for the record that on Black Saturday 173 Victorians died. On 31 July, in two days time, the Victorian Bushfires Royal Commission will be handing down its findings. We on this side of the house will be scrutinising those findings carefully to ensure that appropriate actions are taken by a government that has a responsibility to provide appropriate leadership in this realm. We will be working with local governments across the state to ensure that there are appropriate land clearances to prevent the circumstances alluded to by the member for Benalla, where there is appropriate tree clearance around a property but where taller trees are just beyond the compulsory clearance zone. This situation makes a mockery of the clearance objectives. There needs to be effective policies to protect infrastructure, houses and lives in Victoria.

Mrs FYFFE (Evelyn) — I am pleased to rise and make a very brief contribution on the Energy and Resources Legislation Amendment Bill. The bill repeals 16 pieces of legislation. Other speakers have touched on those so I will not devote time to them in recognition of the way the clock is ticking today. The fact that we have this bill in front of us today, when we have the report of the 2009 bushfires royal commission being handed down on Saturday — only two days from today — is really concerning to me. In fact I raised a matter on the adjournment debate on 9 September 2009 to which I received a response from the Minister for Energy and Resources on 22 April 2010. My adjournment matter was on the feasibility of undergrounding powerlines in high-risk areas. The closing paragraph of this letter states:

> The government will consider further action to reduce powerline related bushfire risk when considering any relevant findings and recommendations of the bushfires royal commission.

I do not know why, since April, we have now changed to this legislation in front of us. It should have waited until after the bushfires royal commission findings are brought down on Saturday.

I will now quickly refer to smart meters. I have said quite a lot in this house about the concerns that residents in my electorate have about the cost of smart meters, how it is affecting people on fixed incomes, people who have to count every penny they spend every week, and the difficulties they have. They are going to have to pay for something they have not asked for, will receive no benefit from and cannot afford. This morning I again tabled a petition signed by local residents against the smart meters.

Just briefly touching on the tree issues, it has to be clarified as to what is to happen about trees near powerlines. I am in an area where trees are of paramount importance to the local council. They seem to take precedence over everything, and unless there are clear, concise, precise recommendations and regulations as to what trees you can plant and how close you can grow them to powerlines, we will have confusion and uncertainty and residents will continue to be fined by the council.

Mr BATCHELOR (Minister for Energy and Resources) — I would like to thank those members who have made a contribution to this debate today and earlier on in this parliamentary week, in particular the members for Malvern, South Barwon, Morwell, Bentleigh, Preston, Bass, Lara, Mildura, Derrimut, Bayswater, Ballarat East, Benalla, Burwood, Caulfield, Clayton, Polwarth, Sandringham and Evelyn.

Members can see from that long list that this is indeed an important bill and much, if not the vast majority, of the contributions that have been made relate to the bushfires and the legislative response to those horrific events of 7 February. However, I would point out at the very beginning — and I think this has not been appreciated by the opposition — that the legislative response we are making with this bill is in response to the interim report of the 2009 Victorian Bushfires Royal Commission; it is in no way an attempt to pre-empt the final report of the royal commission. When the interim report was released the government looked at that report and identified a number of areas where we could improve the legislative framework to help protect Victoria and Victorians' lives and property.

These recommendations are a response to the interim report, and we have put them in place in this bill now so the bill can be given consideration and dealt with by the Parliament and hopefully be passed — there has been opposition to it today — so that the legislative benefits that will flow to Victoria can come into effect before the next bushfire season. A number of issues have been raised, and I will deal with those, but primarily what we are seeking to do is to make sure that Energy Safe Victoria and other arms of government have the necessary powers to deal with the upcoming bushfire season. You would appreciate that if we had waited for the final report before dealing with things that we already knew we could have dealt with, we would not have had enough time for the Parliament to pass the

legislation in order for it to be implemented before the next bushfire season.

So to the extent that we can identify changes as a result of advice from the interim report of the bushfires royal commission, we are putting those into effect today. It may well be that there are additional legislative responses that relate to the electricity industry that will be necessary following the final report. I cannot predict or pre-empt that, but it will be available this coming Saturday, and the Premier has indicated that following the receipt of the report there will be community consultation to find out how the community would feel about implementing various aspects.

I know the opposition has given a firm commitment that if it were elected to government, it would implement all these recommendations, sight unseen. That is a very courageous commitment on its part because we do not know what those implications might be. For example, the member for Polwarth in his contribution today raised a suggestion as to what the final report may be making recommendations about, and that is about whether or not power to country areas should be turned off on days of high fire danger or code red days. I do not know what the final report of the bushfires royal commission is going to recommend in relation to that, but if it were to, for example, make such a recommendation, that would be very controversial because of the need for and the importance of electricity on high fire danger days. It would be controversial particularly, and if for no other reason, because of the important role electricity plays in the fighting of fires and the protection of life and property, as well as its role in providing comfort to people and the ability for them to go about their daily lives and in facilitating the commercial activities that take place in bushfire areas.

Let there be no misunderstanding. This is not an attempt to pre-empt the final report. If there are additional legislative changes that need to take place, they will be considered. We will consult with the wider community. The Parliament has set aside time on the first parliamentary sitting day after the release of the final report so Parliament can have its views ventilated and the government will then decide what recommendations or changes it thinks need to be implemented. These changes in the bill — and this is why I appeal to the opposition not to confuse the response — are changes that we need to have considered and dealt with by the upper house as quickly as possible and put in place so they can become effective in the next bushfire season. I make that appeal. This is not a political issue; this is an issue of life and death. It is an issue of how, as a community, we should go forward and deal with the very vexed issues of protecting life and limb and how in some instances there may well be conflicting needs or there may be implications that need to be considered regarding the cost of various actions and whether they can be implemented or not. Responding to the final report is not going to be an easy task at all, and it is something we will need to work through with the community.

A couple of specific things were raised during the debate preceding my summation. One in particular was the issue that was raised by the member for Malvern and then repeated by a number of other members of the opposition. It relates to the issue where there might appear to be a conflict between a direction from Energy Safe Victoria to remove a tree outside the vegetation clearance zone, or indeed even within the clearance zone, and how that might conflict with other pieces of legislation, either state government legislation or local government policy. This is an important thing to raise. What we are trying to do with these amendments that are coming through is to provide greater clarity and to identify weaknesses which have existed in the current regulatory and legislative framework and which have been demonstrated through the interim report and the government's consideration of that.

I am advised that if a conflict does arise between an Energy Safe Victoria direction and other policy positions of the state government or local government, the Electricity Safety Act takes precedence to the extent that any inconsistency arises with other legislation. In other words if Energy Safe Victoria directs that a tree be removed for safety reasons, that direction will be followed. This comes about because it follows the general statutory interpretation principles which provide a presumption that where there is an inconsistency between a new provision and an earlier provision, the later amendment should prevail over the earlier provision. From our point of view, whilst vegetation preservation policies are important, if there is a conflict with safety to life and limb, we must make sure that the safety laws are put into effect and would take precedence.

The member for Polwarth raised an issue, and it was picked up by other people, where he constructed a hypothetical position based on a newspaper report. Essentially he wants an assurance that distribution companies cannot wind back maintenance of their electrical assets and then use that as an excuse on high-risk days to turn off power, and that is certainly not provided for under these provisions. In fact these provisions are to the contrary: they will require electrical assets to be properly maintained so they do not present a bushfire risk.

Over and above that, other people have suggested that a higher order policy setting might be not to supply power to country regions on days of high bushfire risk, even if the assets are well maintained, but that is not what is covered by this regulation. That policy area was not covered by the interim report and, if it is covered by the final recommendations, that will be the subject of considerable debate and consternation within the community as to how you balance the need for protection against the need for electricity and the support that electricity provides at times of heightened risk.

There are a number of other areas where this bill covers important legislative changes, such as making it easier for renewable energy projects to connect to the grid; in other words, to help to bring green energies to Victorian households. The bill also ensures a smooth transition to the time-of-use pricing following the smart meter rollout, and the physical rollout continues to proceed and is proceeding ahead of schedule.

The important thing to remember with this omnibus legislation is that its main importance, as has been recognised by the contributions made in the house over the last two days on which it has been debated, is about the bushfires. It is, I suggest once again, a response to the interim report. It is not a pre-emption of the final report and, as the opposition knows, there is time for opposition members to consider the final report before they are asked to deal with this, but I would certainly hope on behalf of all Victorians that they understand the distinction we are making here and will give the safety authorities the powers they need before the commencement of this bushfire season. If there are additional matters over and above that, let us deal with those at a later date.

Motion agreed to.

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

Third reading

Motion agreed to.

Read third time.

PRIMARY INDUSTRIES LEGISLATION AMENDMENT BILL

Second reading

Debate resumed from 28 July; motion of Mr HELPER (Minister for Agriculture).

Mrs POWELL (Shepparton) — I would like to make a brief contribution to the debate on the Primary Industries Legislation Amendment Bill 2010, and while the Liberal-National coalition will not be opposing it I would like to raise a number of concerns I have with the bill and how it deals with local government and some of the confusing and conflicting rules surrounding roadside weeds and who is responsible for them. I would like particularly to talk about clause 4. The explanatory memorandum note on the clause explains that it amends the Catchment and Land Protection Act (CALP act) to:

> … require the secretary to take all reasonable steps to control restricted pest animals on any land in the state.

It is the second part of the explanation that I am particularly concerned about on behalf of local councils, and that says:

> This duty will be in addition to the secretary's other powers to take all reasonable steps to eradicate state-prohibited weeds from all land and take all reasonable steps to eradicate regionally prohibited weeds on roadsides on Crown land.

Over the past six years there has been a huge amount of concern about who is responsible for the management of roadside weeds and pest animals. The government still has not been able to resolve that issue. In 1994 the CALP act provided that it was the adjoining landowner who had the responsibility of managing roadside weeds and pest animals on roadsides, but in 2004 the Road Management Act was passed and it gave the responsibility to local councils, so we have two conflicting acts. This happened six years ago and the government said it would resolve the matter. It has met with the Municipal Association of Victoria, it has met with councils and it has met with other stakeholders, but six years later that is still not resolved.

In 2008 the state government shifted the responsibility and the cost of weed and pest animal control onto local councils and provided $20 million over four years, which was to be shared between councils and the Department of Primary Industries. That was provided under the Future Farming strategy and was to be used to manage weeds on roadsides, provide education and training for people in the DPI, and to provide wild dog and fox management. In November last year the Minister for Agriculture finally admitted that he did not

know who was responsible for the matter and that he would set up a working party. After six years of consultation and talking and still not knowing who is responsible, he said he would set up a working party to be called the roadside pest working group. On that group there would be representatives of the Municipal Association of Victoria (MAV), stakeholders and the DPI, and they would all get together to try to work out which of the acts needed to be amended, the CALP act or the Road Management Act. Eight months later that working party has still not been established; there are no terms of reference; there is no chairman and no commencement date. We are moving towards the next election and we have a bill before the house giving more responsibility to councils under the CALP act, but we still have not resolved who is going to be finally responsible because we have not dealt with the Road Management Act. Unless we deal with that and amend it in some way we are not going to resolve this issue.

I have spoken to councils and to the MAV and the Victorian Local Governance Association over many months trying to find out what their thoughts are, and admittedly there is some concern. Some councils say they will look after the roadside weeds as long as they have the money to manage that. Other councils say they do not want the responsibility because they do not have the resources, the skills or the manpower to do it.

