PARLIAMENT OF VICTORIA

PARLIAMENTARY DEBATES (HANSARD)

LEGISLATIVE COUNCIL

FIFTY-SEVENTH PARLIAMENT

FIRST SESSION

Thursday, 27 October 2011

(Extract from book 15)

Internet: www.parliament.vic.gov.au/downloadhansard

By authority of the Victorian Government Printer

The Governor

The Honourable ALEX CHERNOV, AO, QC

The Lieutenant-Governor

The Honourable Justice MARILYN WARREN, AC

The ministry

Premier and Minister for the Arts	The Hon. E. N. Baillieu, MP
Deputy Premier, Minister for Police and Emergency Services, Minister for Bushfire Response, and Minister for Regional and Rural Development	The Hon. P. J. Ryan, MP
Treasurer	The Hon. K. A. Wells, MP
Minister for Innovation, Services and Small Business, and Minister for Tourism and Major Events	The Hon. Louise Asher, MP
Attorney-General and Minister for Finance	The Hon. R. W. Clark, MP
Minister for Employment and Industrial Relations, and Minister for Manufacturing, Exports and Trade	The Hon. R. A. G. Dalla-Riva, MLC
Minister for Health and Minister for Ageing	The Hon. D. M. Davis, MLC
Minister for Sport and Recreation, and Minister for Veterans' Affairs	The Hon. H. F. Delahunty, MP
Minister for Education	The Hon. M. F. Dixon, MP
Minister for Planning	The Hon. M. J. Guy, MLC
Minister for Higher Education and Skills, and Minister responsible for the Teaching Profession	The Hon. P. R. Hall, MLC
Minister for Multicultural Affairs and Citizenship	The Hon. N. Kotsiras, MP
Minister for Housing, and Minister for Children and Early Childhood Development	The Hon. W. A. Lovell, MLC
Minister for Corrections, Minister for Crime Prevention and Minister responsible for the establishment of an anti-corruption commission	The Hon. A. J. McIntosh, MP
Minister for Public Transport and Minister for Roads	The Hon. T. W. Mulder, MP
Minister for Ports, Minister for Major Projects, Minister for Regional Cities and Minister for Racing	The Hon. D. V. Napthine, MP
Minister for Gaming, Minister for Consumer Affairs, and Minister for Energy and Resources	The Hon. M. A. O'Brien, MP
Minister for Local Government and Minister for Aboriginal Affairs	The Hon. E. J. Powell, MP
Assistant Treasurer, Minister for Technology and Minister responsible for the Aviation Industry	The Hon. G. K. Rich-Phillips, MLC
Minister for Environment and Climate Change, and Minister for Youth Affairs	The Hon. R. Smith, MP
Minister for Agriculture and Food Security, and Minister for Water	The Hon. P. L. Walsh, MP
Minister for Mental Health, Minister for Women's Affairs and Minister for Community Services	The Hon. M. L. N. Wooldridge, MP
Cabinet Secretary	Mr D. J. Hodgett, MP

Legislative Council committees

Privileges Committee — Ms Darveniza, Mr D. M. Davis, Mr P. R. Davis, Mr Hall, Ms Lovell, Ms Pennicuik and Mr Scheffer.

Procedures Committee — The President, Mr Dalla-Riva, Mr D. M. Davis, Mr Hall, Mr Lenders, Ms Pennicuik and Mr Viney

Legislative Council standing committees

Economy and Infrastructure Legislation Committee — Mr Barber, Ms Broad, Mrs Coote, #Ms Crozier, Mr Drum, Mr Finn, #Mr Ondarchie, Ms Pulford, Mr Ramsay and Mr Somyurek.

Economy and Infrastructure References Committee — Mr Barber, Ms Broad, Mrs Coote, #Ms Crozier, Mr Drum, Mr Finn, #Mr Ondarchie, Ms Pulford, Mr Ramsay and Mr Somyurek.

Environment and Planning Legislation Committee — Mr Elsbury, #Mr Finn, #Ms Hartland, Mrs Kronberg, Mr Ondarchie, Ms Pennicuik, #Mrs Petrovich, Mrs Peulich, Mr Scheffer, *Mr Tarlamis, Mr Tee and Ms Tierney.

Environment and Planning References Committee — Mr Elsbury, #Mr Finn, #Ms Hartland, Mrs Kronberg, Mr Ondarchie, Ms Pennicuik, #Mrs Petrovich, Mrs Peulich, Mr Scheffer, Mr Tee and Ms Tierney.

Legal and Social Issues Legislation Committee — Ms Crozier, Mr Elasmar, #Mr Elsbury, Ms Hartland, Ms Mikakos, Mr O'Brien, Mr O'Donohue, Mrs Petrovich, #Mr Ramsay and Mr Viney.

Legal and Social Issues References Committee — Ms Crozier, Mr Elasmar, #Mr Elsbury, Ms Hartland, Ms Mikakos, Mr O'Brien, Mr O'Donohue, Mrs Petrovich, #Mr Ramsay and Mr Viney.

** Inquiry into Environment Protection Amendment (Beverage Container Deposit and Recovery Scheme) Bill 2011*

 # Participating member

Joint committees

Dispute Resolution Committee — (*Council*): Mr D. Davis, Mr Hall, Mr Lenders, Ms Lovell and Ms Pennicuik. (*Assembly*): Ms Allan, Mr Clark, Ms Hennessy, Mr Holding, Mr McIntosh, Dr Napthine and Mr Walsh.

Drugs and Crime Prevention Committee — (*Council*): Mr Leane, Mr Ramsay and Mr Scheffer. (*Assembly*): Mr Battin and Mr McCurdy.

Economic Development and Infrastructure Committee — (*Council*): Mrs Peulich. (*Assembly*): Mr Burgess, Mr Foley, Mr Noonan and Mr Shaw.

Education and Training Committee — (*Council*): Mr Elasmar and Ms Tierney. (*Assembly*): Mr Crisp, Ms Miller and Mr Southwick.

Electoral Matters Committee — (*Council*): Mr Finn, Mr Somyurek and Mr Tarlamis. (*Assembly*): Ms Ryall and Mrs Victoria.

Environment and Natural Resources Committee — (*Council*): Mr Koch. (*Assembly*): Mr Bull, Ms Duncan, Mr Pandazopoulos and Ms Wreford.

Family and Community Development Committee — (*Council*): Mrs Coote and Ms Crozier. (*Assembly*): Mrs Bauer, Ms Halfpenny, Mr McGuire and Mr Wakeling.

House Committee — (*Council*): The President (*ex officio*) Mr Drum, Mr Eideh, Mr Finn, Ms Hartland, and Mr P. Davis.. (*Assembly*): The Speaker (*ex officio*), Ms Beattie, Ms Campbell, Mrs Fyffe, Ms Graley, Mr Wakeling and Mr Weller.

Law Reform Committee — (*Council*): Mrs Petrovich. (*Assembly*): Mr Carbines, Ms Garrett, Mr Newton-Brown and Mr Northe.

Outer Suburban/Interface Services and Development Committee — (*Council*): Mrs Kronberg and Mr Ondarchie. (*Assembly*): Ms Graley, Ms Hutchins and Ms McLeish.

Public Accounts and Estimates Committee — (*Council*): Mr P. Davis, Mr O'Brien and Mr Pakula. (*Assembly*): Mr Angus, Ms Hennessey, Mr Morris and Mr Scott.

Road Safety Committee — (*Council*): Mr Elsbury. (*Assembly*): Mr Languiller, Mr Perera, Mr Tilley and Mr Thompson.

Rural and Regional Committee — (*Council*): Mr Drum. (*Assembly*): Mr Howard, Mr Katos, Mr Trezise and Mr Weller.

Scrutiny of Acts and Regulations Committee — (*Council*): Mr O'Brien and Mr O'Donohue. (*Assembly*): Ms Campbell, Mr Eren, Mr Gidley, Mr Nardella and Mr Watt.

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 COUNCIL

FIFTY-SEVENTH PARLIAMENT — FIRST SESSION

President: The Hon. B. N. ATKINSON

Deputy President: Mr M. VINEY

Acting Presidents: Ms Crozier, Mr Eideh, Mr Elasmar, Mr Finn, Mr O'Brien, Ms Pennicuik, Mr Ramsay, Mr Tarlamis

Leader of the Government:
The Hon. D. M. DAVIS

Deputy Leader of the Government:
The Hon. W. A. LOVELL

Leader of the Opposition:
Mr J. LENDERS

Deputy Leader of the Opposition:
Mr G. JENNINGS

Leader of The Nationals:
The Hon. P. R. HALL

Deputy Leader of The Nationals:
Mr D. DRUM

Member	Region	Party	Member	Region	Party
Atkinson, Hon. Bruce Norman	Eastern Metropolitan	LP	Leane, Mr Shaun Leo	Eastern Metropolitan	ALP
Barber, Mr Gregory John	Northern Metropolitan	Greens	Lenders, Mr John	Southern Metropolitan	ALP
Broad, Ms Candy Celeste	Northern Victoria	ALP	Lovell, Hon. Wendy Ann	Northern Victoria	LP
Coote, Mrs Andrea	Southern Metropolitan	LP	Mikakos, Ms Jenny	Northern Metropolitan	ALP
Crozier, Ms Georgina Mary	Southern Metropolitan	LP	O'Brien, Mr David Roland Joseph	Western Victoria	Nats
Dalla-Riva, Hon. Richard Alex Gordon	Eastern Metropolitan	LP	O'Donohue, Mr Edward John	Eastern Victoria	LP
Darveniza, Ms Kaye Mary	Northern Victoria	ALP	Ondarchie, Mr Craig Philip	Northern Metropolitan	LP
Davis, Hon. David McLean	Southern Metropolitan	LP	Pakula, Hon. Martin Philip	Western Metropolitan	ALP
Davis, Mr Philip Rivers	Eastern Victoria	LP	Pennicuik, Ms Susan Margaret	Southern Metropolitan	Greens
Drum, Mr Damian Kevin	Northern Victoria	Nats	Petrovich, Mrs Donna-Lee	Northern Victoria	LP
Eideh, Mr Khalil M.	Western Metropolitan	ALP	Peulich, Mrs Inga	South Eastern Metropolitan	LP
Elasmar, Mr Nazih	Northern Metropolitan	ALP	Pulford, Ms Jaala Lee	Western Victoria	ALP
Elsbury, Mr Andrew Warren	Western Metropolitan	LP	Ramsay, Mr Simon	Western Victoria	LP
Finn, Mr Bernard Thomas C.	Western Metropolitan	LP	Rich-Phillips, Hon. Gordon Kenneth	South Eastern Metropolitan	LP
Guy, Hon. Matthew Jason	Northern Metropolitan	LP	Scheffer, Mr Johan Emiel	Eastern Victoria	ALP
Hall, Hon. Peter Ronald	Eastern Victoria	Nats	Somyurek, Mr Adem	South Eastern Metropolitan	ALP
Hartland, Ms Colleen Mildred	Western Metropolitan	Greens	Tarlamis, Mr Lee Reginald	South Eastern Metropolitan	ALP
Jennings, Mr Gavin Wayne	South Eastern Metropolitan	ALP	Tee, Mr Brian Lennox	Eastern Metropolitan	ALP
Koch, Mr David Frank	Western Victoria	LP	Tierney, Ms Gayle Anne	Western Victoria	ALP
Kronberg, Mrs Janice Susan	Eastern Metropolitan	LP	Viney, Mr Matthew Shaw	Eastern Victoria	ALP

CONTENTS

THURSDAY, 27 OCTOBER 2011

PAPERS 3963

STATEMENTS ON REPORTS AND PAPERS
Notices 3964

BUSINESS OF THE HOUSE
Adjournment 3964

MEMBERS STATEMENTS
Turkey: earthquake 3964, 3966
Anti-Poverty Week 3965
Man from Snowy River Museum: extension 3965
Standing Committee on Environment and Planning: Kingston green wedge 3965
Maria Wilton 3966
Carbon tax: families 3966
Mining: farmland protection 3967
Football: International Rules test series 3967
Western AG 3967
Maurice Goodear 3967
Eastern Region Mental Health Association 3967

BUSINESS NAMES (COMMONWEALTH POWERS) BILL 2011
Statement of compatibility 3968
Second reading 3969

LEO CUSSEN INSTITUTE (REGISTRATION AS A COMPANY) BILL 2011
Statement of compatibility 3970
Second reading 3971

CHILDREN'S SERVICES AMENDMENT BILL 2011
Second reading 3972
Third reading 3981

VICTORIAN COMMISSION FOR GAMBLING AND LIQUOR REGULATION BILL 2011
Second reading 3981
Committee 3987, 3988, 3996
Third reading 3997