Again, while the government is complaining and dithering on this issue, right across the state weeds are growing onto farmers' land because they are on the roadsides. They are now going onto good farming land, even though farmers are removing them and managing their properties well; and pest animals such as rabbits, wild dogs and foxes are multiplying.

It is up to the government to deal with the situation. While we are not opposing this legislation, we say to government members that they need to make sure that one of these acts is amended and that councils know and make sure the legislation is clear. One of these acts has to be amended, and while we do not oppose the bill, we have huge concerns about who has responsibility for control of roadside weeds.

Mr LANGUILLER (Derrimut) — I rise to make a very brief contribution. I support the Primary Industries Legislation Amendment Bill 2010, which will make amendments to the Catchment and Land Protection Act 1994, the Livestock Disease Control Act 1994 — —

Business interrupted pursuant to standing orders.

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

Motion agreed to.

Read second time.

Third reading

Motion agreed to.

Read third time.

PERSONAL SAFETY INTERVENTION ORDERS BILL

Second reading

Debate resumed from 27 July; motion of Mr HULLS (Attorney-General).

Motion agreed to.

Read second time.

Third reading

The DEPUTY SPEAKER — Order! I advise the house that I am of the opinion that the third reading of this bill requires to be passed by an absolute majority. As there is not an absolute majority of the members of the house present, I ask the Clerk to ring the bells.

Bells rung.

Members having assembled in chamber:

Motion agreed to by absolute majority.

Read third time.

CIVIL PROCEDURE BILL

Second reading

Debate resumed from 27 July; motion of Mr HULLS (Attorney-General).

Motion agreed to.

Read second time.

Third reading

Motion agreed to.

Read third time.

ASSOCIATIONS INCORPORATION AMENDMENT BILL

Second reading

Debate resumed from earlier this day; motion of Mr ROBINSON (Minister for Consumer Affairs).

Motion agreed to.

Read second time.

Third reading

Motion agreed to.

Read third time.

JURIES AMENDMENT (REFORM) BILL

Second reading

Debate resumed from 28 July; motion of Mr HULLS (Attorney-General).

Motion agreed to.

Read second time.

Third reading

Motion agreed to.

Read third time.

FIREARMS AND OTHER ACTS AMENDMENT BILL

Second reading

Debate resumed from 28 July; motion of Mr CAMERON (Minister for Police and Emergency Services).

Motion agreed to.

Read second time.

Third reading

Motion agreed to.

Read third time.

PRIVATE SECURITY AMENDMENT BILL

Statement of compatibility

Mr CAMERON (Minister for Police and Emergency Services) tabled following statement in accordance with Charter of Human Rights and Responsibilities Act:

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

In my opinion, the Private Security 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 Private Security Act 2004 (the act) to implement a nationally agreed approach to the regulation of the private security industry. Specifically, the bill:

extends the application of the act to a new licensable activity (providing 'private security training');

prescribes additional offences and thresholds that will result in mandatory disqualification from licensing;

makes fingerprinting mandatory for licence applicants and allows for the retention and use of those fingerprints for ongoing probity checks and for limited law enforcement purposes;

allows the chief commissioner, who has responsibility for regulating the industry, to cancel a licence if its holder, or any officer of the body corporate who is a holder, or any 'close associate' of the holder (as defined in the act) is convicted of certain specified offences; and

creates a procedure for the decisions on licensing applications to be made by the chief commissioner or reviewed by the Victorian Civil and Administrative Tribunal (VCAT) on the basis of intelligence information that is not disclosed to the applicant.

Human rights issues

The bill raises a number of human rights issues. In my view and for the reasons that I set out below, the limitations on charter rights in the bill are reasonable and demonstrably justified in a free and democratic society as required by section 7(2) of the charter.

Right to a fair hearing

Clauses 16 and 17 of the bill provide that where a decision of the chief commissioner to refuse a licence is made (or proposed to be made) on the basis of protected information, the applicant is not entitled to be provided with reasons for that decision to the extent that those reasons relate to the protected information. 'Protected information' refers to information, the disclosure of which:

is likely to reveal the identity of, or endanger the safety of, members of the police force, informants, or others

involved in an investigation or subject to an investigation;

risks an ongoing police investigation or the disclosure of police investigative methods; or

is otherwise not in the public interest.

The applicant is entitled to seek a review of the chief commissioner's decision at VCAT. Under the procedure set out in clause 23 of the bill, if the chief commissioner notifies VCAT that a decision to refuse a licence was based on evidence that included protected information, a special review procedure applies. VCAT must first hold a closed hearing to determine whether the information has rightly been classified as protected information. If VCAT determines that any of the material constitutes protected information, then the hearing of the remainder of the proceeding must also be closed to the extent that it relates to protected information.

Neither the applicant nor his or her representative is entitled to be present at the closed hearing but VCAT must appoint a special counsel to represent his or her interests. The special counsel may take instructions from the applicant prior to the hearing. However, after the special counsel has heard the chief commissioner's grounds for licence refusal, including any protected information, he or she may no longer communicate with the applicant without the leave of VCAT. Should the special counsel require further information from the applicant after the hearing has begun, he or she may seek leave to provide the applicant with a list of written questions which the applicant may then respond to in writing.

Section 24(1) of the charter provides that a person who is a party to a civil proceeding has the right to have the proceeding decided by a competent, independent and impartial court or tribunal after a fair and public hearing. In *Kracke v. Mental Health Board & Ors* (General) [2009] VCAT 646, Bell J interpreted 'civil proceeding' in section 24(1) as encompassing proceedings that are determinative of private rights and interests in the broad sense, including administrative proceedings. This is likely to include a decision-making process that impacts on a person's right to engage in a livelihood (see, eg, *R (Wright) v. Secretary of State for Health* [2009] UKHL 3). For that reason, both the decision of the chief commissioner to refuse or cancel a licence and the subsequent review before VCAT need to be assessed for compliance with section 24(1) of the charter. In making that assessment, the whole decision-making process, including avenues for review and appeal, needs to be examined in the round.

The right to a fair hearing under section 24(1) encompasses the principle of 'equality of arms'. This principle means that everyone who is a party to a proceeding must have a reasonable opportunity of presenting his or her case to the court or tribunal under conditions that do not place that party at a substantial disadvantage to his or her opponent. The bill engages this principle by restricting a licence applicant's access to 'protected information', and by preventing some applicants from directly presenting their case to VCAT on review of the chief commissioner's decision to refuse a licence.

In my view, however, the provisions relating to protected information are nevertheless compatible with the charter. The concept of a 'fair' hearing is a flexible one that requires a balancing of competing interests to be undertaken. For that reason, and for the reasons given below, it may be that the scheme does not even amount to a prima facie limit on the section 24(1) right. Assuming that there is such a limit, however, I consider that the limit is reasonable and justifiable in a free and democratic society in terms of section 7(2) of the charter. In making this assessment, I have had regard to the following factors.

Nature of the right being limited

The principle of equality of arms is an important element of the section 24(1) right. However, it is well recognised that there may be restrictions on the right to a fully adversarial procedure where strictly necessary in the light of a strong countervailing public interest, such as the need to protect police investigative techniques: see, eg, *A v. the United Kingdom*, European Court of Human Rights, Grand Chamber, application no. 3455/05, 19 February 2009.

Importance of the purpose of the limitation

The purpose of the restrictions on access to protected information is to maintain the confidentiality of certain categories of police intelligence while still allowing the information to be used to assess a person's fitness to participate in the private security industry. These provisions ensure that all available information that is relevant to an applicant's probity can be considered by the chief commissioner and by VCAT, while ensuring that there is no disclosure of information which could place persons at risk, compromise police investigations or disclose investigative techniques. The provisions serve the important purpose of protecting the confidentiality of intelligence information where it is in the public interest to do so.

The necessity of using such material to assess an applicant's probity is evidenced by the Australian Crime Commission's special intelligence operation into the private security industry, which has identified criminal infiltration in the private security industry and criminal methodologies seeking to circumvent security licence registration and other legislation. It is against this background, and with a view to effectively combating these elements, that the Council of Australian Governments has taken an interest in the uniform regulation of the private security industry. This legislation is designed to implement a national agreement and in order to give effect to the desire for such uniformity.

Nature and extent of the limitation

The limitation will operate in some cases to prevent applicants from knowing the full case against them and from directly presenting their case to VCAT. However, protections are in place to ensure that the right to a fair hearing is not unreasonably limited. These include:

The fact that VCAT must determine whether or not the information does actually constitute 'protected information' for the purposes of the bill (new section 150C). This ensures that the special procedures will only apply where there is a genuine need to maintain the confidentiality of the information.

The fact that VCAT (itself a 'public authority' for the purposes of the charter) is given the power to determine what weight to give to protected information in its decision-making process (new section 150D(2)(a)).

The appointment of special counsel to ensure that the rights of the applicant are represented at the hearing.

Relationship between the limitation and its purpose

The limitation is directly and rationally connected to its purpose of protecting the confidentiality of intelligence information.

Any less restrictive means reasonably available to achieve its purpose

There are no less restrictive means reasonably available to achieve the purpose of protecting confidential intelligence information. In particular, consideration has been given to whether it would be sufficient to provide for a scheme that envisages documents being provided to an unsuccessful applicant with the confidential information redacted, or that requires applicants to be provided with a summary or 'gist' of any protected information. The government has rejected these options because it does not consider them to be sufficient in this context to meet the aim of preventing disclosure not only of the content of criminal intelligence, but also, so far as is possible, its very existence. The applicant retains the right to access all evidence or information against him or her that does not amount to protected information, and retains the right to receive reasons for the decision not to grant him or her a licence, whether those reasons be based on written or oral evidence, to the full extent that they do not disclose protected information.

Conclusion

Accordingly, I consider even if the right to a fair hearing is limited by these provisions, any such limitation is reasonable and justifiable.

I have considered the recent decisions of the European Court of Human Rights and the House of Lords in *A v. the United Kingdom* (European Court of Human Rights, Grand Chamber, application no. 3455/05, 19 February 2009) and *Secretary of State for the Home Department v. AF* [2009] UKHL 28. These decisions suggest that where fundamental interests such as the right to liberty are at stake, a special counsel system will not necessarily suffice to meet the requirements of a fair hearing if the system entails a complete denial of the ability of the accused person to respond to the case against him or her. However, the scheme at issue here differs in two fundamental ways from those at issue in the European and United Kingdom decisions. First, the matters at stake for the appellants in those cases — including their rights to liberty, freedom of association, and privacy — were of far greater consequence than the matters at stake for applicants for a private security licence. Secondly, new section 150D(3)(b) of the act will provide an additional safeguard for licence applicants that was not present in those cases. It will allow the special counsel, with the leave of VCAT, to go back to the applicant with further written questions after the hearing has commenced. This provision ensures that the special counsel can adequately represent the applicant's interests at the hearing once the special counsel becomes aware of the full case against the applicant.

The provisions are therefore compatible with section 24.

Freedom of expression

Section 15 of the charter protects freedom of expression. This encompasses the freedom to seek, receive and impart information and ideas of all kinds. The right can lawfully be restricted as reasonably necessary to respect the rights and reputations of other persons, or for the protection of national security, public order, public health or public morality.

I do not need to decide whether or not the scheme of the bill relating to protected information (described above) engages the special counsel's right to impart or the applicant's right to receive information in terms of section 15. That is because any intrusion is reasonably necessary to protect public order by ensuring that sensitive criminal intelligence is kept appropriately confidential so as not to compromise criminal investigations. Further, the provisions are reasonably necessary to protect the rights of persons identified in protected information for security of the person, as disclosure of the protected information may result in a risk to the safety of police officers, police informants, and people under investigation. The right to freedom of expression is therefore not limited by these provisions.

Right to associate

Clause 18 of the bill inserts a new section 47(1)(ab) into the act requiring the chief commissioner to cancel the private security licence of a person if a 'close associate' of theirs is convicted of a disqualifying offence. 'Close associate' is defined in the act as a person who participates in the management of a private security business or who exercises significant influence over or with respect to the conduct of a private security business in specified ways (such as by holding an interest in the business or exercising a power to participate in managerial decisions). Private security licence-holders therefore remain free to associate with prohibited persons and are only restricted from permitting such persons to be involved in the running of their private security business.

Section 16(2) of the charter provides that every person has the right to freedom of association with others, including the right to form and join trade unions. The right protects the freedom of individuals to form legal entities in order to act collectively for the furtherance of the common interests of members. Whether the right extends to the protection of commercial associations set up primarily for economic gain is, though, by no means clear. Accordingly, the right may well not be engaged at all.

Assuming that the right is properly regarded as limited by clause 18, in my view, this limitation is reasonable and demonstrably justified under section 7(2) of the charter for the following reasons.

Nature of the right being limited

It is clear from the international and comparative case law that the right to associate is not absolute and is susceptible to reasonable and proportionate limitations.

Importance of the purpose of the limitation

The purpose of the limitation is to prevent individuals who are considered unfit to participate directly in the private security industry from doing so indirectly (by exercising significant influence over or with respect to the conduct of a private security business).

Nature and extent of the limitation

The limitation is restricted by the definition of 'close associate' to particular kinds of business associations in the private security industry.

Relationship between the limitation and its purpose

The measure is clearly rationally connected to its purpose.

Any less restrictive means reasonably available to achieve its purpose

There are no less restrictive means available. In particular, there is no employment relationship through which improper associations can be managed in a less restrictive way.

Right to 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.

(i) Fingerprinting

Section 22 of the act currently empowers the chief commissioner to request a full set of fingerprints from applicants for security licences, 'close associates' and officers of the body corporate but only if there is reasonable doubt as to their identity and proof of identity cannot reasonably be ascertained by other means. Clause 12 of the bill amends section 17 of the act to require the mandatory provision of a full set of fingerprints by the applicant himself or herself. The chief commissioner may also require that any close associate of the applicant provide a full set of fingerprints.

The bill provides that the fingerprint data may be retained by the chief commissioner until the licence to which it relates expires, is refused, or is cancelled. This allows the chief commissioner to ensure the ongoing probity of the applicant by identifying any licensees whose fingerprints are found in suspicious circumstances. Where a security guard has been present at a crime scene for legitimate purposes, it also allows for expeditious elimination of their prints as possible suspect prints.

The mandatory provision and retention of fingerprints engages the privacy right in section 13(a) of the charter. However, in my view, for the following reasons, the collection and retention of fingerprints in order to ensure the ongoing probity of participants in the private security industry does not, in itself, amount to an interference with the right to privacy that is unlawful or arbitrary.

First, provision and retention of this information will be specifically authorised by the act.

Secondly, while I accept that fingerprints contain unique biographical information about an individual and therefore the taking of them engages the privacy right, the case law suggests that fingerprinting is at the lower end of intrusiveness in terms both of the intimacy of the information that is revealed and also the duration and invasiveness of the process by which the information is collected.

Finally, the purpose of taking the fingerprint information is highly important. As noted above, the Australian Crime Commission has identified criminal infiltration of the private security industry. In this context, the collection of fingerprint data is essential to enable the chief commissioner to accurately verify the identity of an applicant and any existing criminal convictions they may have. The retention of that information for the duration of the licence will be of vital assistance in ensuring the licensee's ongoing fitness to work in the security industry.

(ii) Interference with livelihood

The act prohibits certain people from operating in the private security industry — most notably, those who have committed certain disqualifying offences in the recent past. Clauses 5 to 8 of the bill extend the application of the act to the provision of 'private security training'. Clause 9 of the bill extends the specified offences for which individuals are mandatorily disqualified from the industry to include a range of additional offences relating to terrorism, drug trafficking or cultivation, violence, use of controlled weapons, dishonesty, or robbery. Clauses 14 and 15 extend the circumstances in which the chief commissioner may refuse to grant a licence by allowing the chief commissioner to refuse to grant a licence to a person convicted or charged with any offence (not just indictable offences) which the chief commissioner considers would render a person unsuitable to hold a private security licence or to be involved or connected with a private security business.

The equivalent right (to private life) under article 8(1) of the European Convention on Human Rights (ECHR) has been held to comprise, to a certain degree, the right to establish and develop relationships with other people. For that reason, broad measures banning individuals from employment have been found to limit this right where they affect an individual's ability to develop relationships with the outside world to a very significant degree and create serious difficulties for them as regards the possibility to earn their living (eg, *Sidabras and Dziautas v. Lithuania* (application nos. 55480/00 and 59330/00)).

In my opinion, it is unnecessary in this context to decide whether the privacy right in the charter is of similar reach. The measures in the bill are not comparable to the more far-reaching restrictions that have been found to engage article 8(1) of the ECHR. The restriction is limited to employment in a specific industry, only extends for 5 to 10 years from the date of conviction (depending on the significance of the offending), and is not of a kind that will give rise to social stigmatisation of the sort comparable to that arising in many of the European cases.

Right not to be punished twice

Section 26 of the charter provides that a person must not be tried or punished more than once for an offence in respect of which he or she has already been finally convicted or acquitted in accordance with law. I have considered whether the clauses in the bill extending provisions in the act that require or, in certain circumstances, permit the chief commissioner to refuse or cancel a private security licence following conviction (clauses 9, 14, 15 and 19) limit the right not to be punished twice. In my opinion, they do not because they are not punitive in nature. A person who commits a disqualifying offence becomes a 'prohibited person' for the purposes of the licensing regime because the conviction is deemed, under the scheme of the act, to render him or her unfit to operate in the private security industry, not so that he or she can be further punished. The same can be said of provisions in the act that give the chief commissioner the discretion to refuse to grant a licence on the basis of previous

offending. It is clear from the act that any such refusal would be because the chief commissioner considers that the offending renders the person unsuitable to hold the licence rather than for any punitive motive.

Clause 19 of the bill (amending section 61(a)(i) of the act) makes provision for a court to cancel or suspend a licence upon convicting the individual of any offence. It is less clear that this provision does not contain a punitive purpose since the measure appears to be in the discretion of the court and is not clearly tied to considerations of a convicted individual's fitness to operate in the private security industry. However, in my view, an order under section 61(a)(i) of the act is properly regarded as part of the available suite of punishments directly consequent on conviction and, accordingly, does not constitute a second punishment. This conclusion is confirmed by the fact that the order is made by the same court that made the conviction within the same criminal proceedings that resulted in the conviction. For that reason, the right not to be punished twice in section 26 of the charter is not engaged.

Right to property

Section 20 of the charter provides that a person must not be deprived of his or her property other than in accordance with law. It is conceivable that private security licences could be regarded as property for the purposes of this right due to their pecuniary value. However, since deprivations under the act, as extended by the bill, are clearly provided for under law, they do not, in my view, limit the right. Further, the procedures for internal and external review of decisions cancelling a licence (which I discussed above) provide a valuable safeguard against arbitrary deprivation of any property interest.

Conclusion

For the reasons given above, I consider that the bill is compatible with the charter.

Bob Cameron, MP
Minister for Police and Emergency Services

Second reading

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

That this bill be now read a second time.

The private security industry plays a vital role in preventing and detecting crime and in maintaining good order, public safety and security of property. In Victoria, there are approximately 25 000 licensed individuals and 650 licensed businesses who are involved in providing personal and public security services. They work as crowd controllers, security guards, investigators, and bodyguards — that is, the so-called manpower sector of the industry — in a wide variety of roles and in a diverse range of places, such as major sporting, musical and cultural events, shopping malls, pubs and nightclubs, and other entertainment venues. In all cases, they make social interaction safer and property more secure. The demand for their services rises when a large, seasonal event takes place — for example, at the Australian Open in Melbourne in January each year, when many additional security guards and crowd controllers are required for the duration of the tournament. In these circumstances, this increase in demand is met by using interstate guards and controllers.

The Private Security Act supports this industry and regulates those who participate in it. It does this by ensuring that those who work as security guards and crowd controllers and the like are suitable for the activities that they carry out and are not recently found guilty of offences that would compromise their integrity. It also stipulates that the regulator of the industry is able to impose a certain minimum and relevant standard of training on members of the industry.

The Private Security Amendment Bill will amend the Private Security Act so as to provide even greater public confidence in the private security industry and to allow participants in the industry to take up work around Australia with increased ease.

It does this by:

introducing new licensable activities and clarifying the scope of existing ones;

prescribing additional offences — such as offences that involve assault, dishonesty, firearms, robbery, drugs, and terrorism — and thresholds that will result in mandatory disqualification from being licensed for a number of years;

making fingerprinting of licence applicants mandatory for identity verification and ongoing probity monitoring; and

allowing the regulator, namely, the Chief Commissioner of Police, to refuse a licence or cancel an existing one if the applicant or holder is the subject of criminal intelligence such that his or her presence in the industry would be against the public interest, subject to the applicant having the decision reviewed in VCAT.

As a result of the Council of Australian Government's directive, all Australian states and territories are bringing their private security legislation in line with the changes now being made to the Victorian act. This will help harmonise the law that applies to the manpower sector and will facilitate those persons from interstate to assist Victoria in its times of greater need in private security services while also helping Victorians travel and work elsewhere in Australia.

May I also thank the members of the Victorian Security Industry Advisory Council for their efforts and assistance with this bill.

I commend the bill to the house.

Debate adjourned on motion of Mr McINTOSH (Kew).

Debate adjourned until Thursday, 12 August.

TRANSPORT ACCIDENT AND ACCIDENT COMPENSATION 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 Transport Accident and Accident Compensation Legislation Amendment Bill 2010.

In my opinion, the Transport Accident and Accident Compensation Legislation Amendment Bill 2010, as introduced to the Legislative Assembly, is compatible with the human rights protected by the charter. I base my opinion on the reasons outlined in this statement.

Overview of bill

The purpose of the bill is to amend the Accident Compensation Act 1985 and the Accident Compensation (WorkCover Insurance) Act 1993 in response to recommendations made by Mr Peter Hanks, QC, in the Accident Compensation Act review. Building upon significant reforms already introduced by the Accident Compensation Amendment Act 2010, the bill:

refines and clarifies a range of definitions;

improves the method of assessing pre-injury average weekly earnings;

clarifies the status of specific categories of worker, including students, contractors and outworkers;

provides that appeals from County Court proceedings under the act should be heard by the Court of Appeal; and

contains a range of miscellaneous technical amendments which consolidate and clarify the existing provisions of the act.

The bill also amends the Transport Accident Act 1986 to:

limit the transport accident compensation available to persons whose use of illicit drugs contributed to a transport accident;

provide for a deemed impairment of zero per cent where no impairment assessment has been undertaken or applied for within six years of a transport accident;

provide a new method for redeeming impairment benefit annuities for persons injured prior to the commencement of the act;

ensure that a domestic partner of a pregnant woman who dies as the result of a traffic accident may be compensated for child-care costs;

extinguish any right to bring proceedings regarding the loss of the services of a person who is injured or dies as the result of a transport accident; and

limit the 'Harman rule' as it applies to transport accident proceedings.