DISTINGUISHED VISITORS 3988, 4013

QUESTIONS WITHOUT NOTICE
Box Hill Hospital: bed numbers 3990
Housing: work and learning centres 3990
Hospitals: bed numbers 3990, 3991
BreastScreen Victoria: government support 3991
South West Healthcare: funding 3991, 3992
Vocational education and training: funding 3992
East Wimmera Health Service: Charlton services 3993
Recruitment industry: performance 3994
Rail: regional link 3994, 3995
Urban Renewal Authority: board appointments 3995

ENERGY LEGISLATION AMENDMENT (BUSHFIRE MITIGATION AND OTHER MATTERS) BILL 2011
Second reading 3997
Committee 4008, 4013
Third reading 4013

GAMBLING REGULATION AMENDMENT (LICENSING) BILL 2011
Second reading 4013
Committee 4024
Third reading 4029

VICTORIAN RESPONSIBLE GAMBLING FOUNDATION BILL 2011
Introduction and first reading 4029
Statement of compatibility 4030
Second reading 4030

WATER LEGISLATION AMENDMENT (WATER INFRASTRUCTURE CHARGES) BILL 2011
Introduction and first reading 4031
Statement of compatibility 4032
Second reading 4033

TRANSPORT LEGISLATION AMENDMENT (PUBLIC TRANSPORT DEVELOPMENT AUTHORITY) BILL 2011
Introduction and first reading 4034
Statement of compatibility 4034
Second reading 4035

SENTENCING AMENDMENT (COMMUNITY CORRECTION REFORM) BILL 2011
Introduction and first reading 4037
Statement of compatibility 4037
Second reading 4040

ELECTRICITY INDUSTRY AMENDMENT (TRANSITIONAL FEED-IN TARIFF SCHEME) BILL 2011
Introduction and first reading 4042
Statement of compatibility 4042
Second reading 4043

ADJOURNMENT
Desalination plant: costs 4044
Geelong–Greenhill roads, Mount Helen: pedestrian safety 4044
Legal practitioners: retail tenancy fees 4045
Wine industry: smoke taint 4046
Geelong Ring Road: section 4C alignment 4046
Respite care: city of Wyndham 4047
Courage to Care: exhibition 4047
Information and communications technology: national broadband network 4048
Disability services: parking permit scheme 4048
Wedge–Frankston-Dandenong roads, Carrum Downs: traffic management 4048
Youth: mentoring programs 4049
Victorian certificate of applied learning: funding 4049
Responses 4049

Thursday, 27 October 2011

The PRESIDENT (Hon. B. N. Atkinson) took the chair at 9.33 a.m. and read the prayer.

PAPERS

Laid on table by Clerk:

Australian Grand Prix Corporation — Report, 2010–11.

Barwon Regional Waste Management Group — Minister's report of receipt of 2010–11 report.

Calder Regional Waste Management Group — Minister's report of receipt of 2010–11 report.

Central Murray Regional Waste Management Group — Minister's report of receipt of 2010–11 report.

Commissioner for Law Enforcement Data Security — Report, 2010–11.

Desert Fringe Regional Waste Management Group — Minister's report of receipt of 2010–11 report.

Docklands Studios Melbourne Pty Ltd — Report, 2010–11.

Gippsland Regional Waste Management Group — Minister's report of receipt of 2010–11 report.

Goulburn Valley Regional Waste Management Group — Minister's report of receipt of 2010–11 report.

Grampians Regional Waste Management Group — Minister's report of receipt of 2010–11 report.

Health Department — Report, 2010–11.

Highlands Regional Waste Management Group — Minister's report of receipt of 2010–11 report.

Mildura Regional Waste Management Group — Minister's report of receipt of 2010–11 report.

Mornington Peninsula Regional Waste Management Group — Minister's report of receipt of 2010–11 report.

National Parks Advisory Council — Report, 2010–11.

North East Regional Waste Management Group — Minister's report of receipt of 2010–11 report.

Office of Police Integrity — Crossing the Line: Report of an investigation into the conduct of a member of Victoria Police undertaking secondary employment as a Ministerial Adviser and his relationship with a Deputy Commissioner of Victoria Police, October 2011.

Ombudsman — Report on the Investigation into how universities deal with international students, October 2011.

Phillip Island Nature Parks — Report, 2010–11.

South West Regional Waste Management Group — Minister's report of receipt of 2010–11 report.

Sustainability Victoria — Report, 2010–11.

Terrorism (Community Protection) Act 2003 —

Report pursuant to section 21M of the Act, 2009–10.

Report pursuant to section 21M of the Act, 2010–11.

Treasury and Finance Department — Report, 2010–11.

Victorian Catchment Management Council — Report, 2010–11.

Victorian Funds Management Corporation — Report, 2010–11.

Mr Barber — On a point of order, President, in relation to the just-tabled report by the OPI (Office of Police Integrity), it appears that the report has been extensively highlighted in the *Herald Sun* this morning. We will find out in a moment if its report is accurate and it has in fact been given comment. This appears to be, at a minimum, a discourtesy to the house. I would like to ask you if you would pursue that with the responsible minister, the Minister for Police and Emergency Services. Alternatively, can you advise me whether I would need to raise such a matter by substantive motion?

Mr Finn — On the point of order, President, my understanding is that the report was posted around 11 o'clock last night on the OPI website — the OPI says by accident. That is the reason, apparently, that the *Herald Sun* has access to that report. Whether you will follow it up in terms of what the OPI's exact intentions were I do not know, but that seems — and I emphasise seems — to be the case at this point.

The PRESIDENT — Order! I thank Mr Finn for his input on this matter. It certainly provides some assistance to me. I note Mr Barber's point of order, and I indicate to the house that in formal terms there is probably little available to me in the way of power to pursue this sort of matter. The ability of the Parliament to pursue such a matter is almost invariably by way of substantive motion, I would have thought. That is clearly a path that is open to members of the house to take. As a Presiding Officer I do not have any power that I am aware of to actually follow up this matter formally. I do, however, share the disquiet that is implicit in the point of order that Mr Barber raised. To some extent it seems to raise the question of whether we really want or need a Parliament going forward, because if we are going to have material that is leaked without — —

Mr Barber interjected.

The PRESIDENT — Order! It is not all upon Mr Barber's head.

Mr Barber — I withdraw the point of order!

The PRESIDENT — Order! Mr Barber is only one-thirty-ninth of the problem. He used the word 'discourteous'. If nothing else, I think there is a discourtesy to the house — some might suggest, in purist terms, a contempt of the house — where information in reports that it is the prerogative of the house to consider first is leaked to other parties, particularly to the media. There could well be a select amount of information provided by that report that establishes an immediate community perception that might not be accurate. That is a matter of some concern. The ability of the house to make judgements that might also be considered to give effective and balanced media coverage on these matters is, I think, an important factor.

In terms of annual reports that are required to be tabled under the rules of the house, we really work more by a convention, as I understand, rather than by provisions of standing orders that specifically preclude information in those reports from being provided to other parties before they reach the Parliament. But certainly it is a very longstanding convention that the reports are not discussed until they are actually read out by the Clerk. In fact they are not made available to members of Parliament until they are tabled in this house, and it is my understanding that the media does not have access to those reports until they are tabled. That is a fairly longstanding convention.

In regard to the report Mr Barber referred to in his point of order — it was referred to by the Clerk this morning — it would have been my hope that such a report would come to the Parliament before it was made available to other people. As Mr Finn has said, it might well be that this is an inadvertent situation and somebody has made a mistake. I guess the old theory about conspiracy or — I have actually got a word but I cannot use it.

Honourable members interjecting.

The PRESIDENT — Order! 'Blunder' is better than the word that was in my mind. You usually opt for blunder, and it may well be the case that this was a blunder. I view the matter with some concern, and I will discuss it with the minister, albeit that it may not be the minister who has had anything to do with the report having made an early entrance into the public arena. It might well be an inadvertent administrative situation at the OPI, as Mr Finn alerted the house to. I appreciate the comments he made about that.

STATEMENTS ON REPORTS AND PAPERS

Notices

Mrs COOTE (Southern Metropolitan) — On a point of clarification, President, do the notices listed on the notice paper lapse because we did not do reports this week? Do we have to put in new ones?

The PRESIDENT — Order! No, they are listed on the notice paper, so Mrs Coote would have the opportunity to talk to hers next Wednesday unless she wants to opt for a different report — the Office of Police Integrity report might be topical.

Mrs COOTE — No, I would like to speak on another topical one. I give notice that next Wednesday I will make a statement on the Ombudsman's report *Investigation regarding the Department of Human Services Child Protection program (Loddon Mallee Region)*.

The PRESIDENT — Order! Is Mrs Coote withdrawing the item that is currently on the notice paper and replacing it with this one?

Mrs COOTE — Yes.

Further notices given.

BUSINESS OF THE HOUSE

Adjournment

Hon. D. M. DAVIS (Minister for Health) — I move:

> That the Council, at its rising, adjourn until Tuesday, 8 November 2011.

Motion agreed to.

MEMBERS STATEMENTS

Turkey: earthquake

Mr SOMYUREK (South Eastern Metropolitan) — It is with great sorrow that once again I rise to express my condolences following a natural disaster in some part of our world. This year alone I have stood in this place to express my condolences to the victims of earthquakes in Japan and New Zealand and victims of floods in our own country and state. This time I rise to express my condolences to the hundreds of victims of an earthquake in the country in which I was born — Turkey. The threat of earthquakes is a part of everyday

life in Turkey, as the country sits on a number of geological fault lines. Members may still remember the deadly earthquake in 1999 which killed 17 000 people and left 500 000 people homeless in north-western Turkey.

I have a connection to this earthquake through my wife, who was born in Van Province and resided there until she was 15 years of age. Whilst none of my wife's family members were injured in the earthquake, many of them lost their homes. The people of Van Province have tough lives as it is without natural disasters exacerbating their grief. Van Province is one of the least developed provinces of Turkey. It sits on the far eastern outskirts of the country, bordering Iran, and has a majority Kurdish population, which makes it a prime target of terrorist activity by a Marxist-Leninist organisation called the PKK.

I offer my condolences to the people of Van Province and to all Victorians and Australians with family and friends residing in Van Province during these difficult times.

Anti-Poverty Week

Hon. W. A. LOVELL (Minister for Housing) — Last week was Anti-Poverty Week, a chance for us all to reflect on how we can assist those who are less fortunate than ourselves. During the week I was privileged to be involved with a number of events and programs which aim to assist those in need. The first of those was the launch of the G21 state of our children report, *Growing Up in G21 — The Health and Wellbeing of Children 0–8 Years in the G21 Region*, which is a report that will assist all levels of government to better plan early childhood services in the G21 region — services which can make a real difference to a child's welfare and education.

I was also pleased to join the Premier in fulfilling an election commitment by announcing the location of two new work and learning centres which will assist public housing tenants in North Geelong and Carlton to access education and training opportunities and to engage in employment. Opening a new housing development in Brunswick, delivered by Yarra Community Housing, was also a highlight.

Some of the more sobering activities I participated in included: meeting with Registry Week volunteer teams, who spent three nights on the streets of Melbourne to record the number of rough sleepers; serving meals at St Mary's House of Welcome, which allowed me to see firsthand the wonderful work of Sister Roseanne and her team — and I thank the numerous MPs from both sides of the chamber who also volunteered; and launching the Salvation Army's *No Home at the End of the Road?* research report on housing for single older women, a cohort I am extremely concerned about as very few have decent superannuation. For many older women, poverty is a real threat.

The Baillieu government is committed to offering opportunities to all Victorians to assist them to build better lives for themselves.

Man from Snowy River Museum: extension

Ms DARVENIZA (Northern Victoria) — I was pleased last week to visit Corryong and attend the official opening of the Man from Snowy River Museum extension and new exhibition space, which has a custom-designed cabinet to house the Jim Simpson rug. Mr Jim Simpson was a Royal Australian Air Force World War II veteran who was gunned down and captured by the German army in 1943. During his time as a prisoner of war he knitted a large rug that depicts a map of Australia and the coat of arms.

In July 2009 I announced a $200 000 Regional Development Victoria Small Towns Development Fund grant for the museum expansion. This extension preserves, in Corryong, one of Australia's most precious items of war memorabilia. A large crowd attended the opening, joined by Cr Peter Joyce, the mayor of Towong shire; Christopher Crowley, Royal Australian Air Force group captain; Mr John Whitehead, president of the Upper Murray Historical Society; Ms Marita Albert, the Man from Snowy River Museum project officer; and Mr Jim Simpson himself.