Human rights issues

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

Right to a fair hearing

Section 24(1) of the charter provides that a person charged with a criminal offence or a party to a civil proceeding has the right to have the charge or proceeding decided by a competent, independent and impartial court or tribunal after a fair and public hearing. A relevant aspect of this right is the right to access to the courts.

Clause 5

The Transport Accident Act 1986 provides that people injured in a transport accident have six years from the date of the accident or the date the injury first manifests itself to request an impairment assessment by the Transport Accident Commission (TAC). Clause 5 of the bill amends section 46A of the act to provide that where no assessment has been undertaken by the TAC or applied for by the injured person within six years of the accident or the date that the injury first manifests itself, the injured person is deemed to have received an impairment assessment of zero per cent.

The deemed zero per cent assessment is not reviewable by the Victorian Civil and Administrative Tribunal because it does not create a right to payment of part 3 compensation. This engages the right to a fair hearing, one of the components of which is the right to access to a court.

However, the right to access the courts is not absolute, and may legitimately be limited by the needs and resources of the community and individuals (*Kay v. Attorney-General* (Unreported, Court of Appeal, 3726/2009, 19 May 2009)). In my view, clause 5 does not unreasonably restrict the right of access to courts. Judicial review will still be available to ensure that the deemed impairment assessment is made in accordance with law. Further, the deemed impairment assessment will make it possible for an individual to make application to a court to seek leave to recover common-law damages for serious injury in accordance with part 6 of the act. Claimants are unable to pursue such damages unless the TAC has made a determination regarding impairment. In this way, the deeming provision improves access to the courts. I therefore consider this clause to be compatible with the right to a fair hearing under section 24(1) of the charter.

Clause 9

This clause engages the right to a fair hearing by amending section 68(3) of the Transport Accident Act 1986 to provide that if a person is involved in a transport accident before he or she reaches the age of 18 years, and their parent or guardian fails to lodge a claim on their behalf within three years of the accident, then that person may make a compensation claim in their own right under part 3 of the act at any time before turning 21. This clause extends the existing statutory limit, which currently provides that a person must bring a claim within one year after turning 18. Section 68 of the act, as interpreted by the Supreme Court in *Locastro v. TAC* [1995] 1 VR 289, does not otherwise enable the TAC to accept a claim after three years.

The right to a fair hearing is engaged because even though clause 9 extends the existing time period, it nonetheless retains a time limit which restricts the circumstances in which a person can access the courts. However, I consider that the time limit imposed by this clause is reasonable and does not limit the right to a fair hearing. The time limitation is necessary to ensure certainty in the administration of the transport accident scheme, and as discussed above, serves the important purpose of ensuring decisions are not based on evidence which may be unreliable and incomplete due to the passage of time. Further, the practical effect of this clause is to improve access to the courts by extending the time in which a person injured as a minor may bring a claim. It is therefore compatible with section 24(1) of the charter.

Clause 44

The right to a fair hearing is engaged by clause 44 of the bill, which amends section 39 of the Accident Compensation Act 1985 to provide that there is no right to bring legal proceedings in relation to decisions of the authority under certain provisions of the act. The relevant provisions relate to the exercise of the authority's discretion to consent to a worker bringing proceedings which would otherwise be unable to be brought due to the operation of the act. These provisions provide some leeway for a worker to bring a proceeding if the authority is satisfied that the failure to comply with the usual process is not the fault of the worker, or where the defence has not been prejudiced.

The effect of this clause is that the authority's decision to refuse to consent to the bringing of proceedings under the relevant provisions cannot be challenged in court. However, I consider that this clause does not limit the right to fair hearing. There are already extensive procedural protections afforded to an aggrieved person who wishes to bring proceedings claiming compensation, including rights of appeal or other review at other stages of the process. The decisions of the authority to which this clause relates provide an additional procedural protection, but are not in themselves decisions about the substance of a complaint. I therefore consider this clause to be compatible with the right to a fair hearing under section 24(1) of the charter.

Clause 80

Clause 80 inserts a new section 99 into the Accident Compensation Act 1985. Subsection 99(10) provides that a court is not to entertain an action, suit or other proceeding against workers, their representatives or dependants where that proceeding relates to:

the recovery of any costs which the authority, self-insurer or employer is liable to pay under that section; or

a notice, determination or order referred to in sections 249AA, 249AB, 249B or 249BA. These notices and determinations relate to circumstances where the authority or self-insurer does not have to pay a service provider (for example, where the service provider has committed a relevant offence under the Accident Compensation Act 1985).

I consider that these provisions do not limit the right to a fair hearing. A person seeking to recover costs or dispute a notice or determination retains the ability to bring a proceeding against the authority, self-insurer or employer, who is the appropriate defendant in such a proceeding. I therefore consider this clause to be compatible with the right to a fair hearing under section 24(1) of the charter.

Clause 99

Clause 99 inserts new sections 134AGA and 134AGB into the Accident Compensation Act 1985. The proposed new sections provide that the Governor in Council may make orders specifying the legal costs that may be recovered from the authority, self-insurers or workers in respect of any claim, application or proceeding under sections 134AB, 135, 135A or 135B. Litigated legal costs must only be recovered in accordance with such an order, which has the effect of limiting the court's usual jurisdiction with regard to costs.

The purpose of the clause is to provide for the ongoing financial viability of the accident compensation scheme by ensuring that costs associated with litigating matters under the scheme remain reasonable. Controlling WorkCover's costs is particularly important, as it ensures that Victoria is able to have a fully funded scheme that combines adequate compensation to injured workers with low employer premiums. To ensure equality of arms between parties to such proceedings, the clause also allows for an order to be made which controls the costs recoverable from the claimant, although I note that in practice WorkCover generally does not seek to recover costs from claimants unless their claim involves fraud or misrepresentation, or is particularly speculative in nature. Similarly, it is rare for self-insurers to seek to recover costs from a claimant.

It is arguable that, if the amount of recoverable legal costs that may be recovered by a claimant is set significantly lower than the actual legal costs likely to be incurred in a proceeding, law firms could be deterred from taking on matters that will be expensive to litigate. This could affect the right to a fair hearing, as the United Nations Human Rights Committee (the committee), in its general comment no. 32, has said that the availability or absence of legal assistance often determines whether or not a person can access or meaningfully participate in legal proceedings.

Likewise, an order which results in excessive legal costs being recoverable from a claimant in the event of an unsuccessful claim may inhibit the claimant's access to a court. The committee has acknowledged that a rigid rule relating to costs may have a deterrent effect on the ability of litigants to pursue claims in the courts (*Äärelä and Näkkäläjärvi v. Finland*, communication no. 779/1997 (4 February 1997)).

However, in practice, the provisions will not operate so as to inhibit access to legal representation or access to the court. Any order made under these provisions must be made in accordance with the charter, and must ensure that the right to a fair hearing (which guarantees both access to the courts and equality of arms) is not unreasonably restricted. Consultation will be undertaken to ensure that recoverable costs are fixed at realistic price points that do not inhibit access to the courts or impose prohibitive costs on claimants, and which are sufficiently flexible to take account of more complex matters. Further, any order under these provisions will be subject to regular review to ensure it continues to reflect current conditions. The purpose of orders under these provisions is to allow workers to recover their reasonable costs, while at the same time ensuring that the financial sustainability of the accident compensation scheme is not jeopardised by escalating legal costs.

I therefore consider that this clause is compatible with the right to a fair hearing under section 24(1) of the charter.

Right to privacy

Section 13(a) of the charter protects a person's right not to have his or her privacy, family, home or correspondence interfered with in a manner that is unlawful or arbitrary. The secrecy of personal information lies at the heart of the privacy right because of its direct relevance to the choices or circumstances of an individual's personal life over which he or she is responsible and autonomous. The protection of privacy through confidentiality of documents is not, however, absolute. Disclosures that are authorised by law and not arbitrary are permissible under the charter.

Clause 12

Clause 12 engages the right to privacy by providing that documents or information obtained in the course of a claim or proceeding under the Transport Accident Act 1986 or at common law may be used in and for the purposes of managing any claim, procedure or payment under the act.

Generally, the 'Harman rule' holds that certain documents or information produced under compulsion and received by another party in the course of legal proceedings should not be used for any purpose outside the context of that particular legal proceeding. However, a rigid application of this rule is too narrow in the context of transport accident compensation claims, where it is necessary for the TAC to use such documents or information to carry out its objectives and properly exercise its statutory functions. The TAC often has an ongoing relationship with claimants in relation to the management and funding of their compensation benefits, and during the period of this relationship certain aspects of a claim may be litigated or reviewed by a court or a tribunal. The strict operation of the Harman rule would prevent the TAC from accessing relevant documents or information provided during such proceedings in order to carry out its objectives and functions under the act. For example, such documents or information could include, or relate to, medical or financial reports which are necessary for the ongoing management of a compensation claim.

Clause 12 therefore clarifies that it is appropriate for the TAC to use documents in the specified circumstances. I consider that any interference with the right to privacy occasioned by this provision is neither unlawful nor arbitrary. The use of information or documents obtained is strictly limited to purposes related to claims, proceedings or payments under the act. There is a further protection in the secrecy provisions contained in section 131 of the act, which limits the use of personal information obtained under the act. These protections ensure that any private information or documents acquired may only be used for legitimate purposes under the act. Penalty sanctions apply where there is a breach of the secrecy provisions. In my view, clause 12 is therefore compatible with the right to privacy in section 13(a) of the charter.

Clauses 111 and 116

These clauses require or enable the sharing of certain information under the act. Clause 111 inserts a new section 198A into the Accident Compensation Act 1985, which requires that employers notify the authority if workers receiving certain payments under the act return to work or where there is a change in their weekly earnings. Clause 116 amends section 243 of the Accident Compensation Act 1985 to provide that persons who are or have been members of the board, appointed for the purposes of the act, employed by the authority; or authorised to perform or exercise any function or power of the authority (or on behalf of the authority) may produce or divulge documents and information in limited circumstances. Information cannot be divulged or communicated except to the extent necessary to perform official duties or exercise functions or powers of the authority (or on behalf of the authority). The provisions do not affect the operation of the Information Privacy Act 2000 or the Health Records Act 2001.

In my opinion any interference with the right to privacy entailed by these provisions will be neither arbitrary nor unlawful. I note that injured workers voluntarily bring themselves within the regime established by the act by making a claim for their injuries. They do so on the understanding that all matters relevant to legal entitlement, including particulars of their injury, incapacity for work and rehabilitation progress, are to be scrutinised and assessed. The uses of personal information, especially information that goes to the worker's medical condition and earning capacity, is necessary to assess entitlement and to ensure the proper administration of the scheme. There is no suggestion that personal information collected in accordance with the bill will be put to ulterior purposes unrelated to the operation of the scheme.

Clause 115

Clause 115 amends section 240A of the Accident Compensation Act 1985 to provide that a magistrate may grant a search warrant where the authority has reasonable grounds to suspect that there are on particular premises any books that are relevant to determining whether there has been a contravention of any provisions of the Accident Compensation Act 1985 or the Accident Compensation (WorkCover) Insurance Act 1993. A warrant authorises a member of the police force or a person named in the warrant to enter and search premises, to take possession of relevant books, and to deliver those books to the authority or an authorised person.

I consider that any interference with the right to privacy resulting from this provision will be neither unlawful nor arbitrary. The bill defines the limited circumstances in which warrants may be granted and includes a requirement that there are reasonable grounds for suspecting that there is relevant

evidence on the premises. Further, the scheme is subject to oversight by the Magistrates Court. Any interference with the right to privacy serves the legitimate objective of ensuring that contraventions of the act can be properly investigated. For these reasons, I consider that this clause does not limit the right to privacy under section 13 of the charter.

Equality before the law

Section 8 of the charter provides that every person is equal before the law and is entitled to the equal protection of the law without discrimination. 'Discrimination' for the purposes of the equality right means discrimination within the meaning of the Equal Opportunity Act 2010. Under the Equal Opportunity Act, 'direct' discrimination occurs where a person treats someone with an attribute less favourably than the person treats someone without that attribute, or with a different attribute, in the same or similar circumstances. This right is engaged by three clauses of the bill.

Clause 9

As discussed above, clause 9 allows for persons who are injured in a transport accident before they reach the age of 18 to bring a claim for compensation under part 3 of the Transport Accident Act 1986 before they reach 21 years of age where their parent or guardian had failed to lodge a claim on their behalf within three years of the accident.

The effect is that persons who are injured as minors, before reaching 18 years of age, have a longer period in which they can lodge a claim for compensation than adults who must bring a claim within three years of the accident.

The relevant category of 'attribute' here is age, as the legislation treats minors under 18 years differently (and more favourably) than adults. However, in my view, for the purposes of the transport accident compensation scheme, persons who are over 18 are not in 'the same or similar circumstances' as minors.

A person who is injured as a minor is at law dependent on his or her parent or guardian to lodge a claim for compensation on their behalf within three years of the accident or injury manifestation. A parent may fail to make a claim on a child's behalf, whether by omission, ignorance or negligently, within three years. Clause 9 remedies this problem by ensuring that persons injured when they are under 18 will have three years from the time they reach adulthood to make a claim in their own right.

I therefore consider that this clause is compatible with the right to equality under section 8 of the charter.

Clause 79

Clause 79 inserts schedule 3 into the Accident Compensation Act 1985. This schedule replaces the 'Compensation for Maims' table currently in section 98 of the act, although the substance of the table remains the same. The table in schedule 3 sets out the percentage of $100 300 in compensation which workers who have suffered specified injuries are eligible to receive. So, for example, a person who has suffered the total loss of a leg is classified in the table as being eligible for 75 per cent of $100 300, whereas a person who suffers from the loss of binocular vision is eligible for 40 per cent of $100 300. This system of assessing injuries only applies to workers injured prior to 12 November 1999 (prior to the introduction of the new scheme for accident compensation).

The category of 'attribute' which is relevant here is 'impairment'. The Equal Opportunity Act 2010 defines 'impairment' to mean a range of total or partial physical or mental disabilities such as loss of a bodily function or part; the presence in the body of organisms that may cause disease; loss of a part of the body; malfunction of a part of the body, including mental disease or disorder; or malformation or disfigurement.

Although this table differentiates between particular types of impairment in determining what level of compensation will be granted, I do not consider that this differentiation limits the right to equality. The differentiation reflects an assessment of the degree to which particular injuries are likely to interfere with quality of life. There is no discrimination against particular types of injury in the table, as persons who have suffered one type of injury are not in 'similar circumstances' as those who have suffered a different type of injury. I therefore consider that schedule 3 is compatible with section 8 of the charter.

Clause 80

Clause 80 inserts a new subsection 99 into the Accident Compensation Act 1985. The proposed new subsection 99(11) provides that the authority, a self-insurer or employer is not liable to pay compensation for the cost of a range of specified items. These items reflect the ordinary costs of daily living which a worker is likely to incur even without an injury (for example, the cost of accommodation, food, household or personal items).

However, under section 99(12), the restriction in subsection 99(11) does not apply to persons who are under 18 years of age and who as a result of their injury are unable to reside at the place they lived in before the injury. The effect is that such persons will be eligible to be compensated for the costs of daily living, whereas persons 18 and over will not.

The category of 'attribute' which is relevant here is age, as the legislation treats minors under 18 years differently (and more favourably) than adults. However, in my view, for the purposes of this provision, persons who are over 18 are not in 'the same or similar circumstances' as persons under 18 years of age. The relevant costs to which the provision relates are the ordinary costs of daily living, which most adults would be responsible for whether or not they were injured. In general, however, persons under 18 will be living with a parent or guardian, and will not be personally responsible for the majority of their daily living expenses. They are in a qualitatively different situation from persons over 18. It is therefore appropriate for the authority, self-insurer or employer to cover the daily living costs of persons under 18 where, because of the injury, they cannot continue to live in their previous place of residence.

For the above reasons, in my opinion this provision does not discriminate against persons over 18 years of age and so does not limit the right to equality.

Right to property

Section 20 of the charter provides that a person must not be deprived of his or her property other than in accordance with the law.

Clause 4 provides that compensation is not payable at all or is reduced where a person is convicted in respect of a serious drink or drug-driving-related offence under certain provisions of the Road Safety Act 1986, or a corresponding law. It is possible that the deprivation or reduction of otherwise payable compensation could be considered a deprivation of property under section 20 of the charter.

It is also possible that clause 11 of the bill, which inserts a new section 93A in the Transport Accident Act 1986 to clarify that proceedings cannot be brought in respect of the loss of the services of a person who is injured or dies as a result of a transport accident, may result in the deprivation of property. This will be so if any existing common-law rights which are extinguished by this provision are 'property' for the purposes of the charter. The recent Court of Appeal decision in *Doughty v. Martino Developments Pty Ltd* [2010] VSCA 121 determined that the action per quod servitium amisit was abolished by the introduction of the act in 1986. There is consequently no reasonable expectation of recovery of damages.

However, even if such rights were considered property, in my view clauses 4 and 11 would be compatible with section 20, as any deprivation of property occasioned by these clauses would be in accordance with the law.

Conclusion

I consider that the bill does not limit any human rights and is therefore compatible with the charter.

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.

The purpose of this bill is to make a number of unrelated amendments to the Transport Accident Act 1986 and the Accident Compensation Act 1985.

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

The bill will enable those who are currently receiving weekly annuity payments for injury suffered as a consequence of a transport accident which occurred prior to 16 December 2004 the option to instead receive a lump sum payment.

There has been a longstanding reduction in compensation as a result of convictions for certain drink-driving offences and for culpable driving. The bill addresses an anomaly in relation to drug driving when compared with other offences that already result in a restriction of benefits to align with changes in the law in relation to driving under the influence of drugs and dangerous driving causing death.

The bill also clarifies a six-year time limit for a claimant to apply to the TAC for an impairment determination which is equivalent to the statute of limitation period for common law actions.

Currently, if a parent or guardian does not lodge a claim on behalf of the minor at the time of the transport accident the child cannot lodge a claim until they attain the age of 18. To address this anomaly, the bill enables a child to lodge a claim at any time before he/she reaches the age of 21.

This government committed to update the Accident Compensation Act 1985 (AC act) to improve workers compensation arrangements while ensuring that Victoria's workers compensation scheme remained the national benchmark in efficiency and business competitiveness. Mr Peter Hanks, QC, was engaged to conduct an independent review into the operation of the WorkSafe scheme and on 17 June 2009, the government released its response to the Hanks report, announcing a $90 million per year reform package in direct benefit improvements for injured workers and their families.

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

This bill therefore amends the AC act to implement the outstanding reforms approved by the government, together with the related changes to the Transport Accident Act 1986.

The key AC act changes include:

streamlining the provision that sets out the calculation of pre-injury average weekly earnings (PIAWE);

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

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

Further, a number of new proposals have also been included in the bill aimed at enhancing the useability of

the AC act, the effective management of the WorkSafe scheme and its ongoing sustainability.

This bill restructures, simplifies and streamlines the provisions in the AC act that determine how to calculate a worker's pre-injury average weekly earnings. For example, many of the lengthy and complicated provisions relating to the calculation of pre-injury average weekly earnings have been consolidated into a schedule, which provides a quick and useful reference as to how pre-injury average weekly earnings are to be calculated for various workers. This will assist both workers and employers in determining how an injured worker's pre-injury average weekly earnings should be calculated.

For the first time, workers who are in receipt of particular non-pecuniary benefits (those benefits which are commonly included in a worker's salary package) are to have their value included in the calculation of pre-injury average weekly earnings. Such benefits will include non-compulsory superannuation payments, residential accommodation, the use of a motor vehicle, health insurance and education fees.

The explicit inclusion of these benefits will ensure that the calculation of pre-injury average weekly earnings keeps up to date with modern methods of paying workers.

The bill also sets out how to calculate the value of the particular non-pecuniary benefits. This will involve using a formula based on fringe benefits tax, with which the majority of employers and many workers are already familiar.

Where an injured worker retains the use or benefit of the non-pecuniary benefit, the value of the retained benefit will be reduced from any weekly compensation payments to which the worker may be entitled. Similarly, the value of any non-pecuniary benefit that the worker was not in receipt of prior to their injury, but which the worker begins receiving while in receipt of weekly payments, is to be deducted from any entitlement of the worker to weekly compensation.

The bill will also ensure that the calculation of pre-injury average weekly earnings keeps pace with modern remuneration practices, by clarifying that a worker's pre-injury average weekly earnings are to include piece rates and commissions (but not bonuses or incentive payments) paid or payable to the worker.

The bill also clarifies that a worker's 'current weekly earnings' (which are to be deducted from any weekly compensation payments received by a worker) are, for parity with the calculation of pre-injury average weekly earnings, to include overtime and shift allowances, piece rates and commissions paid or payable to the worker during the relevant week, in addition to the worker's base rate of pay.

Determining who is a worker and who is an employer is fundamental to the scheme. This is because a person who is a worker has a right to coverage for work-related injuries under the scheme. Correspondingly, a person who is an employer has premium and other obligations.

As the Hanks report noted, those provisions in the AC act that make the fundamental determination of who is a worker and who is an employer for the purpose of the scheme are complex and difficult to use, particularly those in relation to contractors.

The bill therefore updates, streamlines and consolidates the provisions that deem an employment relationship in a number of special work arrangements. These include work experience arrangements, religious work, cooperative society arrangements, share farming and Crown and police employment.

The bill also simplifies the contractor provisions — which the Hanks report concluded were overly complex and duplicitous — with a more straightforward provision based on a three-limbed test. The new simpler test will make it easier for contracting businesses to determine their status as an employer or worker under the scheme, and reduce administrative burden. However, the improved contractor provisions also strengthen deterrence of the use of sham arrangements to avoid premium obligations or worker claims.

The bill also introduces a new provision in the AC act to prevent WorkSafe from collecting a double premium in contract arrangements where there is deemed employment — that is, one amount of premium from the principal and a second amount from the contractor. The provision will place the premium obligation on the principal only, not the contractor. This will remove a current inequity in the system and minimise premium costs on business.

The government seeks to ensure that workplace safety is better integrated into all aspects of Victoria's WorkSafe scheme, which will assist in supporting the work carried out by the organisation in the community. This bill will therefore amend the AC act to effect a legal name change for the organisation from the Victorian WorkCover Authority to WorkSafe Victoria. The government considers this change is important in order to give the full legal effect to the rebranding of

the organisation to build and maintain a strong, respected brand.

Following the Labor government's restoration of common-law rights in October 1999, a range of procedures were introduced to help ensure the common-law scheme remained financially sustainable.