The extension is a very beautiful space, and the exhibition of the Jim Simpson rug is really quite outstanding. It not only makes it easier for visitors to view the rug but also ensures that the rug is preserved. Congratulations to all involved in the extension.

Standing Committee on Environment and Planning: Kingston green wedge

Mrs PEULICH (South Eastern Metropolitan) — I wish to place on record my sincere and deep concern regarding the unprecedented cancellation of a site visit involving Labor and Greens MPs who pulled out of a parliamentary visit to the Kingston green wedge following what appears to be the intervention of third parties, and information about that cancellation not being available to the other committee members. It was very embarrassing to find out about the cancellation from the mayor of Kingston, following the arrangements made by committee staff as well as the

City of Kingston to visit a number of existing landfilling activities, Sandbelt Open Space Project locations, businesses operating within the Kingston green wedge, areas where land use has ceased and is in transition, and the Waterways residential estate.

The Standing Committee on Environment and Planning has been set up by the Legislative Council of the Victorian Parliament to inquire into and report on planning and the use and protection of land to build healthy communities. It is chaired by Ms Gayle Tierney. I am the deputy chair, and it was most embarrassing that as deputy chair I had to find out from a third party about the cancellation of the visit. In my view it certainly reflects improper regard for due committee processes, but most importantly it reflects poorly on the Legislative Council and the staff and members of Parliament who serve on the committee. What is also very disappointing is that Mr Brian Tee, a committee member, is prepared to receive protesters on this very issue on the steps of Parliament House, as well as make all sorts of allegations about impropriety, but is not prepared to view the problems firsthand. What are the Greens and Labor afraid of?

The PRESIDENT — Order! In respect of that matter, Mrs Peulich is entitled to raise it. Notwithstanding that, when members refer to committee proceedings or the activities of committees they need to be very careful, because committees are bound by procedures and a measure of confidentiality. This matter does perturb me in so much as there has clearly been some sort of breakdown in communication. I am aware that this site visit was cancelled. Indeed, as I understand, there has been some media coverage of it in the local area. Given that it has been raised in this house today — if I had my druthers, I would have preferred that it were not, but given that it has been raised — I implore the members of this particular committee to convene a meeting at the earliest opportunity and to establish when that site visit is to go ahead because, as I understand it, it has been deferred rather than cancelled. It is imperative to me, and I think to the house, that that committee work judiciously and constructively towards the completion of the brief that has been provided to that committee. I urge the chairman and deputy chairman to discuss a meeting at the earliest opportunity to ensure that the continued process of that committee is undertaken.

Mrs Peulich — On a point of order, President, thank you for your comments. Could I just add that nothing that I said in my members statement was based on any information derived from the committee. As I said, it was embarrassing to find out about the cancellation of the visit through a third party that has been left with substantial cost that it has to meet as a result — —

The PRESIDENT — Order! Mrs Peulich is debating. What she has just said about not drawing on committee confidentiality is exactly what I have said. I do not wish to have the matter debated as part of a point of order.

Maria Wilton

Mr LENDERS (Southern Metropolitan) — The first matter I wish to raise today is a pink ribbon breakfast. On Sunday I had the great pleasure of attending a pink ribbon breakfast at the home of Maria Wilton in Edithvale. Maria was motivated to get involved in this area, as people so often are, by the tragic loss of a friend some years ago to breast cancer. Maria is one of those can-do executives in the finance sector who decided to do something about it. She has had a pink ribbon breakfast each year for a number of years.

This year 404 people attended Maria's home, and she raised more than $25 000 — one citizen raised that at a single breakfast. This is the fifth or sixth time she has held a pink ribbon breakfast. I have attended a few times, and I want to pay tribute to her. Her objective is to further bring down the number of women who die from breast cancer after being diagnosed with it. Several years ago 4 out of 10 died; it is now 1 in 10. Maria is one of those passionate women who wants to bring the figure down to zero, so I pay tribute to her.

Turkey: earthquake

Mr LENDERS — Secondly I would like to follow up on Mr Somyurek's point about the earthquake in Turkey. We often have an opportunity to condole with those who suffer tragedies. This is one of those great tragedies. There is no motion before the house, but I support Mr Somyurek's comments. There were many people who lost loved ones. Sometimes we focus on the terror of an earthquake, sometimes we do not, but for those people it was a terror. I send my condolences to them, and I congratulate Mr Somyurek for bringing it to the attention of the house.

Carbon tax: families

Mr BARBER (Northern Metropolitan) — It is official, and it must be true because it is in the *Herald Sun*. Worryingly for the coalition, it is on page 11. The budgets of Victorian low and middle-income families will be better off under the Clean Energy Future package. In the paper we see a family from Forest Hill,

Ms Melanie Povey, Chris Bakopoulos and little Audrey, who know that their present will be protected and the future for Audrey and her children will be a lot better as a result of the introduction of that package. At least half of the members over there are spending a lot of time reading up on the latest climate change denialism, hoping to wish the problem away, but the political reality is that at every election there will be a contest between our policies and the coalition's policies to reduce greenhouse emissions. They will be tested at every election.

Government members should spend more time reading their own policy, the Greg Hunt-inspired Direct Action policy. In any case, I am happy to come in here and explain our policies — and their policies — to them, because they are at the bottom of a rope, and the only way they have got now is a very long and arduous haul back up that rope. I can guarantee them that they will never catch up with us.

Mining: farmland protection

Mr EIDEH (Western Metropolitan) — I cannot believe the state government has already decided that farms, orchards and family heritage have no value as compared to great big holes in the ground. Yet that is exactly what the Premier, Mr Baillieu, is endorsing by declaring that coalmines have more value in his eyes than do the agricultural industries that put food on our plates. The website of The Nationals proclaims:

> Our base and heart is in rural Victoria, its regional towns and its cities. Our first priority is, and always has been, to the people to live and work in these communities.

Why then have The Nationals remained silent on this issue? As someone with a long and successful history in business I well understand the need to safeguard the economy of our state, but that does not mean that we should sacrifice the agricultural economy for more dirty coalmines. I cannot understand how this government is opposed to clean wind farm generation and instead wants more dirty coalmines at the expense of our farming sector. I now wonder whether this government still believes in climate change, clean energy and a fair go for Victorian farmers. Clearly under this government our state is heading in the wrong direction.

Football: International Rules test series

Mr O'BRIEN (Western Victoria) — As co-convenor of the Australia-Ireland Parliamentary Friendship Group I would like to welcome the members of the Gaelic Athletic Association to Melbourne for the first test of the International Rules football match this Friday night at Etihad Stadium. International Rules football is a truly unique game. It is a combination of two of the best forms of football played in the world: Australian Rules and Gaelic football. Having played both games at a local level, I can attest that they are games of skill, courage, athleticism and often played with a bit of humour. It is a great honour for those who are selected to play and represent each nation at the highest level of their sport.

I wish all players all the best for the game and encourage honourable members and their families to attend. I note that the Victorian state government supports the event. The first match of the 2011 series between Australia and Ireland will be played this Friday, and the second match will be held in Queensland.

Western AG

Mr O'BRIEN — Further, I would like to congratulate Western AG on the opening of its office, which is anticipated to be tomorrow. Western AG is a successful independent supplier of agronomic advice and farm products from four localities across the Western District of Victoria and the southern Wimmera. Its head office is located in Derrinallum, which is 90 kilometres south-west of Ballarat, and other branches include the new Bannockburn branch near Geelong; Willaura, south of Ararat; and Horsham in the Wimmera.

Maurice Goodear

Mr O'BRIEN — I would like to pay my respects on the passing of Maurice Goodear, who died at age 90. Maurice was an ex-serviceman who served his country, and he will be greatly missed by all his family and friends in Portland.

Eastern Region Mental Health Association

Mr TARLAMIS (South Eastern Metropolitan) — Last Monday I attended the Eastern Region Mental Health Association's annual general meeting. ERMHA is a community-based organisation that supports recovery and instils hope for people who are experiencing the effects of a severe mental illness. Many of ERMHA's clients have complex needs associated with a disability, substance abuse or housing instability. The outstanding work undertaken by over 150 dedicated people across 14 locations for people who experience severe mental illness and the inherent complex needs that stem from this must be commended. This is an organisation with prevailing respect for the dignity of its clients, as evidenced through the range of support services such as day

programs, outreach, residential and specialist support, and personal support in areas such as housing, job training and life skills.

Members of the house may be familiar with the innovative MadCap Cafe program, which assists people who are experiencing severe mental illness to enter the workforce. It provides a six-month transitional employment program that offers consistent professional support, real on-the-job experience and a 'no wrong step' approach. It provides supported opportunities to learn and master social and job skills that promote self-confidence and competence that will assist with future employment. So far MadCap cafes have opened at Dandenong Plaza and Fountain Gate, with a new cafe due to be opened shortly in Geelong.

ERMHA is experiencing significant growth in demand, mainly due to the rapid population growth in the city of Casey and the wider south-east. It is imperative that the state government increase funding for support packages provided by ERMHA to keep up with the increased growth it is experiencing. I would like to conclude by commending the chief executive officer, Peter Waters, and all the board members, staff and volunteers for the vital work they do.

BUSINESS NAMES (COMMONWEALTH POWERS) BILL 2011

Statement of compatibility

Hon. M. J. GUY (Minister for Planning) tabled following statement in accordance with Charter of Human Rights and Responsibilities Act 2006:

In accordance with section 28 of the Charter of Human Rights and Responsibilities Act 2006 (charter act), I make this statement of compatibility with respect to the Business Names (Commonwealth Powers) Bill 2011.

In my opinion, the Business Names (Commonwealth Powers) Bill 2011, as introduced to the Legislative Council, is compatible with the human rights protected by the charter act. I base my opinion on the reasons outlined in this statement.

Overview of bill

The purpose of this bill (the adoption bill) is to adopt what will become the Business Names Registration Act 2011 (cth) (the Business Names Act) and the Business Names Registration (Transitional and Consequential Provisions) Act 2011 (cth) (the Business Names Transitional Act), and to refer certain matters relating to the registration and use of business names to the Parliament of the commonwealth for the purposes of section 51 (xxxvii) of the constitution of the commonwealth, but only to the extent of the making of laws with respect to these matters by making express amendments of the Business Names Act and Business Names Transitional Act.

The adoption bill will also repeal the Business Names Act 1962 and make transitional and consequential arrangements necessary as a result of that repeal.

The adoption bill is intended to implement Victoria's commitments under the 2009 Intergovernmental Agreement for Business Names Agreement (IGA), which records the Council of Australian Governments decision to establish a national business names registration scheme, to be administered by the Australian Securities and Investments Commission (ASIC).

This statement assesses the compatibility of the adoption bill, the Business Names Act and the Business Names Transitional Act with the charter act.

The Business Names Act and Business Names Transitional Act to be adopted by the bill are not subject to the interpretative obligation under section 32 of the charter act because both will operate as commonwealth legislation. The power to make declarations of inconsistent interpretation under section 36(1) of the charter act will likewise not be available. Furthermore, ASIC is not a public authority for the purposes of the charter act.

While the Business Names Act and Business Names Transitional Act will operate outside the charter act's protections, it is not possible to achieve the aims of the national business names scheme without adopting that legislation. A national business names registration system will significantly reduce the bureaucracy, administrative cost and fees associated with registering business names, as well as improve knowledge and certainty for Australian businesses. It will eliminate the inconvenience for business to engage with the registration office of each state and territory, and pay duplicate fees for registration and access to information.

It is not possible to assess the charter act compatibility of any future amendments that may be made by the commonwealth Parliament in an exercise of the referred power to make amendments to the Business Names Act or Business Names Transitional Act. However, under clause 4.4(1) of the IGA, the commonwealth cannot repeal or amend the national law without the approval of the Ministerial Council for Corporations, unless the amendment is of a minor or technical nature or could be made without reliance on state referrals of power.

Human rights issues

1. Evidential onuses

The commonwealth legislation contains a number of regulatory offences that impose an evidential onus on a defendant to adduce or point to evidence that goes to an exception, excuse or defence (sections 18(2), 19(5), 20(3), 21(2), 77(2) and 77(4) of the Business Names Act and items 25(2) and 25(4) of schedule 1 to the Business Names Transitional Act).

Right to be presumed innocent (section 25(1))

Section 25(1) of the charter act provides that a person charged with a criminal offence has the right to be presumed innocent until proved guilty according to law. A provision that shifts the burden of proof to the accused, or applies a presumption of fact operating against an accused, engages this right.