Currently, the AC act contains an enabling provision that allows for an order to be made in relation to prelitigated plaintiff legal costs. The utilisation of this costs order has assisted in ensuring the financial sustainability of the WorkSafe common-law scheme. To promote this objective further, this bill introduces a further enabling provision to permit the making of a legal costs order that would enable the introduction of a fixed cost model in relation to certain plaintiff litigated costs.

This is a prudent and financially responsible measure, which balances the sustainability of the common-law scheme while ensuring access to common-law damages continues to be provided for the most seriously injured workers.

To ensure that this change does not unfairly disadvantage workers and there is scope to address any further increase in lawyers' professional fees, the bill also enables the amount of defendants' costs that may be recovered to be fixed.

The bill also gives effect to the government's intention to ensure that 'hold harmless' clauses will not be a mechanism to enable employers to escape their obligations under the AC act. It ensures that 'hold harmless' clauses are not only unenforceable for recovery proceedings under the AC act but are also void for the purposes of any contribution proceedings, under the Wrongs Act, between a third party and the employer of an injured worker.

The 2010 act introduced a formal ability for employers to object to a decision by WorkSafe or its agents to accept a claim for compensation. Where a decision to accept a claim is overturned on the grounds that a worker was not a worker or not a worker of that employer, an injured worker is currently only entitled to a notice period of 14 days. This bill introduces a 28-day notice period prior to ceasing a workers entitlement and is consistent with similar notice periods elsewhere in the act.

The amendments also clarify an injured worker's right to access existing dispute resolution mechanisms (including the ACCS and the courts) in relation to claims that have been overturned.

A related anomaly that would have allowed an injured worker, who had inadvertently lodged a claim against the wrong employer, to receive compensation from two employers for the same injury will also be resolved. Similarly, where compensation has been paid by the wrong employer, the employer will be prevented from recovering their 'excess' amount from the injured worker, and instead WorkSafe will be required to reimburse the employer.

This bill introduces greater alignment between the calculation of severely injured workers' entitlements in relation to lump sum benefits and under common law.

Claims for compensation for lump sum benefits in relation to injuries with a whole person impairment (WPI) of 71 per cent and above (both physical and psychiatric impairments), will be calculated as at the date on which the compensation is determined, rather than the date of injury. This will align with the approach taken to assessing damages at common law.

The 2010 act increased the maximum amount of lump sum benefits payable (for workers with a whole person impairment of greater than 80 per cent) to align with the maximum amount of common-law damages payable for pain and suffering. Lump sum benefits for workers with impairments of 71 per cent or greater were increased proportionately.

The alignment between the date of compensation for calculating impairments and common-law damages will enhance the intended effect of the 2010 act, as the date that compensation is determined will usually be a year or several years after the date of injury.

A range of other amendments relating to lump sum benefits are primarily aimed at resolving anomalies in the AC act.

The bill also makes amendments to the provisions which govern self-insurance to clarify the intended application of particular provisions or address anomalies. New flexibility is also being introduced for self-insurers by introducing discretion for WorkSafe to transfer, in limited circumstances, a self-insurer's approval to a new holding company that has acquired the self-insurer. The circumstances are limited to where WorkSafe is satisfied that no substantive change has occurred or is likely to occur in the operation or management of the acquired self-insurer, as the result of the acquisition.

Further to the flexibility introduced by the 2010 act to allow self-insurers that acquire a body corporate to assume the liability for and management of the body corporate's 'tail claims' (claims for injuries incurred by

the employees of the body corporate prior to the body corporate being acquired by the self-insurer), the bill provides further clarity in relation to the management of the 'tail claims' during the period between the date a self-insurer wholly acquires a scheme-insured body corporate and the 'transfer date'. The bill provides that WorkSafe retains the right and authority to manage and make decisions in relation to claims during this period.

The main section of the AC act that imposes a liability on WorkSafe and self-insurers to pay the reasonable cost of medical expenses incurred by an injured worker has been the subject of ad hoc and incremental amendments over the years. This has resulted in a provision which is long, poorly structured and convoluted. The successive amendments to the section have meant that one long and complex section deals with several aspects of several different types of compensation payment.

As part of the government's commitment to simplify the AC act, this bill restructures the provision in a new division 2B in part IV of the AC act, to clarify its meaning and application, and improve its usability. While the main liability provision for medical and like services is retained, it is more closely aligned with the weekly payment provisions and the remaining 40-odd subsections are restructured thematically into separate sections and reworded to improve its usability.

The Hanks review of the accident compensation legislation recommended streamlining and resolving anomalies in the information sharing and coercive powers under the AC act. This bill makes amendments to resolve a number of anomalies and modernises these provisions.

Finally, the bill will correct anomalies that have arisen from amendments inserted by 2010 act. These amendments will ensure the legislation accurately reflects Parliament's intention. Other amendments will remove obsolete provisions.

I make the following statement under section 85 of the Constitution Act 1975 of the reasons why it is the intention of a number of clauses in the bill to alter or vary section 85 of the Constitution Act 1975.

Clause 11 inserts a new section 93A into the Transport Accident Act 1986, which confirms the abolition of actions for damages by an employer for the loss of services of an injured employee under the act. As a result it is the intention of clause 13 to alter or vary section 85 of the Constitution Act 1975.

Clause 44 substitutes section 39(1A) of the Accident Compensation Act 1985 to clarify that a determination by WorkSafe regarding an extension of the period of time within which either a serious injury application may be made or proceedings for the determination of a serious injury may be brought pursuant to section 134AB and section 135A, is not reviewable. It is the intention of this clause to alter or vary section 85 of the Constitution Act 1975.

Section 39(1) of the Accident Compensation Act 1985 establishes the exclusive jurisdiction of the County Court to hear and determine any question or matter arising from, inter alia, any decision of WorkSafe or a self insurer. New section 39(1A), clarifies the intention of old section 39(1A) to exclude review of any WorkSafe decision to exercise its discretion to extend mandatory time limitations imposed under sections 134AB and 135A of the Accident Compensation Act 1985. This discretion continues to operate to limit the jurisdiction of the Supreme Court, as previously provided for by section 252C. These provisions provide some leeway for a worker to bring a proceeding if WorkSafe is satisfied that the failure to comply with the usual process is not the fault of the worker, or where the defence has not been prejudiced. The decisions of the authority to which this clause relates provide an additional procedural protection, but are not in themselves decisions about the substance of a claim.

Clause 80 re-enacts section 99(10) of the Accident Compensation Act 1985 to continue to provide that a court is not to entertain an action, suit or other proceeding against workers, their representatives or dependants where that proceeding relates to:

> the recovery of any costs which WorkSafe, self-insurer or employer is liable to pay under that section; or
>
> a notice, determination or order referred to in sections 249AA, 249AB, 249B or 249BA. These notices and determinations relate to circumstances where WorkSafe or self-insurer does not have to pay a service provider (for example, where the service provider has committed a relevant offence under the Accident Compensation Act 1985).

A person seeking to recover costs or dispute a notice or determination retains the ability to bring a proceeding against WorkSafe, self-insurer or employer, whoever is the appropriate defendant in such a proceeding. Accordingly there remains appropriate provision for recovery rights for service providers as previously existed under the section.

Clause 98 amends section 134AG of the Accident Compensation Act 1985 to confirm that legal costs in respect of any claim, application or proceeding under sections 134AB, 135, 135A or 135B, must only be recovered in accordance with an order made under section 134AG. This is to preserve the intention of section 252D, which similarly provided for an intention to vary the jurisdiction of the Supreme Court in the introduction of section 134AG into the act in 2000. Accordingly, clause 98 preserves this intention.

Clause 99 inserts new sections 134AGA and 134AGB into the Accident Compensation Act 1985. The proposed new sections provide that the Governor in Council may make orders specifying the legal costs that may be recovered from WorkSafe, self-insurers or workers in respect of any claim, application or proceeding under sections 134AB, 135, 135A or 135B. Litigated legal costs must only be recovered in accordance with such an order, which has the effect of limiting the court's jurisdiction with regards to costs.

The limitation of the court's jurisdiction is necessary because the enabling provision will allow for the making of orders that fix legal costs that may be recovered in connection with litigated serious injury claims. This is a different approach to costs recovery, which is currently determined under court scales and by its nature requires limitation of the jurisdiction of the courts to award such costs. The fixing of legal costs under these new provisions will be limited to serious injury claims and not claims for the recovery of damages at common law.

This bill improves the effectiveness and efficiency of the TAC scheme in delivering benefits to those injured in transport accidents.

This bill completes the implementation of the government's policy response to the review of accident compensation legislation undertaken by Peter Hanks, QC.

The amendments further improve the administrative efficiency of the WorkSafe scheme while promoting its long-term sustainability.

I commend the bill to the house.

Debate adjourned on motion of Mr McINTOSH (Kew).

Debate adjourned until Thursday, 12 August.

Remaining business postponed on motion of Mr WYNNE (Minister for Housing).

ADJOURNMENT

The SPEAKER — Order! The question is:

That the house do now adjourn.

Patterson Lakes: water quality

Ms ASHER (Brighton) — I raise a matter for the Minister for Water. It is a matter that you, Speaker, will be very familiar with. I ask the minister to improve the water quality in Quiet Lakes at Patterson Lakes. I recently visited Patterson Lakes at the invitation of Inga Peulich, a member for South Eastern Metropolitan Region in the other place, and in the company of Cr Donna Bauer. I met with residents, and as I said I know that you, Speaker, are very familiar with this particular issue.

The background to this issue is that when that community was established the intention was that the water would be of swimmable quality. The Patterson Lakes precinct was opened in the Hamer era. There was a 1973 agreement between the City of Springvale, the Dandenong Valley Authority (DVA) — of course that role has now been taken over by Melbourne Water, which is why I am raising the issue — and the developer, the Gladesville group of companies. The development was allowed under a Melbourne and Metropolitan Board of Works permit.

In my opinion Melbourne Water, which as I said is the successor body of the DVA, has a moral and legal obligation to act under the 1973 agreement. That agreement provided for maintenance of Patterson Lakes under schedule 1. I want to quote from that agreement dated 10 July 1973. It says:

> The authority has agreed to accept title to the land reserved for such lakes and waterways and to accept general responsibility for the maintenance of such areas.

'Maintenance' is defined under schedule 1, as I said. The definition of 'maintenance' under the 1973 agreement is as follows at point 4:

> Operation and maintenance of inlet and outlet systems including wellpoint intake, pumps, pipeline, lock-gates and flow control structures to ensure water renewal.

Point 5 says:

> Maintenance of water quality to a standard compatible with the use of the same as envisaged by this agreement.

I am told a circulating system was used under the old system, and indeed that would fix the problem.

The Minister for Water has not taken responsibility for this, as evidenced by his written answer of 13 October

2009 to an adjournment matter raised in the upper house. I believe Melbourne Water has an obligation to honour this agreement. The solution has been to increase the preset rate to fund maintenance, but I have quoted from the agreement, and I call on the minister to honour his obligations.

Consumer affairs: cord safety kits

Mr PERERA (Cranbourne) — I wish to raise a matter for the attention of the Minister for Consumer Affairs. The specific action I ask of the Minister for Consumer Affairs is for the Victorian government to step up promotion of curtain and blind cord safety kits to ensure wider installation throughout Victorian homes.