In my view, these provisions do not transfer the legal burden of proof, because once the defendant has adduced or pointed to some evidence, the burden is on the prosecution to prove beyond reasonable doubt the absence of the exception raised. Furthermore, the burdens do not relate to essential elements of the offences and are only imposed on the defendant to raise facts that support the existence of an exception, defence or excuse. I consider this is appropriate in respect of each of these offences because the defences and excuses provided in these acts relate to regulatory matters within the knowledge of the defendant, who will possess the relevant records and documents needed to establish the excuse or defence. Without an evidential onus on the defendant, it will be too difficult and onerous for the Crown to investigate and prove the absence of an excuse or defence beyond reasonable doubt.

Accordingly, I consider the above sections to be compatible with the right to be presumed innocent in the charter act.

2. Restrictions on words and expressions

Section 27 of the Business Names Act provides that the minister may, by legislative instrument, determine the kinds of names that are undesirable for the purposes of this scheme. Section 28 of the Business Names Act provides that the minister may, by legislative instrument, determine that a word or expression is restricted completely or restricted in relation to a specific class of entity or business unless certain conditions are met. These provisions engage the right to freedom of expression in the charter act.

Right to freedom of expression (section 15)

Section 15(2) of the charter act provides that every person has the right to freedom of expression which includes the freedom to seek, receive and impart information and ideas of all kinds. Restricting the availability of business names that can be registered restricts this freedom to impart information and ideas.

However, the right to freedom of expression includes special duties and responsibilities and may be limited pursuant to section 15(3) to respect the rights of others, or for the protection of national security, public order, public health or public morality.

This restriction is to prevent the registration of names that are either undesirable due to their offensive nature or are likely to be misleading to consumers, particularly in relation to certain regulated specialist industries. The Business Names Act allows affected entities to apply to the minister for permission to use a name that has been declared as undesirable (section 27(2)) and to seek internal and administrative review of such decisions (section 56). I conclude that any limits on the freedom of expression are reasonably necessary under section 15(3) for the purposes of public order and public morality.

Conclusion

I consider that the adoption bill, the Business Names Act and the Business Names Transitional Act are all compatible with the Charter of Human Rights and Responsibilities because although some provisions do engage human rights, these provisions do not limit these rights.

Hon. Matthew Guy, MLC
Minister for Planning

Second reading

Hon. M. J. GUY (Minister for Planning) — I move:

That the bill be now read a second time.

The purposes of the Business Names (Commonwealth Powers) Bill 2011 are to: adopt national laws for the registration of business names and provide the commonwealth with a referral of power to make future amendments to those laws; repeal Victoria's business names registration legislation; and provide for consequential and transitional provisions necessary as a result of the move to a national scheme for business names registration.

Currently, entities carrying on a business under a trading name (that is, a name that is not an individual's own name or a corporation's corporate name) are required to register that name in the Australian state or territory in which the business is carried on.

In Victoria, the Business Names Act 1962 requires entities to register their business names with Consumer Affairs Victoria, which administers and maintains a publicly available register of business names.

Mr Lenders — On a point of order, President, if the minister seeks to incorporate the bill by leave, leave will be given on the second reading.

The PRESIDENT — Order! The bill originated in the Legislative Council, so as a matter of courtesy to the house Mr Guy was prepared to read it. I appreciate the offer of the Leader of the Opposition. If Mr Guy would like to avail himself of the opportunity to simply table the second-reading speech, that would be in order. It is Mr Guy's prerogative to either read the speech or accept the opportunity to table it.

Hon. M. J. GUY — Thank you, President, and I thank the Leader of the Opposition for his generous offer. My understanding is that the speech is to be read out, so I will continue.

This register assists the community to identify individuals or entities operating under particular business names in Victoria. If a Victorian business wishes to operate interstate, it must separately register its business name under the business names legislation of the state or territory in which it proposes to carry on business.

In 2005, Prime Minister Howard established a task force, led by the chairman of the Productivity Commission, Gary Banks, to identify options for reducing regulatory burden on business. This task force

recommended the streamlining of business names, Australian business numbers and related licensing and registration processes.

Following the release of the task force report, the Council of Australian Governments agreed in 2009 to transfer responsibility for the registration of business names from states and territories to the commonwealth government.

The bill delivers on Victoria's commitments under the Council of Australian Governments' 2009 agreement by providing for the adoption of what will become the Business Names Registration Act 2011 of the commonwealth and the Business Names Registration (Consequential and Transitional Provisions) Act 2011 of the commonwealth. Both of these laws have been passed by the commonwealth Parliament.

The bill also refers power to the commonwealth to make future amendments to the commonwealth laws. This amendment reference is tightly confined, to protect areas of state legislative responsibility that are not intended to be referred to the commonwealth, such as the registration of cooperatives, incorporated associations and partnerships.

The commonwealth laws will operate concurrently with Victorian laws and this Parliament may still enact legislation that displaces or excludes the operation of the commonwealth laws or specified provisions of those laws.

The bill also repeals the Business Names Act and makes consequential and transitional amendments to other Victorian legislation to ensure a smooth transfer to the new national business names scheme. In particular, transitional provisions:

permit the transfer of data from the Victorian business names register administered by Consumer Affairs Victoria to the Australian Securities and Investments Commission for the establishment of the national register;

recognise that applications, renewals, cancellations and other processes in progress in Victoria on commencement of the national scheme will be completed by Consumer Affairs Victoria;

maintain existing appeal rights for cancellation decisions made under section 19 of the Business Names Act by the director of Consumer Affairs Victoria; and

enable renewal notices to be issued three months prior to a registration's expiry, to avoid a backlog of outstanding renewals at the transition date.

The bill will also amend the Partnership Act 1958, the Associations Incorporation Act 1981 and the Co-operatives Act 1996 to ensure that a name will not be available for registration by a partnership, incorporated association or cooperative if that name is registered to another entity on the national register. Finally, the bill makes minor consequential amendments to a range of other Victorian acts, including to update references to the Business Names Act with references to the Business Names Registration Act 2011 of the commonwealth.

In providing for the adoption of the new national business names laws, the bill supports the establishment of a national business names registration scheme that will allow businesses to operate nationally under a single registered name. The creation of a national business names register will remove the inconvenience and potential confusion caused by multiple registrations across different states and territories, and ensure that only one set of rules applies throughout Australia regarding business name registration. Current administrative and financial burdens associated with registering in multiple jurisdictions will be removed.

The new national business names process will be an on-line service provided by the Australian Securities and Investments Commission. The new system is anticipated to commence in the first half of 2012. This bill ensures that Victoria has played its part in making this new system a success, thereby reducing red tape for Victorian businesses and making it easier for Victorian consumers to find out information about the businesses they come into contact with.

I commend the bill to the house.

Debate adjourned for Hon. M. P. PAKULA (Western Metropolitan) on motion of Mr Leane.

Debate adjourned until Thursday, 10 November.

LEO CUSSEN INSTITUTE (REGISTRATION AS A COMPANY) BILL 2011

Statement of compatibility

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) tabled following statement in accordance with Charter of Human Rights and Responsibilities Act 2006:

In accordance with section 28 of the Charter of Human Rights and Responsibilities Act 2006 (charter act), I make this statement of compatibility with respect to the Leo Cussen Institute (Registration as a Company) Bill 2011.

In my opinion, the Leo Cussen Institute (Registration as a Company) Bill 2011, as introduced to the Legislative Council, is compatible with the human rights protected by the charter act. I base my opinion on the reasons outlined in this statement.

Overview of bill

The Leo Cussen Institute (the institute) was established as a statutory body corporate by the Leo Cussen Institute Act 1972. The bill provides for the registration of the institute as a company limited by guarantee under section 5H of the commonwealth Corporations Act 2001. Section 5H allows state legislation to deem a body to be a company of a particular type and to set the company's registration day. The institute's registration day will be set by the Attorney-General in an order published in the *Government Gazette* once satisfied that the institute has lodged the required registration documents with the Australian Securities and Investments Commission. The institute will be a company limited by guarantee with charitable purposes, providing education for legal practitioners, prospective legal practitioners and others concerned with the application of the law. Registration of the institute as a company will not create a new legal entity; the company will be taken for all purposes to be a continuation of, and the same legal entity as, the institute established by the Leo Cussen Institute Act. The bill allows for the repeal of the Leo Cussen Institute Act after registration occurs.

Human rights issues

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

The bill does not engage any of the rights under the charter act.

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

As the bill does not engage any of the rights under the charter act, it is not necessary to consider section 7(2) of the charter act.

Conclusion

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

Richard Dalla-Riva, MLC
Minister for Employment and Industrial Relations
Minister for Manufacturing, Exports and Trade

Second reading

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — I move:

That the bill be now read a second time.

Almost 40 years ago, the Leo Cussen Institute was established in Victoria to provide professional training for articled clerks and continuing education for lawyers to keep them up to date with developments in the law. From 1975, the institute began offering a full-time practical training course for law graduates as an alternative to articles of clerkship. This is perhaps the course for which the institute is best known. The name of the institute was chosen to honour Sir Leo Finn Bernard Cussen, a highly respected barrister and a Justice of the Supreme Court from 1906 to 1933.

Over the years, the institute has continued to provide high-quality legal training to both law graduates and practitioners, engraining in them the attributes for which Sir Leo Cussen himself was known: thorough preparation, clarity of argument and sound knowledge of legal principles.

However, in this time, the market for legal training has changed significantly, as has the regulatory oversight of the substance and quality of legal training. The institute is no longer the only provider of practical legal training in Victoria and there are numerous providers of practical legal training at the national level. The institute is now an accredited higher education provider, trading under the business name of the Leo Cussen Centre for Law, and, as such, is required to meet stringent regulatory requirements. The institute's main areas of activity — continuing professional development, practical legal training and supervised workplace training — are governed by legal profession rules and regulations.

It is not surprising, then, that two recent reviews have made recommendations to allow the institute to operate independently and competitively in the market for legal education services.

A 2006 review of legal education services in Victoria by Professor Susan Campbell, AM, who sadly passed away earlier this year, lead to the phasing out, over four years, of funding for the institute from the legal profession's Public Purpose Fund. With careful management and an increase in its existing activities, the institute is now in a position where it no longer relies on this ongoing funding to operate. The institute does not otherwise receive government funding.

A 2009 review of the Leo Cussen Institute Act 1972 by Crown counsel, Dr John Lynch, found that it was not necessary for the institute to remain as a statutory body for it to provide its legal education services. Crown counsel recommended that the institute be assisted to transition to a business structure better suited to the current competitive legal training environment.

In response to Crown counsel's recommendation, the institute proposed that it become a company limited by

guarantee with charitable purposes, namely the provision of education.

The government acknowledges that, across the legal community, there is great support for the institute to continue providing the services it does. The government has accepted the institute's proposal to change its corporate structure on the basis that it will allow the institute to continue to operate as a viable participant in the legal training sector in Victoria and open up greater opportunities for it to operate in other parts of Australia.

As a company, the institute will be able to provide its services in Victoria and nationally, while being regulated under the regulatory scheme of the Commonwealth Corporations Act 2001. As a company limited by guarantee for charitable purposes, the institute will be required to apply its assets and property for the purposes of legal education, not for the profit of company members.

The bill the government is introducing today therefore provides for the registration of the institute as a company limited by guarantee. The bill has the support of the institute and has been developed in consultation with the institute.

Following advice from the Australian Securities and Investments Commission, the bill provides for registration of the institute as a company under section 5H of the Corporations Act. Section 5H allows state legislation to deem a body to be a company of a particular type and to set the company's registration day.

In accordance with section 5H, the bill provides that the institute will be registered as a company limited by guarantee with the proposed company name of 'Leo Cussen Institute'. The company's registration day will be specified in an order published in the *Government Gazette* but this order will not be made until the institute has lodged with the Australian Securities and Investments Commission all necessary information and documents as required by the Corporations Act for company registration.

Registration of the institute as a company will not create a new legal entity; the registered company will be taken for all purposes to be a continuation of, and the same legal entity as the institute. This is to provide certainty about the ownership of the institute's current assets and the institute's status as an accredited higher education provider, as well as to protect current staff and students of the institute.

Following registration of the institute as a company, the Leo Cussen Institute Act 1972 will no longer have effect. The bill therefore provides for the repeal of this act on a day to be proclaimed that is on or after the day the institute is registered as a company. Other than for this repeal, the bill will come into operation on royal assent.

As a company limited by guarantee, the institute intends to be governed by a corporate constitution, which will require the institute to pursue charitable purposes that include providing education for legal practitioners, prospective legal practitioners and others concerned with the application of the law, and encouraging access to participation in legal practice by people with diverse and disadvantaged backgrounds.