The electorate of Cranbourne is home to over 20 000 young families. Many of these families include the proud parents of very young children. Moderately priced properties in my electorate are a big attraction to young families, first home buyers and recent migrants. As you are aware, Speaker, without doubt the safety of young children comes first, second and third in any family's household. It requires a lot of patience to take care of an active young child. Children are naturally curious, babies commonly put things in their mouth to test whether or not they are good to eat and toddlers put small objects into their nose or ears — it is the age of great experimenting.

I am sure most members have experienced parenthood at one stage or another. Some members may even have the luxury of enjoying being a grandparent. Every home with an infant or young child should be childproof, meaning that all dangerous items should be out of the child's reach. Children need to learn safety skills. They need to practise recognising unsafe conditions and selecting behavioural responses that avoid potential dangers. Sharp and dangerous objects need to be kept out of children's reach, and small toys or game parts should not be left where babies can pick them up and swallow them or even strangle themselves with them.

Unfortunately young children can strangle themselves with looped curtain and blind cords. At least 15 young children have died as a result of this in Australia since the early 1990s, including two in Victoria in August and September 2009. I call upon the minister to ensure that the Brumby Labor government is promoting this great initiative of curtain and blind cord safety kits throughout our homes.

Justices of the peace: Murray Valley electorate

Mr JASPER (Murray Valley) — I wish to bring an issue to the attention of the Attorney-General and, in his absence, the Minister for Housing. The action I seek is the alleviation of the shortage of justices of the peace in my electorate of Murray Valley, a deficiency which is apparently duplicated across country Victoria. In the years I have been in the Parliament I have kept a list of the justices of the peace in the various areas across my electorate, and I have been able to supply this list to people who require the services of a justice of the peace.

Recently action was taken by the Attorney-General to stop the appointment of justices of the peace. Apparently new guidelines have been issued, and applications are now being slowly assessed. We have had some applications in; our information is that they are still being assessed. New forms for people to become appointed a justice of the peace are difficult to obtain as well.

It has been brought to my attention that in the rural city of Wangaratta there are over 20 people on the list of justices of the peace, but many of them are not available. We find that in the rural city of Wangaratta there are only about six justices of the peace who are available at all, and most of those are not always readily available. We have one particular justice of the peace in a stationery business alongside my office in Wangaratta who is inundated with people coming in seeking to have documents witnessed by a justice of the peace. We have taken this up with the Rural City of Wangaratta, which is interested in getting one or two people within the council appointed as justices of the peace, but it has had difficulty in accessing the forms to put forward those particular people.

My electorate office undertook an extensive investigation looking at all of these issues. I wrote to the Attorney-General in a letter dated 14 July 2010, and I provided him with full information relating to the difficulties that are being experienced in obtaining the services of a justice of the peace. Not only was the list of available justices of the peace inaccurate, but it included the name of a person who was deceased and one name for whom the address was wrong. There were only one or two people on the list who were available.

I suggest to the Attorney-General that there needs to be another look taken at how the justice of the peace system operates. Perhaps those responsible need to look at removing people from the list when they get to a certain age, say 75.

There need to be appropriate, accurate lists provided through the internet, or that information needs to be available by phone from the appropriate department. This is an issue which I think is a major concern. There is no doubt that the Labor government sought to remove justice of the peace operations in the 1980s, and Labor probably wants to do that again. It is an important thing for us here in Victoria to keep those operations going, and I want action from the Attorney-General.

Respite care: city of Whittlesea

Ms GREEN (Yan Yean) — I wish to raise a matter for the attention of the Minister for Community Services, and the action I seek is for her to establish residential respite care facilities in the city of Whittlesea. Carers in the city of Whittlesea currently do not have access to residential respite care services, and this is causing a great deal of hardship because of the distances they need to travel to access this care. Whittlesea is a growing area, so the need is certainly growing.

I want to thank the minister for the respectful way she met recently with carers, the local council and Plenty Valley Community Health for the great hearing she gave those groups at this meeting and, importantly, for her acknowledgement that the provision of respite care beds in the city of Whittlesea has not kept up with demand. It was very pleasing that she said she was currently looking at additional allocation in growing areas like Whittlesea. That in itself was a very important outcome of the meeting.

I was also very pleased to see that there has been funding allocated in this year's budget — $10.3 million over four years — to support families caring for Victorians with a disability, including an extra 15 facility-based respite places for Victorians with high and complex needs. I reiterate to the minister that there is definitely a need within the city of Whittlesea to ease the burden of the fantastic work that our carers do in caring for their loved ones.

At a local level I have been working with council and local developers for some years, and I cannot speak more highly of the developers we have in the area. They are very caring and do not just think about building housing estates; they think about building communities. That includes looking after those in need. With the work that has been done over some years now with local developers and council, I think we are very well positioned to get in very quickly and access this funding that has been allocated in the budget, and I urge the minister to come back to our community and let us know when we can proceed with this very important facility for respite-based care in the municipality of Whittlesea.

Portland emergency rescue: compensation

Dr NAPTHINE (South-West Coast) — The issue I wish to raise is for the attention of the Premier. The action I seek is for the Premier to provide fair and reasonable compensation to Rob and Wendy Davis of Portland for the losses they incurred as a direct result of the involvement of Mr Davis in a good Samaritan mercy mission.

Rob Davis is a professional cray fisherman operating from the port of Portland. On Monday, 5 April, Mr Davis was fishing off Cape Nelson when he became aware of some people in serious difficulties in the water at the bottom of the steep cliffs in that area. Mr Davis, who was fishing alone, responded immediately to their calls for help. One of the people in the water swam to the vessel operated by Mr Davis, and after being helped on board by Mr Davis both he and Mr Davis pulled a 68-year-old unconscious man onto the vessel. They dialled 000 from the vessel, and upon advice proceeded as quickly as possible back to the port, a distance of some kilometres.

During this journey Mr Davis performed CPR (cardiopulmonary resuscitation) on the unconscious man. The other man, who was still stressed from his ordeal, assisted with the CPR and skippered the vessel under guidance and with assistance from Mr Davis. Mr Davis performed the primary CPR role because he is skilled in that area and the other man had suffered severely from his ordeal. This meant that the other man, who had no previous experience in skippering a fishing vessel, was largely responsible for driving this boat of significant size from Cape Nelson to the port of Portland. While the water police met Mr Davis halfway, the unconscious man stayed on the vessel. Tragically the 68-year-old man died without regaining consciousness.

Mr Davis was aware that the circumstances required an unprecedented response from himself and his vessel. The vessel was required to travel at maximum speed, fully laden with crays and craypots, with a completely inexperienced and stressed person skippering it through quite choppy and rough seas. Mr Davis was very concerned about the damage to his vessel over this 30 to 40-minute trip. After the emergency he took the boat out of the water and conducted a visual inspection of the hull. He put the vessel back in the water and fished on 9 and 10 April, but on Sunday, 11 April, the

boat sank at its mooring as a direct result of previously undetected damage to the keel plate.

The cost of the vessel's repairs was $54 000, which was largely covered by insurance. However, Mr and Mrs Davis were required to pay an excess of $2500. Of greater concern to the Davis family was that the vessel was out of the water for some seven weeks from 11 April to 2 June. During this time the family, with four school-aged children, had no income from their cray fishing business. It is estimated they lost $24 500 in income over that seven-week period, based on an average catch of 50 kilograms per week valued at $70 per kilogram. The entire rescue effort has cost the Davis family $27 000.

Robbie Davis and his family would not do anything differently. Robbie would again respond in an emergency, and he needs to be commended for his bravery, but I think we need to make sure that he is not out of pocket. I ask the Premier to make an ex gratia payment to the family.

Road safety: young drivers

Mr NARDELLA (Melton) — The matter I raise is for the attention of the Minister for Roads and Ports, and the action I seek is that he ensure that appropriate action is taken under the next Arrive Alive action plan to protect the safety of young drivers. As honourable members would know, we have taken quite a number of steps to assist young drivers and make sure that the number of accidents they are involved in is reducing. Young people account for just 13 per cent of drivers but around 25 per cent of all driver fatalities. The government has introduced a range of initiatives aimed at improving safety for young drivers.

Victorian initiatives have focused on encouraging learner driver experience, with an emphasis on the following: 120 hours driving practice; school and community education programs; licence restrictions that minimise high-risk driving — for example, high-powered vehicle restrictions and zero-blood alcohol restrictions; and penalties and incentives to encourage safer driving. The new graduated licensing system introduced by this government includes a minimum 12-month learner permit period, a compulsory 120 hours of supervised driving experience and a new P1 — that is, first year — and P2 three-year probationary licence system.

Young drivers are one of the most vulnerable groups on our roads, and we need always to be looking at new ways to help them become safe drivers. In the next Arrive Alive strategy it will be important to see what we can do with the appropriate research and appropriate backing to keep more young drivers, their passengers and other motorists safe.

Some direct mail push polling has gone out via Liberal Party members from both houses of this Parliament saying that we are looking at implementing curfews and other related changes to road laws only for young drivers aged 25 and under, and that it would be detrimental to the lives of young drivers and their families. This information is wrong and needs to be challenged. Not only is it wrong, but also opposition members do not care about safety for young drivers, their passengers and families.

Mr Jasper — That's a bit rough!

Mr NARDELLA — It is absolutely true. It is more important to push poll this stuff and to scare young people than it is to care about and develop good and reasoned policy. It is purely a scare campaign leading up to the state election; otherwise the opposition would not be putting out this stuff to young people. The opposition does not care about young people. The information has not been researched and has no policy basis. The record needs to be set right, so I ask the minister to inform the house on that basis.

Straughan Close, Lysterfield: drainage

Mr WAKELING (Ferntree Gully) — I raise a matter of importance with the Minister for Water. The action I seek is that the minister ensure that Melbourne Water takes action to remedy a flooding issue within the Lysterfield West drainage scheme so that the homes of residents in nearby Straughan Close, Lysterfield, are no longer at risk of being flooded. The issue of flooding in the Lysterfield West drainage scheme became apparent to Lysterfield residents, the Knox City Council and me following storms in October 2009 and the extreme weather events Melbourne experienced in February and March of this year, which wreaked havoc in areas of my electorate in particular. During these storms insufficient drainage infrastructure within the drainage scheme led to properties in Straughan Close being flooded.

Following the flooding brought on by these storm events Knox City Council and VicRoads worked together closely in taking action to improve protection from flooding for residents of Straughan Close. VicRoads undertook flood mitigation works where the drain crosses Wellington Road, and these works were recently completed. Furthermore, Knox City Council has also committed to quite significant flood mitigation works of its own on the north side of Wellington Road

to protect families in Straughan Close. Those works are currently under way.

In light of this spirit of cooperation and the proactive attitude shown by local government and VicRoads, will the minister explain why Melbourne Water has demonstrated a lack of regard for Lysterfield residents by failing to reply to the Knox City Council for a period of time after this matter was raised with Melbourne Water representatives in face-to-face meetings in March of this year and numerous attempts to receive feedback through written communication since that time?

I have worked closely with the Knox City Council on this issue, and the council believes the drain which traverses Straughan Close and goes on to Wellington Road, which falls in Melbourne Water's area of responsibility, is underdesigned and insufficient for averting further flooding in future storms. I have also met with local residents, who are understandably upset at the apparent lack of action from both Melbourne Water and the minister, to whom I wrote informing him of this issue. I am advised that subsequent to my correspondence with the minister Melbourne Water has in fact responded to the council acknowledging that the issues are apparent at the site. However, clearly there has been no outcome as to how it is going to resolve the issues that have been raised.