The constitution will require the institute to apply its income solely in promoting its charitable purposes and no part of the institute's income will be paid or transferred by way of a dividend bonus to company members. In the event that the institute is wound up, the constitution will require any surplus assets to be distributed to an entity with similar charitable purposes. This will ensure that the assets and goodwill established by the institute over the last 40 years will continue to be applied for the benefit of educating the legal profession.

The institute is well equipped to take this next step in its history. In celebrating its 40th anniversary, the institute will also be able to celebrate a new beginning, which will be for the benefit of Victorian lawyers and aspiring lawyers alike.

I commend the bill to the house.

Debate adjourned for Hon. M. P. PAKULA (Western Metropolitan) on motion of Mr Leane.

Debate adjourned until Thursday, 10 November.

CHILDREN'S SERVICES AMENDMENT BILL 2011

Second reading

Debate resumed from 13 October; motion of Hon. W. A. LOVELL (Minister for Children and Early Childhood Development).

Ms MIKAKOS (Northern Metropolitan) — It gives me pleasure to speak on this bill today, having regard to the fact that this is national Children's Week. The Labor opposition will not be opposing this bill, as it continues the transition towards a new national quality framework for early childhood education and care, an

initiative that was commenced by the federal Labor government and the former Brumby Labor state government. When I read the minister's second-reading speech I was surprised that the minister gave no historical context to these groundbreaking reforms by both state and federal Labor, so one could be forgiven, in reading that second-reading speech, for thinking that Minister Lovell and the Baillieu government had initiated all of these reforms. I want to clearly correct the historical record on this issue.

I want to begin by acknowledging the work of the former Minister for Children and Early Childhood Development, Maxine Morand, and the former Brumby government. Minister Morand was a great minister. She was a visionary; she was someone who was very committed to early childhood services in this state, and whilst I was very disappointed that she was defeated at the election, I think she can be very proud of her legacy and the many achievements that were initiated on her watch.

Between 1999 and 2010, the previous Labor government committed to a range of reforms in the early childhood sector. These included $131 million to the following infrastructure initiatives: $55 million for at least 108 children's centres; $25 million for at least 405 renovation and refurbishment grants; $12 million for kindergarten IT; and $39 million for other minor capital upgrades. They also included funding to kindergarten services across Victoria, for which we saw increases in funding from $66.1 million when we came to office to $189.1 million in 2010–11 — an increase of 188 per cent. The reforms also included funding for early childhood intervention services, which increased from $25.4 million when we came to government to $61.2 million in last year's budget, an increase of 141 per cent. We saw significant increases in funding to maternal and child health services, which increased by 163 per cent, and funding increases of 178 per cent to the program for students with disabilities.

In last year's budget alone we delivered $63.1 million over five years to meet demand for kindergarten places, providing an additional 3590 kindergarten places, which resulted in a total of 66 090 funded kindergarten places during the last financial year. That was an increase of an additional 4000 places on top of the previous year's funding. We also saw an extension of the children's capital program, which supports access to quality integrated children's services with grants to build children's centres, renovation and refurbishment grants, and other minor capital grants.

It has been interesting this year. On occasion I have had the pleasure of attending some of these events where Minister Lovell has been present to officially open new facilities. I have been pleased to attend those and to have regard to the fact that those programs and facilities are part of Maxine Morand's legacy to Victoria's children. The previous government also provided funding to Victoria's early childhood workforce, which is a very — —

Mrs Coote — On a point of order, President, we have now been going for some time. I appreciate that the shadow minister is stating her case, but this is about the bill at hand and is not a long, sad litany of 11 years of failure by the Labor government. I ask you to bring her back to the content of the bill at hand.

Ms MIKAKOS — On the point of order, President, I am in fact discussing a whole range of issues that do relate to the bill. In particular I am about to come to the issue of the early childhood workforce, because without additional funding to implement training for Victoria's early childhood workforce, this bill would not actually be able to work.

The PRESIDENT — Order! I take the point of order raised by Mrs Coote. I am mindful that whilst Mrs Coote suggests that the member has been going for a period of time, it has in fact been less than 5 minutes of what is potentially a 60-minute speech. I am not sure that Ms Mikakos intends to go that long, but certainly she has not yet overstepped the mark in terms of providing some context for the remarks she is to make on this bill. I note that the bill — and I was assisted on this to some extent by an interjection from the Minister for Children and Early Childhood Development — is more about the national framework for children's services than it is about state budget allocations, and certainly former state budget allocations. However, I am accepting the comments of Ms Mikakos as being context for the remarks she is no doubt about to proceed with in respect of the legislation that is before the house.

Ms MIKAKOS — It may well become a 60-minute contribution; that will depend on the number of interjections.

We are very proud of our legacy in this area. I know the government feels uncomfortable when I talk about all these achievements because there is very little on the government's side of the ledger to compare with Maxine Morand's achievements. There is an important context to this bill, and the point I am making is that if you read the second-reading speech, you would not know that there was a whole range of reforms that the Brumby Labor government began under its watch to

see these sweeping landmark reforms implemented nationally and in Victoria.

Part of that has seen support from both the federal and Victorian governments for the professional development of our early childhood workforce. A contribution of $9.7 million over four years was announced this year by Minister Garrett to provide support to the building of capacity and qualifications for early childhood workers, funding which has benefited the Victorian early childhood workforce as well.

The Labor government in Victoria also provided assistance for the development of our workforce. That is quite critical to the implementation of this legislation and the national quality framework, because a key part of the national quality framework is about improved qualifications for the workforce in the sector, and without that funding this would not be possible. The former government committed $3.5 million to improving Victoria's early childhood workforce that saw a professional mentoring program for up to 540 early childhood teachers, the expansion of two leadership programs offered through the Bastow Institute of Educational Leadership and up to 3000 professional learning sessions for early childhood professionals to support the implementation of the early years learning and development framework. That is what it means to invest in early childhood education.

We have to ensure that all Australian children, including Victorian children, have the best start in life, and the national reform agenda that was signed by the Council of Australian Governments in 2009 sought to implement a number of national partnerships between the federal government and state and territory jurisdictions. Two of the national partnerships included the national partnership agreement on early childhood education, which has a target of access to 15 hours of early childhood education per week for all children in the year before school by 2013, and the national partnership agreement on a national quality agenda for early childhood education and care, which was agreed to by COAG in December 2009 and which provides commonwealth funding to support the establishment of a jointly governed and unified national quality framework. The bill specifically relates to this second agreement.

I again put on record that — as I said, there is no historic context in the second-reading speech — the Brumby Labor government took a lead role in the development of the national quality agenda by agreeing to be the host state for the national legislation. We were committed to improving the safety and quality of Victoria's children's services, and the national partnership agreement agreed to by COAG paved the way for the establishment of the national quality framework for early childhood education and school-aged care.

The commitment by all Australian governments to a new national quality framework for early childhood education and school-aged care was a landmark decision in this country. The framework aims to replace the existing licensing and quality framework in each state and establish a jointly governed and unified system. Under this framework all Australian government jurisdictions have agreed to do the following: streamline regulatory requirements; improve staff-to-child ratios; provide a more qualified early childhood workforce; develop a national quality standard and transparent rating systems to give families information about the quality of their child's early childhood education and care service; and establish a national body to guide the implementation and management of the framework, the Australian Children's Education and Care Quality Authority.

The former Brumby Labor government led the way in the establishment of the national law for Victoria, with the Education and Care Services National Law Act being passed by the Victorian Parliament in September last year to enact the national quality framework for our jurisdiction. That bill, now an act, ensures that early childhood education care and outside school hours care providers were working under a clear set of quality guidelines. Since 1 July 2010 the national law has been slowly implemented progressively across Australia and across our children's services here in Victoria. The bill before the house essentially constitutes consequential updates in preparation for the national law commencing in full force on 1 January next year.

The national quality framework will cover around 80 per cent of children's services and will apply to long day care, family day care, kindergarten, preschool and outside school hours care services. It will provide powers to improve child-to-staff ratios and minimum qualification requirements for child-care staff. I know that many children's services have already implemented a whole range of reforms in anticipation of this. Given that it is national Children's Week, I pay tribute to all the people who work in the early childhood sector. I think they do a terrific job and are very passionate and committed to providing the best start to young people's lives.

The framework will help to ensure that children have access to quality learning programs to develop the knowledge and skills they need for life and learning,

something that has been and remains the no.1 priority of the Australian Labor Party. There is very strong evidence-based research that I have referred to in previous debates — which I will not go through today — recognising the importance the early years of life have for a child's future. I think we would all agree that a solid start in life through the best education we can offer is vital.

Unfortunately the Baillieu government has a poor record when it comes to early childhood investment. We have seen the axing of funding for the Take a Break occasional child-care program, which, but for a relatively small amount of money, could support over 9000 Victorian families across our state. The minister has continually called on the federal government to take up its responsibility and has failed to appreciate that other state jurisdictions around the country have fully funded their equivalent programs. We had the farce of the federal Liberal Party commencing a so-called national petition on a subject that was an issue only in Victoria, because we are the only state where the state government has pulled out funding and put occasional child-care services in jeopardy. We were very proud last year to commit to full funding of the Take a Break program, and I am extremely worried that many centres now face either closure of their occasional child-care program or fee increases.

Last week, along with the Leader of the Opposition and Mr Tarlamis, who is a very hardworking local member, I attended the Chelsea occasional child-care centre to talk to families and staff at that centre about the consequences of the state government pulling its funding. They informed me that their hourly rate had had to increase from $15 to $22 an hour.

Hon. W. A. Lovell interjected.

Ms MIKAKOS — The minister says that is rubbish. It is a fact that the staff of the centre informed me of. I think the minister would be well placed to go out there and talk to them herself if she thinks it is rubbish. They will tell her that they have increased their fees because her government has pulled their occasional child-care funding.

I welcome the announcement earlier this week by Kate Ellis, the federal Minister for Employment Participation and Childcare, about additional support for occasional care places and in-home care places around the country. It is estimated that Victoria will receive around 250 occasional care places and 140 in-home care places. This is on top of the huge amount of money that the federal Labor government provides for the child-care benefit and the child-care rebate. In Victoria alone it provides $399 million through the child-care benefit and $291 million through the child-care rebate to pay 50 per cent of out-of-pocket costs for families. If you contrast those types of figures with the $1.9 billion that we are talking about for Take a Break, it is just galling to think that the Baillieu government cannot find close to $2 million to keep such an important program going in our state.

We know that this cut is just one of many that Victorian families are facing as a result of $480 million worth of cuts to the education department's budget. In the early childhood sector this has meant the axing of the Young Readers program, which distributed free books to parents of young children. We have seen kindergartens lose their free VICNET internet service, and now the government is giving them a measly one-off grant so that they can find their own internet service providers and host services, which they previously received for free.

We have seen no dedicated funding in the budget to establish new children's centres. I have spoken to many local councils which, until now, have had plans to build new children's hubs. When they go to apply for funding they are going to find out that there is very little money available to them, because they will be competing with all the other kindergartens that will be applying for funding for kindergarten infrastructure. Most disappointingly, we have seen a significant underfunding of kindergarten infrastructure, with the provision of only $15 million in capital funding for kindergartens this year, which is going to be inadequate to address Victoria's baby boom let alone prepare kindergartens for 15 hours of four-year-old kinder from 2013.

We have heard the minister make comments a number of times hinting that she is looking to walk away from the national partnership agreement; most recently she talked about renegotiating it with the federal government. I point out that the member for Murray Valley in the Assembly, Mr Tim McCurdy, issued a media release on 9 June this year stating:

> This government is supporting kindergartens in the move to implement the new national standards …

It seems that Mr McCurdy is fully committed, even if his ministry is not. The same press release also states that the Minister for Children and Early Childhood Development said:

> … the funding for kindergartens, through the coalition government and the national partnership on early childhood education, will help deliver reforms to ensure children receive an even better education before they start school.

That is a great sentiment, but I wonder how the minister plans to do this with only $15 million in this year's budget for kindergarten capital infrastructure. We have seen a severe underfunding of kindergarten infrastructure, and the minister is now seeking that the federal government make up her shortfall.

Mrs Coote — On a point of order, President, we have now been listening for over 20 minutes to the same broken record, which is almost a reiteration of the budget speech by the shadow minister. I would not like to suggest what you should do, but would you like to explain to her that this is not a shadow ministerial statement? This is actually talking about a bill, and she needs to be drawn back to the substance of what we are debating here today.

Ms MIKAKOS — On the point of order, President, again I draw your attention to the fact that I am giving context. This is about national partnership reforms, and I am referring to agreements that the Victorian government is a signatory to. Whilst Minister Lovell may not have signed on the dotted line, her government is bound by those national agreements. I am giving some context, because it is the context to the bill we have before us.

The PRESIDENT — Order! I offer an apology to the house in the sense that I was not as attentive to Ms Mikakos's contribution to the debate as I might have been. I accept that we are now a substantial way into the speech in respect of the lead speech from the opposition on this bill, and I would have thought that that context was probably established at this point and that it might well be appropriate to actually look to the provisions of the bill.

In Ms Mikakos's contribution I have heard discussion on some of the national relationships of this legislation, where it came from and some of the implications. Certainly budget matters have been canvassed. I think it might well be appropriate at this point, with that context established, to refer more to some of the bill. I do not wish to direct Ms Mikakos specifically, but she might be mindful of the time that is remaining and the position that she might put in regard to the opposition's views on various clauses of the bill.

Ms MIKAKOS — I know it is painful for the government to hear what I have to say. These national partnerships are part of what we are debating today, because the bill is about implementing the national partnerships that have been signed by Victoria, the federal government and other state and territory jurisdictions. I draw members' attention to a document developed by the federal Department of Education, Employment and Workplace Relations entitled *National Partnerships for Early Childhood Education — Summary of Activities under State and Territory Bilateral Agreements to be Achieved by 2013*. Under the section that relates to Victoria, the document says:

> The Victorian government is committed to …
>
> …
>
> investing in new and/or improved infrastructure to meet the additional demand for services.

It was always understood that the Victorian government would have to contribute to infrastructure in anticipation of the 2013 commencement of 15 hours per week of kindergarten for four-year-olds, something that will be entirely impossible given that the budget only allocates $15 million for this. This is in stark contrast to the previous Labor government, which had committed $100 million for this before last year's election.

It is disappointing that the minister continues to ignore the needs of Victorian families, with the consequence that more and more kindergartens are saying they will have to cut back — —

Hon. W. A. Lovell — On a point of order, President, it has been only a couple of minutes since you gave your ruling, and I believe the member is absolutely flouting it. She has not discussed the bill at all; she is now discussing a separate national partnership agreement — the national partnership for early childhood education around access to 15 hours of kindergarten — which has nothing to do with the bill before the house.

Ms MIKAKOS — On the point of order, President, I draw your attention to the fact that the bill is about the implementation of national partnership agreements. Under those national partnership agreements, Minister, your government is bound to implement certain — —

The PRESIDENT — Order! Ms Mikakos is talking to me on the point of order, not to the minister.

Ms MIKAKOS — The points I have been raising are absolutely relevant to the debate about the bill, because they are about a national partnership agreement that this government has committed to but has failed to deliver on.

The PRESIDENT — Order! Again, as long as the member remains to some extent relevant to the legislation, I am not in a position to direct her as to how she should speak. I understand that the point of order

raised by Ms Lovell is that there is an issue of relevance, because the member is discussing agreements that are not specifically part of the bill. I suggest to Ms Mikakos that she make her remarks on the partnership agreements fairly brief, because I accept Ms Lovell's point that they are not apposite to this particular bill.

The danger we run is that as lead speaker for the opposition Ms Mikakos is opening up the debate very broadly for the following speakers. Speakers in the second-reading debate, in particular the lead speakers from each party, need to be mindful that they set the parameters for the whole debate. In canvassing matters that are outside the specific legislation before the house Ms Mikakos might open up the debate considerably. That is not necessarily in the best interests of the house and perhaps raises issues that are just not relevant to the specific legislation before us.

I must say there are aspects of Ms Mikakos's contribution today that smack of a shadow minister's statement as distinct from an appraisal of the particular bill before us. I recognise that the previous government believed it had made significant achievements in this area, and they have been canvassed quite substantially by Ms Mikakos. I ask her to focus more on the legislation from this point in time, notwithstanding the fact that the matters she has raised have some bearing on the bill, as I said. I think Ms Lovell's point that Ms Mikakos is moving into some other commonwealth-state partnerships unrelated to this bill is a relevant one.

Ms MIKAKOS — The minister was a little pre-emptive, because I was just about to come to the specifics of the bill — —

Mrs Coote — You admit it — the specifics.

Ms MIKAKOS — The specifics. The bill seeks to make a number of amendments to the Children's Services Act 1996 to make changes consequential on the enactment of the Education and Care Services National Law (Victoria) and also to make minor amendments to the Education and Care Services National Law Act 2010, which was passed by the Parliament just before last year's election, as I explained much earlier to those who were listening.

As I said, the bill is essentially a tidy up in preparation for the national law commencing in full force. I pay tribute to children's services around our state for doing a lot of hard work to get services ready for these changes. They have already made many reforms. The bill's commencement will coincide with the commencement of the national law reforms on 1 January 2012. It will clarify what will stay covered by the Children's Services Act 1996 and what will move to the national law. There are over 4000 licensed children's services in Victoria, around 80 per cent of which will be captured by the new national law; the remaining services will continue to be regulated under the Children's Services Act 1996.

The new national quality framework will apply to long day care, family day care, kindergartens, preschools and outside school care services. As such, this bill removes all references to them in the Children's Services Act 1996 so as to avoid duplication. The Children's Services Act 1996 will continue to regulate the children's services that are not part of the national law — that is, occasional child care, mobile services, budget-based services, such as Aboriginal services, and sport and leisure services. The provisions of this bill also include the introduction of a new regime for an associated children's service, which the bill defines as:

> … a children's service that is operated or intended to be operated —
>
> (a) at the same place as an approved education and care service; and
>
> (b) by the person who is the approved provider for that education and care service.

This will apply where more than one service type is located at the same place — for example, where a kindergarten and an occasional child-care centre are co-located. At a practical level this will allow for one service approval, governed solely under the national law, to cater for both service types located at the same place. It will eliminate the need for each service type to have its own separate service approval, and in this way will help to reduce duplication and the regulatory burden on services.

The bill contains many clauses that seek to remove references to family day care in the Victorian law, as these will now be covered by the national law. The bill streamlines the regulatory requirements between Victoria's children's services legislation and the national law, allowing professionals who are deemed fit and proper under the national law to be automatically recognised as such under the Victorian law. Finally, the bill makes a number of technical and consequential amendments to the Children's Services Act 1996 and other relevant legislation to ensure accuracy and consistency of the reforms to the children's services sector.

Overall the framework strikes the right balance between improving opportunities and outcomes for children and

the cost to families. I realise there will be some increases in costs; I hope they will be minimal in nature. However, as a result of these groundbreaking reforms, Victoria's children will be better off. I believe we will see a real benefit to Victorian families and in the care of Victoria's children.

As I said earlier, the former Labor government was instrumental in giving Victoria the opportunity to provide national leadership in the development of the national quality framework. I note that the Minister for Children and Early Childhood Development, Ms Lovell, is currently the chair of the ministerial council overseeing the implementation of this framework and has continued the work that was commenced by the previous minister, Minister Morand. I hope Minister Lovell uses the position she holds to play a leadership role, in the same way as the previous government did on a whole range of issues around early childhood reform, and that she is able to convince her state colleagues of the importance of investing in early childhood education and care, which unfortunately she has not been successful in doing so far.

In conclusion, this move to a national system of regulation will mean better information for parents, a lesser intake for services and consistently higher standards of care. However, I firmly believe it is the responsibility of the state government to provide quality children's services to Victorian families. Frankly, this government is just not doing enough to date.

Ms HARTLAND (Western Metropolitan) — As Ms Mikakos has gone over the technical detail of the bill, I will not repeat that. However, I wish to make a few comments. Child care is an incredibly important issue for the community. It is one that affects us all. By this bill coming — —

Mrs Peulich — On a point of order, Acting President, the clock needs resetting.

The ACTING PRESIDENT (**Mr Tarlamis**) — Order! I ask the Clerk to reset the clock.

Ms HARTLAND — Thank you; I will certainly not be taking 45 minutes. As I was saying, child care is one of those issues that is important to everybody across the community, and this bill will make sure that the issues around national law and state regulations are streamlined. One of the bill's important measures will mean that if a person is qualified in one sector, they will be qualified in another, so people will not have to look at dual registrations, which is often a problem when dealing with this kind of legislation.

On a more personal note about child care, as I said, it is incredibly important. It has been a great disappointment to me that the federal and state governments have not been able to resolve the issues around the Take a Break program. I hope the minister is listening to people, especially people living in country areas, who are telling her that it is a major problem. I hope she is also taking notice of the letters she is receiving. I know that my office is continually getting letters and postcards on this important issue. I hope both the state and federal ministers get on with the job and fix this as soon as possible.

Mrs COOTE (Southern Metropolitan) — First of all I commend the Minister for Children and Early Childhood Development, Ms Lovell, for introducing the Children's Services Amendment Bill 2011 to this house and for taking to heart and working assiduously for the children of Victoria. We heard the contribution from the shadow minister, Ms Mikakos, who took more than 30 minutes to finally get to the point of what is a relatively simple bill. She took the opportunity to give a litany of everything Labor Party members might have mentioned on early childhood during the 11 years they were in government. The coalition has been in government for 11 months, and this minister has done an exemplary job in bringing to the forefront some really good changes to make Victoria a better state for children. Both Ms Mikakos and Ms Hartland said that early childhood issues are important matters for the whole community, and that is what this bill is about.

Ms Hartland also brought up the Take a Break program. I remind the chamber about the Take a Break funding. The Take a Break funding is a federal issue and it should be sheeted home to Minister Kate Ellis, the federal Minister for Employment Participation and Child Care, because that is where the problem lies. Labor Party members should take the opportunity of speaking to their federal cohorts about getting it fixed.

The huge litany we heard from Ms Mikakos, as the President said prior to leaving the Chair, has opened up an opportunity for members to debate a number of things. As I said, it took her 30 minutes to finally get to the point, even by her own admission. She painted a picture of national partnerships and said how important they were — and that went on for hours.

Mr Lenders — Hours?

Mrs COOTE — Given that she was talking about national partnerships on early childhood education, I remind her of the access to 15 hours per week of early childhood education being agreed on without first assessing the capacity of Victoria to facilitate that. The

15 hours was unilaterally decided, with no consultation and without discussing it with Victoria. Ms Mikakos should go back and look at the relationship between the two Labor governments — state and federal — because they got it wrong. We need additional infrastructure, which she neglected to tell us about and which Labor should have implemented when it was in government. The need for additional teachers was not discussed or debated, nor was the impact on other programs, such as three-year-old kindergarten, playgroups and fun groups et cetera. What happened to the sort of deep and meaningful conversations we would expect to be conducted between two Labor governments before such decisions are made?

I will come back to the bill. At this stage of the debate it is important to remind ourselves of what this bill is about. Its objective is to amend the Children's Services Act 1996 to facilitate a smooth changeover for children's services required to operate under the Education and Care Services National Law Act 2010 and associated regulations, together referred to as the national law, as a consequence of the implementation of the National Partnership Agreement on the National Quality Agenda for Early Childhood Education and Care — known as the national partnership agreement.

Although this is a short bill, it is a little complex. At the moment there are approximately 4100 services in Victoria that include kindergarten, long day care, outside school hours care, occasional care and family day care services. I encourage people to look at clause 4 of this bill because it gives definitions of all the issues we are dealing with here today. It is important to understand, as I am certain people will once this bill becomes an act, that people can have clarity as far as this terminology is concerned.

Under this agreement with the national government, from 1 January 2012 more than 3700 kindergartens in long day care, outside school hours care and family day care will transition to the national law. This will leave around 400 currently licensed services that will continue to be regulated under the Victorian children's services legislation. This is what we must understand. Of that 400 there are certainly some service providers — for example, within indigenous areas and in rural and regional Victoria — that come under this umbrella. It is important that we understand that 3700 of the 4100 services in Victoria will transition to the national law, but there will still be 400 that Victoria will be responsible for.

The key changes in this bill are the definitions in clause 4, which I mentioned before. All children's services that fall within the definition of an education and care service in the national law have been excluded from the requirements of the Children's Services Act 1966. The bill also adds required definitions to provide for the relationship with the national law. It is very important to understand clause 4 because, as I said, it gives clarity.

Clause 5 clarifies a list of services that are not applicable to the principal act, and this is also important to get clear when revising and reviewing what we are debating today. These include short-term orientation-to-school programs; temporary services for children of guests at hotels or resorts; and services provided on an ad hoc basis at a place of meeting, convention, seminar or other short-term event attended by a parent or other person responsible for the child. These provisions need analysis and clarity, and questions about them are welcomed while we debate the bill in the chamber.