Given these concerns, I call on the Minister for Water to take urgent action to ensure that Melbourne Water works cooperatively with Knox City Council and participates in an integrated approach to this issue, as has been demonstrated thus far by VicRoads and the Knox City Council, and undertake whatever works are needed to upgrade drains in the Lysterfield West drainage scheme to provide a permanent drainage solution which will protect the property of local residents in Straughan Close from the threat of future flooding.

Consumer affairs: social networking website security

Mr SCOTT (Preston) — The matter I raise tonight is for the attention of the Minister for Consumer Affairs. It concerns the business practices of social networking websites such as Facebook and MySpace. The action I seek is that the minister ask his department to investigate the risks posed to the privacy and security of users of these sites and that he warn users of the hazards involved.

Sites such as Facebook and MySpace provide a convenient means for people to keep in touch with their friends and family and to share photographs and other material. They also host games and other applications that add to the enjoyment of users. All this has to be paid for, of course. Facebook is in the business of making money, not protecting privacy. According to the internet website 'Last watchdog on internet security', to make money Facebook must compel its users to divulge and make widely accessible as much information as possible about their preferences and online behaviours and about their friends' preferences and online behaviours.

One way these sites encourage people to jeopardise their privacy and to expose themselves to issues relating to their actions as consumers is through online games and other applications. To sign up for a game or an app, a user typically has to agree to a set of conditions. These usually include providing access to personal information such as age, gender, list of friends, photographs et cetera and the right to access their data at any time. The user usually has no way of knowing who is accessing their personal information or what use may be made of it, and often the users are commercial in nature. I urge the minister to investigate the risks posed to users of social networking sites by their agreeing to share their private information in this way and to ensure that consumers are informed of any risks involved in this behaviour.

Planning: Dromana foreshore project

Mr DIXON (Nepean) — I wish to raise a matter for the Minister for Planning regarding two letters that have been written to him by the Dromana Bay Life Saving Club. The action I request is that the minister respond to the concerns raised in those letters and specifically call in the building project the club is talking about.

Both the Dromana Bay Life Saving Club and the Dromana sea scouts have submitted plans for combined clubrooms and a community facility on the Dromana foreshore on the site of the old memorial hall. The sea scouts have been operating out of the substandard facilities of the hall, and for some years the lifesaving club has been operating out of a beach box and a container. Of course that has affected the quality of the services they provide to visitors and to locals, not only for training but also in their lifesaving activities.

After six years and a lot of work they have come up with a wonderful plan that has been well accepted by the community. The Department of Sustainability and Environment has given coastal consent to the project, and the Mornington Peninsula Shire Council has also given its approval. As I said, the community is right behind this. The project has already attracted $100 000

from the community safety emergency support program, but unfortunately there has been one objection from a serial objector, the Port Phillip Conservation Council. The matter is listed for hearing at the Victorian Civil and Administrative Tribunal on 24 March next year. This is quite a delay in the project, because the funding from the emergency support program has to be spent on construction by March next year, and if the money is not spent it will be lost. With the hearing having been set down for 24 March the clubs are in great danger of losing the grant, which will make a big difference to the viability of the project.

In fact there is a precedent here, because there was a similar issue with the Rosebud Life Saving Club. In that case a former member for Albert Park, who was then the planning minister, rightly called in the project because he understood, and I hope Minister Madden understands, that a lifesaving club provides a wonderful emergency service. It is a not-for-profit organisation made up of volunteers, and obviously it has to be on the foreshore; it cannot be anywhere else. The precedent has been set, and hopefully the conservation council's application will be withdrawn. However, if that does not happen, it is very important that the minister call in the project.

Small business: Forest Hill electorate ministerial visit

Ms MARSHALL (Forest Hill) — I rise tonight to raise an issue with the Minister for Small Business. The action I seek is for the minister to join me and local traders in my electorate to discuss the new information and support available to small businesses in Victoria and to tell them what the government is doing to make conducting business in this state easier.

This side of the house knows the measures that are being taken by this government to make things easier for small business. The 2010–11 state budget was a prime example, with a $13.4 million package to help small businesses succeed and grow, including $4.5 million for enhanced workshops and seminars across the state; $2.2 million to expand the small business mentoring program to 1500 sessions per year for 600 businesses, allowing them to access support and advice, including e-mentoring, as well as to assist their planning, employment potential, sales and profits; $1.6 million to increase funding for the Energise Enterprise festival, which provides a structured series of events and networking opportunities for small businesses; and $3.5 million to fund forums, workshops and one-on-one business counselling to assist small businesses in regional Victoria to adapt to changing circumstances in the economy, population and environment.

There are currently approximately 500 000 small businesses in Victoria. Many in my electorate of Forest Hill are home based, and approximately 40 per cent are employers. Interestingly — from my perspective at least — more than 30 per cent of small businesses in Victoria are operated by women. With an increasing number of people born overseas taking up residence in the beautiful eastern suburbs, it is not surprising that the number of small business operators born overseas is constantly increasing in my community. It is important that the operators of small businesses, which are the lifeblood of local communities, feel supported and have access to information on assistance available.

There are also a number of new small businesses that have recently opened their doors in our area that are struggling. I have been visiting with some of the local traders in Blackburn South in my electorate, and some of the proprietors are surprised at the extent of the assistance available. In particular the Vermont business centre, a fantastic state government initiative, is an authority on all things business, with great staff who are always willing to help when they can.

There have been a number of changes carried out by the Labor government designed to assist small business. It is vital that the minister visit with local traders in my electorate to hear firsthand about the flow-on effects of the new initiatives for small business owners and to provide further information on what assistance is available. I therefore reiterate my request for the minister to join with me and members of my local small business community in the coming weeks to give small business owners the chance to discuss with him directly what the government is doing to help them succeed and grow.

Responses

Mr PALLAS (Minister for Roads and Ports) — In respect of a matter raised by the member for Melton relating to young drivers, the government's Arrive Alive target and curfews for young drivers — —

An honourable member — He's gone!

Mr PALLAS — The member for Melton has obviously just gone to adjust his wardrobe! I am sure he will be back momentarily.

Mr Nardella — Where's my hat? I left my hat!

Honourable members interjecting.

Mr PALLAS — In his sartorial splendour, might I say! The Brumby government is committed to protecting the lives of young drivers on our roads. We put the graduated licensing system into place in 2007. It constitutes the largest change to young driver laws since the introduction of probationary licences in the 1960s. There have been some positive results already from our graduated licensing system, and the number of fatalities involving young drivers has decreased in Victoria over recent years. In 2008 there were 10 fewer deaths among young drivers aged 18 to 25 years compared to 2007, and in 2009 there were 15 fewer deaths compared to 2007.

The Brumby government has a plan for road safety, unlike those opposite, who simply want to be populist about the issue. Over recent weeks members of the opposition have distributed community surveys about young driver safety issues. These surveys have come from the members for Ferntree Gully, Benalla, Polwarth, Evelyn and Kilsyth. These surveys have incorrectly stated that the government is considering introducing night-time curfews for young drivers. This is untrue and blatant scaremongering from an opposition that has no plan for road safety.

I ruled out night-time curfews immediately following a road safety round table I hosted on 1 June. Two months ago I ruled out this initiative, yet in a desperate move the opposition has falsely suggested the government is considering such a policy. A late-night driving restriction was one of the many initiatives discussed at the round table, and it was by and large rejected by those who participated in that forum, including me. We believe a night-time driving restriction would have no practical or realistic benefit. It would have too many impacts on young people's mobility, particularly those residing in rural areas. This is what I said two months ago, this is what I am saying again now and this is what I want to have effectively understood by all those present in this chamber. This government has no intention of moving on young driver curfews.

I call on opposition members to apologise to the young people they have misled by the distribution of this material, which is both incorrect and inappropriate. In contrast to our achievements in road safety, the opposition's only interest in road safety is to use it to try to score cheap political points. The opposition leader's recent announcement about Black Forest Drive in Woodend is another example of this. This announcement is typical of a lazy opposition which has again failed to do its research. Line-marking works and the reconfiguration of Black Forest Drive were halted more than three weeks prior to Mr Baillieu's decision to get involved. That had actually happened a long time before.

One of these days the opposition will be in a position to know what we as a government have done earlier than three weeks after we have done it, and in a timely fashion will call for us to do something. This government took action immediately on this issue when the concerns of the community were raised by the local MP. The opposition leader has not shown any interest in road safety in the past, having mentioned the phrase 'road toll' only once in Parliament — and that was to say he would not get into the issue. Yet he is happy to criticise a project based on road safety without understanding the issues involved in these matters. The opposition does not care about road safety; opposition members simply say things they think people want to hear. Their only policy is to implement a 10 per cent speed tolerance on cameras, sending a message to the community that speeding is acceptable.

Increasing tolerance to 10 kilometres an hour would result in an extra 40 to 54 fatalities a year. The opposition's policies, which encourage speeding, are irresponsible. The Brumby government is committed to reducing the incidence of death and injury on our roads. We are currently developing the next action plan under our Arrive Alive strategy, and we will continue to introduce innovative ways to improve the safety of young drivers and to reduce the road toll.

Mr WYNNE (Minister for Housing) — The member for Brighton raised a matter for the Minister for Water seeking the minister's support for improved quality of water for the Patterson Lakes and that the water quality be brought up to swimming standard. I will make sure the minister is aware of that matter.

The member for Cranbourne raised a matter for the Minister for Consumer Affairs seeking the minister's support for the implementation of the very important curtain and blind cord safety program, which the minister has been rolling out. As we know, tragically there have been deaths every year of young children who have been strangled by cords on curtains and blinds. This is also a timely reminder in relation to toy safety more generally. I will make sure the minister is aware of that request.

The member for Murray Valley raised a matter for the Attorney-General seeking the his support for both the application process and the expediting of justice of the peace applications more generally but specifically in his electorate, and I will make sure the Attorney-General is aware of that matter.

The member for Yan Yean raised a matter for the Minister for Community Services advocating the development of residential respite care facilities in the city of Whittlesea, and I will ensure that the Minister for Community Services is aware of that matter.

The member for South-West Coast raised a matter for the Premier seeking the Premier's intervention and support by way of an ex gratia payment for the Davis family and in particular Mr Davis, a cray fisherman who undertook an extraordinary rescue of some people, under the good Samaritan provisions, and I will make sure the Premier is made aware of that request.

The member for Ferntree Gully raised a matter for the Minister for Water seeking the minister's support for the resolution of drainage issues in the Lysterfield West drainage scheme and associated housing impacts and indicated his advocacy to Melbourne Water and the Knox City Council in relation to that matter.

The member for Preston raised a matter for the Minister for Consumer Affairs. It was a timely reminder for those of us who deal with social networking sites such as Facebook, with which we are all very familiar, and the potential privacy concerns that pertain to those social networking sites. I will make sure the Minister for Consumer Affairs is aware of that request.

The member for Nepean raised a matter for the Minister for Planning seeking that the minister call in a planning application by the Dromana Bay Life Saving Club for community facilities proposed to be built down there which are currently slated for consideration by the Victorian Civil and Administrative Tribunal in March next year.

Finally, the member for Forest Hill asked the Minister for Small Business for further support for the traders in her area. In particular she sought the minister's support for meetings to be organised so the minister can meet with small businesses in the member's area to further articulate the government's program of support for small business.

The SPEAKER — Order! The house is now adjourned.

House adjourned 5.02 p.m. until Tuesday, 10 August.