All references to family day care services have been excluded and outside school hours care services providing regular care have also been removed, as they are covered by the national law definition of an education and care service. According to section 22A, in order to reduce duplication between the Victorian and national laws, the secretary is not required to carry out a fit and proper person check of the applicant, a director or other officer of a body corporate, or a person nominated by the applicant if the person holds a provider approval or supervisor certificate under the national law. These are technicalities that should have been debated by the shadow minister, but she went on and on, as we know.

Clause 29 inserts a new part that deals with associated children's services. These are services regulated under the Children's Services Act 1996 which are operated at the same place as an approved education and care service governed by the national law, such as a preschool or occasional care service. Associated children's services can be approved as part of a service under the national law. Approved providers are therefore not required to hold two approvals under the two separate regulatory frameworks. The process for appointing persons to manage and control services and the process for undertaking a fit and proper person test are also dealt with under the national law. These changes streamline the processes, prevent duplication and reduce the regulatory burden. I am sure Ms Hartland, who no longer seems to be in the chamber, will be pleased because she called for streamlining of the laws between the Victorian and national regulatory bodies. Clause 29 certainly does exactly that.

Consequential amendments have also been made to the Child Wellbeing and Safety Act 2005, the Children, Youth and Families Act 2005, the Crimes Act 1958, the Interpretation of Legislation Act 1984, the Public Health and Wellbeing Act 2008, the Sex Offenders Registration Act 2004, the Sex Work Act 1994, the Summary Offences Act 1996 and the Working with Children Act 2005 to amend definitions, cross-references and other minor technical matters. We want clarity. We want streamlining. We want all service providers to understand exactly what is and is not going to be dealt with by the national law and what is and is not going to be dealt with by Victoria. It is important to note that this bill does not alter any of the provisions of the act that protect the health, safety and wellbeing of children being cared for or educated in Victorian licensed children's services.

I commend this bill to the chamber today. I believe the minister has spoken at length with the Victorian Early Childhood Development Advisory Group, which is comprised of 30 peak sector representatives, and other key representative groups have been consulted through regular meetings and through forums and newsletters. There has been a big consultation program, and that is very important, because this bill is reflecting what the service providers in Victoria want to see. The minister has a long and involved relationship with these groups, and it is very pleasing to know that she has taken the time and effort to get their reactions to this bill.

There was also consultation with the chief parliamentary counsel, the Victorian Government Solicitor's Office, the Victorian Competition and Efficiency Commission and relevant government departments to make certain that we got the technical aspects of this bill correct, because there are technicalities which I have just alluded to that have got to be very clear going forward so everybody understands where this bill is leading us, what the act will in fact do, how it will impact upon other acts in this state and how it relates to the new national law.

I commend the bill, and I would like to put on record my praise and acknowledgement of the very good work that the minister is doing. I welcome the fact that she brought the bill to this house, and I think Victorian service providers in early childhood development will be very happy as a result. I commend the bill to the house.

Mrs KRONBERG (Eastern Metropolitan) — I am very pleased to rise to speak in support of the Children's Services Amendment Bill 2011. It is a bill designed to streamline processes, reduce the regulatory burden and ensure that access to child care in this state is held at a reasonable level. I support what Mrs Coote had to say about this bill. The minister has shown a degree of finesse in covering all aspects of the bill. It has obviously been a forensic exercise, yet it is parcelled together in a coherent way that ensures that all bases are covered.

We have already talked about the fact that approximately 4100 licensed bodies that are regulated under the Children's Services Act 1996 will now fall under the national agreement made at the Council of Australian Governments meeting in December 2009. The commonwealth and all states and territories signed the national partnership agreement on a national quality agenda for early childhood education and care. As has been alluded to, there are currently 400 licensed services that will continue to be regulated under the Victorian children's services legislation, specifically the services that are excluded from the national law, and this is where we had to make sure that the state law captured all aspects of adults interfacing with and being responsible for the care of children.

There are actually 465 services that are currently licensed and considered to be out of the scope of the national quality framework. Specifically there are 419 limited-hours licensed services that provide occasional care, including at sports and leisure services and neighbourhood houses. There are 3 short-term licensed services and 35 budget-based services that receive an operating grant from the commonwealth for parents not eligible for the child-care benefit. These include the 6 multifunctional Aboriginal children's services, known as MACS; 11 mobile services; 8 kindergartens; 9 long-day care services; and 9 early childhood intervention services. There are 28 standard licensed services that have the potential to fall outside the scope of the national quality framework if it is determined that they provide early childhood intervention services. There are 2 services, a mobile service and a three-year-old activity group, that meet the definition of an occasional care service under the national law, which encompasses 14 services. In addition a small number provide school holiday care for no more than four weeks per calendar year. That equates to less than five services, and in addition there is one service that has a voluntary licence suspension.

It is important for the children's service providers that information as to how these transitioning processes will be achieved is made available to the users of these services. The Department of Education and Early Childhood Development will provide advice and guidance to children's services requiring additional information with sheets outlining the types of children's services that will operate under the national law and

those that will operate under the Victorian children's services legislation. The information will also be available on the Australian Children's Education and Care Quality Authority's website.

It is important to note that this legislation is time critical. It has to be enacted by 1 January 2012. If the Victorian children's services legislation is not amended this year, preschools, kindergartens and long day care, family day care and outside school hours care services will be subject to two regulatory systems, both state and national, and that will create an additional regulatory burden. Around 3700 children's services would be affected in that way, so it is imperative that this legislation is passed so we get alignment with the national framework and so those that do not fall under the dictates of the national framework are well served. I commend this bill to the house. I certainly commend the minister and all the people who have helped put this legislation together. It has been a great forensic exercise.

Motion agreed to.

Read second time; by leave proceeded to third reading.

Third reading

Motion agreed to.

Read third time.

VICTORIAN COMMISSION FOR GAMBLING AND LIQUOR REGULATION BILL 2011

Second reading

Debate resumed from 25 October; motion of Hon. G. K. RICH-PHILLIPS (Assistant Treasurer).

Hon. M. P. PAKULA (Western Metropolitan) — I should say at the outset, for the benefit of any member of the government who wishes to speak, that given that I am resuming from my contribution to the debate on this bill on Tuesday, I am in the process of wrapping up. I have only a few minutes to go, so anyone who might want to find their way to the chamber ought to do so now.

When we reached the adjournment on Tuesday I was in the process of saying that the opposition had a concern about what appeared in the bill to be weak conflict of interest and disclosure provisions for members of the commission and that that concern was particularly heightened by the fact that, with regard to liquor at least, the review powers would not be held by the Victorian Civil and Administrative Tribunal. That concern is magnified again by the fact that the coalition gave a clear election commitment that VCAT would have oversight of this merged entity.

The advice we have from the department is that some of the detail will be filled in by regulation at a later date, but there is no clarity on what the disclosure obligations of commissioners will be and what the sanctions will be for a member of the commission who has a conflict. It appears that there will be no requirement for a member of the commission to excuse themselves if they have a conflict but only to note that conflict. However, as I said, there is no detail on that at the moment. That is why the opposition will be supporting the amendment proposed by the Greens.

As I understand it — and I am sure Ms Hartland will go into more detail when she gets to her feet — the Greens' proposed amendment would have the effect of requiring the commission to place on its website information about any conflicts that a commissioner might have in regard to any application that that commissioner is presiding over. I would have thought that would be the absolute minimum that we should be entitled to expect in the case of there being any conflict or appearance of conflict. We would not need to have such a long conversation about that were it not for the fact of the government having removed the ability of VCAT to oversight the determinations in regard to liquor.

In closing, despite the potential synergies that are created by this bill, we are very concerned about the fact that the government has abandoned its strong commitment to this organisation being subject to VCAT oversight. We do not think any case has been made as to why it is appropriate to have VCAT oversight of gaming decisions but not of liquor decisions. It just does not seem to make a whole lot of sense. We think the fact that that delineation has now been created makes the issue of the commission's structure all the more important. Certainly in regard to disclosure of conflicts, we think it would be better if commissioners excused themselves if there was any conflict or appearance of conflict. The minister appears not to agree with that.

We think, given that sometimes we are creatures of the art of the possible, the Greens amendment, which at least provides some appropriate obligation of disclosure, should be supported by all parties in the chamber. We also strongly urge the minister to have a long, hard look at the commission's structure so that we

do not continue to suffer the situation of the relevant legal skills, at least, not being properly represented on the commission, which then necessitates the commission having to contract out over and over again the provision of legal services at great cost.

We say also that in regard to the appointment of the chief executive officer of this merged entity, we take no issue with the appointment of Ms Brockington, who as members know was the chief executive officer of the bushfires royal commission and has had a long career in public service. But we take issue with the government seeking to characterise the appointment of the CEO as somehow being a matter for the chair of the commission whilst at the same time putting out a media release announcing that Jane Brockington will be the CEO of the commission prior to a chair having been appointed. We think there is an obvious inconsistency in that approach.

When it comes to Ms Brockington and the work she is going to have to do in regard to this merged entity, I say also to the minister that he must ensure that this merged entity is provided with sufficient resources to properly carry out, in particular, its inspectorate role. In the period between now and August of next year, when we are moving from a model where there are two operators of electronic gaming machines to hundreds of operators of electronic gaming machines and a new monitor, the work of the Victorian Commission for Gambling and Liquor Regulation inspectorate will probably be more important than it has ever been before.

The situation that has abided over the last 9 or 10 months, where there have been insufficient inspectors and budget cutbacks in preparing the Victorian Commission for Gambling Regulation for merger with the liquor licensing organisation, cannot continue. The inspectorate needs to be properly resourced so that it is able to do its job in inspecting these venues as we move to the venue operator model. If Ms Brockington is going to have any chance of success as the CEO of this merged entity, she is going to require appropriate disclosure and a strong, functioning commission with appropriate skills and experience, as well as proper budgeting and resourcing to allow that organisation to do its job properly. With those words I commend the bill to the house.

Ms HARTLAND (Western Metropolitan) — I thank Mr Pakula. Gambling is always a difficult issue, and I have some concerns about this bill. In his second-reading speech the Minister for Gaming, Mr O'Brien, said that combining the Victorian Commission for Gambling Regulation (VCGR), the liquor licensing panel and the director for liquor licensing was not a merger, a rebranding or a restructure. In a way he is right; it is actually all three. These offices will be merged into a single commission with a number of commissioners, yet to be announced, who will oversee the staff currently employed in these entities. We were informed in the briefing that there would be no job losses; it is not about streamlining employment. There are currently between 80 and 90 inspectors for liquor and gambling. The commission will streamline its responsibilities, and this makes sense.

Under Victorian law, liquor and gambling have a shared fate. You cannot operate a gambling venue unless you have a liquor licence. If I was to be extremely cynical, I would probably say something like, 'Yes, it's much easier to get people's money out of them when they're drunk'. I am assured that that would never happen in any gambling venue, because there would be very strict requirements about not serving liquor to people. I do not quite believe that. Having one inspector checking both gambling and liquor provisions at the same venue will hopefully eradicate this issue and efficiencies will be achieved. The general powers and responsibilities will be more or less the same; however there are some changes. The commission will be able to hold inquiries into matters of public interest, either referred through the minister or on its own motion. This could be a good face-saving option for the previous government in relation to its short-lived lockout policy and the threat to Melbourne's wonderful live music scene.

The Victorian Commission for Gambling and Liquor Regulation (VCGLR) will also have an educational function in relation to changes in regulations or practice directed towards venues, while the new foundation will focus on punters. It is hoped that these two bodies will work closely together to bring the high incidence of problem gambling in this state, and particularly in my electorate in the west, down to low levels. Talking about gambling in the west, I note that $71 million was lost by residents in Brimbank between July and December last year at 15 venues. I hoped the government would have had the courage to do something about what is happening in the western suburbs given the way our community is being targeted by large venues that can make much more money in the western suburbs, so that is where they head.

The final main change this bill makes is that the new commission will largely replace the Victorian Civil and Administrative Tribunal in relation to exercising disciplinary powers and its merits review jurisdiction. VCAT will no longer hear appeals against liquor licensing decisions. Normally the Greens would be

reluctant to support the removal of an independent appeals process, largely for the reasons that Mr Pakula has already outlined, but there is a real problem with VCAT and liquor licensing. In the last two years VCAT has overturned some incredibly sensible decisions that were supported by the community, especially around the 24-hour bottle shop in Swanston Street that was causing a huge number of problems, proposals for beer barns around Docklands and venues that were completely unsuitable for the community, which the police and the then liquor licensing commissioner had said should not proceed.

However, we are concerned about the level of disclosure that decision-makers will have to undertake publicly. In the initial hearing, the VCGLR will have to publicly release its reasons for decisions, which is a big improvement, and if they are objected to, there will have to be a public hearing, unless overriding reasons apply, so that all sides of the debate can be heard. The appeal decision will be heard by other commissioners, and from thereon only appeals on points of law will be heard by the Supreme Court.

Because all merit-based decisions in relation to liquor and gambling in this state will be determined by a select few individuals, the Greens wish to move an amendment to this bill obliging any perceived or real conflict of interest to be publicly disclosed on the commission's website. The government has often talked about the need to make sure that documents are made public and that everything is out in the open. I could not imagine it would have a problem with this.

Currently the bill only requires the compromised commissioner to inform the chairperson. The public need never know. If the chair has a conflict of interest, they must inform the minister, and again the public may never know. Because each appeal will be heard by fellow commissioners and there is no legislated restriction on their communication in relation to the matter being appealed, there is a very real possibility of a cosy relationship developing between all the commissioners. It is a matter of public interest that any private relations or interests that would affect a decision must be publicly disclosed. Legally obliging the chairperson to place relevant information on the commission's website is a low-cost, low-regulatory method of ensuring that we have this probity.

I will deal with the justifications for this proposed amendment in a bit more detail during the committee stage, but despite that one exception the Greens will not oppose this merger, rebranding and restructure. I need to re-emphasise that in the western suburbs pokie machines destroy families. It is about time this government got on with the job of lessening that destruction.

Mr ELSBURY (Western Metropolitan) — I am pleased to rise today to support of the Victorian Commission for Gambling and Liquor Regulation Bill 2011. I am pleased that Mr Pakula stated during his contribution that the opposition will be supporting this bill.

While the bill was introduced some 15 minutes before the conclusion of the parliamentary day on the Thursday of the last sitting week, bringing this bill forward for debate today is an indication of the efficiency of the work the upper house undertakes. This bill will reduce the regulatory confusion surrounding liquor licensing and will recognise the close relationship between liquor and gambling.

While the government appreciates the spirit of the proposed amendment from the Greens, I am afraid I have to say we will not be supporting it because the matters it raises are adequately dealt with in the bill. Clause 21 already provides for guidelines which include details of when written statements are appropriate and circumstances where a commissioner should remove himself or herself from the process of deciding a matter. It contains the details about what conflicts of interest must be disclosed, so the Greens amendment is unnecessary.

The commission's hearings will be held in public, which will preserve the transparency of the commission. Commissioners will be subject to a probity process as part of their appointment, which will reduce the incidence of interests needing to be declared. Under clause 5 the minister may issue overarching, decision-making guidelines to the commission which can additionally cover these matters.

The recognition of the close association between liquor and gambling is needed because over 500 liquor-licensed premises in Victoria hold a gaming licence as well. This is a substantial number of venues which require adequate monitoring to ensure that the laws of this state are enforced and that activity at these sites is above board.

The establishment of the Victorian Commission for Gambling and Liquor Regulation will provide Victoria with a world-class, commission-style decision-making approach to gaming and liquor matters. This reform is not a restructure, consolidation or merger for the sake of window dressing; it is an important move to address the issues the industry has been facing in relation to dealings under the old system which have developed

great uncertainty. What should be a straightforward process in licensing and regulation has become a complex maze of inconsistent decisions, and concerns have been raised about the transparency of the process, resulting in responsible people feeling that they have been unfairly treated.

The bill will make amendments to the Liquor Control Reform Act 1998 and the Gambling Regulation Act 2003. The position of the director of liquor licensing and the Victorian Commission for Gambling Regulation will be abolished, and the Victorian Commission for Gambling and Liquor Regulation will be established. The existing liquor licensing panel will be integrated into the new commission structure, which will have the important effect of having the views of liquor licensing objectors heard by decision-makers. Previously an objector would present their case to the liquor licensing board, which held no power in allowing — or otherwise — an application. In my opinion that is a waste of time for the objector.

We have also seen a haphazard approach in relation to the monitoring of both gaming and liquor venues. Some venues would not be visited by either an inspector or a cop, let alone both, in one year. Liquor licence inspectors and gaming venue inspectors were siloed in their own fields of endeavour. They might have observed a clear infringement in the other inspector's area of responsibility, but they were unable to do anything except make a call to a colleague in another office requesting the colleague to stop by and have a look around. In that time they may well have missed the issue. For example, a liquor licence inspector could be at a gaming venue where liquor is being served and a gaming prize valued at over $1000 is paid out to a recipient in cash rather than them receiving a cheque, as is required by law. All they can do is make a call and hand it over to a gaming licence inspector.

Alternatively, a gaming licence inspector could see someone he believes is under age purchasing alcohol. They have to make a call to a liquor licence inspector, diverting them from work on an investigation. If lucky — and it depends on your perspective on this — the people involved leave before the inspector arrives and the publican dodges a fine.

However, in what is a true waste of time, the liquor licence inspector could get to the venue only to find that the apprentices having a drink after work are all of legal age and the fact that they do not have to shave every morning was the reason why they were dobbed in in the first place. By integrating the roles of inspectors and giving them additional training to conduct both functions, their work can be undertaken with the professionalism both groups currently uphold and more venues can have full inspections carried out.

Performance in conducting inspections is already good, and the Victorian Commission for Gambling Regulation already sets a cracking pace in its gaming venue audits. Across all audits the VCGR achieved 113 per cent against the targets set for the 2010–11 year. It completed 105 per cent of the targets for gaming venue audits, 150 per cent for code of conduct audits, 149 per cent for self-exclusion program audits and 101 per cent for venue financial audits. More than 3600 audits were carried out on gaming venues, bingo venues, lottery outlets and race tracks. With the additional training, both sets of inspectors will be able to carry out inspections even more efficiently, especially in venues where both liquor and gaming licences have been granted.

In the lead-up to this debate Mr Pakula, in his capacity as the opposition gaming spokesperson, claimed on radio that the government's commitment to merge gaming and liquor regulation was causing uncertainty which, he said, has caused people to walk away. He repeated this assertion on Tuesday night when the bill was introduced to this house, stating:

> … it became clear a few weeks ago that what appears to have happened in the last few months is that as inspectors have been leaving the VCGR there has been a silent policy of attrition.

I am not saying Mr Pakula is bad with numbers, but in the past nine months four inspectors have left the VCGR, and in the previous year there was a staff turnover of six. Four is not an exodus; it is called moving on to new challenges. Just as in any other organisation, people decide to try something new. Perhaps some of Mr Pakula's colleagues are thinking along those same lines right now. The integration will result in no job losses for gaming inspectors. The efficiencies gained in this integration will not be realised as savings or staff cuts, but rather as an additional compliance and education capacity for the Victorian Commission for Gambling and Liquor Regulation.

Mr Pakula also stated that appeals on gaming matters would remain in the domain of the Victorian Civil and Administrative Tribunal, which is a position consistent with the policy commitment made by the coalition. This is reasonable because not many gaming matters actually reach VCAT under the current system due to the structure of the commission.

The bill will establish the Victorian Commission for Gambling and Liquor Regulation as an independent

regulator. It will consist of a multimember commission headed by a chairperson, who will be the employer of staff for the new commission. The bill provides for a shift from a single decision-maker to a commission-based decision-making structure for liquor licensing. This will ensure that an initial decision is made by an informed and expert regulator. Reviews of decisions will be conducted by a minimum of three commissioners, not including the original decision-maker, who can review an original decision by a single commissioner or staff member under delegation. The commission will make a fresh decision, which may affirm or overturn the original decision.

As has already been queried by Mr Pakula in his contribution, the internal review process of the commission means that the bill removes VCAT's merit-based review jurisdiction for licensing decisions. A Supreme Court appeal would be available only on a point of law. Appeal rights will exist in the vast majority of cases. In a very limited number of cases where the commission chooses to sit as a full commission in the first instance, the only point of appeal will be the Supreme Court on a point of law.

I appreciate the view put forward by Ms Hartland earlier in the debate in relation to problem gambling, especially in Melbourne's west, but that is not the function of the bill. Rather, it is the function of other legislation being debated in the other place. Some confusion remains among opposition ranks on the intent of the bill. In his concluding remarks on the bill the member for Essendon in the Assembly stated:

> This bill will not solve those perennial issues that create anxiety in the community. I do not think it is going to fix or alleviate the fears the community has when it comes to compulsive behaviours.

This guy was a minister, yes? This is not the intent of the bill; its intent is to improve the regulation of gambling and liquor by providing a central commission-based body. The member for Essendon has attempted to confuse the issue by clumsily trying to meld legislation for problem gambling and alcohol abuse into this measure. However, the member for Thomastown in the other house gets it, because she said:

> Of course this makes a lot of sense, because as we have heard from previous speakers, liquor licensing and gaming issues often work together. The commission will perform all the regulatory powers under the relevant gaming and liquor acts and will have far-reaching powers in relation to investigations, disciplinary action, licensing, registration and compliance.

Sister Halfpenny gets it; she is able to acknowledge the value of the work this bill seeks to achieve.

Mr Leane — On a point of order, Acting President, I think when referring to a member of the other chamber, the member should address her by her proper title.

The ACTING PRESIDENT (**Mr Finn**) — Order! Can Mr Elsbury help me on this one. I ask whether he was quoting from a document when he referred to the member for Thomastown in the other place?

Mr Leane — It was about the terminology he used to describe her.

The ACTING PRESIDENT (**Mr Finn**) — Order! Was Mr Elsbury referring to the member for Thomastown as Sister Halfpenny in his own language, or was he quoting from a document?

Mr ELSBURY — It was in my own language, I am afraid. I am very sorry if it has caused offence. It was a term of endearment.

The ACTING PRESIDENT (**Mr Finn**) — Order! I am afraid I will have to uphold the point of order. This one brings back memories of my involvement in this sort of matter. I ask the member to in future refer to members by their proper titles.

Mr ELSBURY — Thank you very much for your guidance, Acting President, and if there was any cause for alarm for the opposition, I withdraw.

Further to the administration of the commission, the Victorian Commission for Gambling and Liquor Regulation Bill 2011 provides for the minister to issue decision-making guidelines to the commission. It will enable the government to provide policy direction to the commission in exercising its functions as the authority for liquor and gambling. The commission will provide consistency in its decision making, ensuring that the industry and the community feel there is predictability in how gambling and liquor issues are handled. As a regulator, the commission will be authoritative and transparent in its decision making, and stakeholders, including the community and the industry, will understand the basis upon which an application is approved or failed. The commission will allow for problem liquor venues to be dealt with in a decisive and timely manner. As the commission is a specialist regulator, it will be able to act quickly, unlike any protracted dealings with a generalist tribunal.

The review process under the Victorian Commission for Gambling and Liquor Regulation Bill 2011 will be a less costly and more accessible process of revisiting liquor licensing decisions than the current process involving VCAT. Ministerial responsibility for the

Victorian Commission for Gambling and Liquor Regulation ultimately resides with the Premier — —

The ACTING PRESIDENT (**Mr Finn**) — Order! I am afraid Mr Elsbury's time has expired.

Mr ELASMAR (Northern Metropolitan) — I rise to speak on the Victorian Commission for Gambling and Liquor Regulation Bill 2011. As my colleague Mr Pakula indicated to the house, we are not opposing this bill. The Victorian Commission for Gambling and Liquor Regulation Bill 2011 amalgamates the existing functions of the director of liquor licensing, the liquor licensing panel and the Victorian Commission for Gambling Regulation. To achieve this the bill amends the Gambling Regulation Act 2003 and the Liquor Control Reform Act 1998. There are also some consequential amendments to the Casino Control Act 1991 and the Racing Act 1958.

The essence of the new arrangements for regulation and the implementation of the new legislation is a single inspectorate that will cover both liquor and gaming regulation. These inspectors will be appointed by the chairperson of the Victorian Commission for Gambling and Liquor Regulation and will hopefully reflect appropriate expertise and experience in the gambling and liquor industry; however, commissioners appointed by the minister need have no specific qualification at all. They will be required instead to show 'appropriate knowledge, experience and expertise'. I also see that the minister had already appointed the new executive commissioner of this new authority, otherwise known as the chief executive officer, in August of this year — though I would have thought that the 'independent chairperson' of the board of the commission should have that prerogative.

The new gambling and liquor commission has been hastily thought out, as it will have extensive powers to enforce compliance, registration, licensing, investigations, disciplinary compliance, public education and other matters referred to it. We do not know at this time how many commissioners will be appointed. Though it appears that a quorum of the new board will be three, it seems that the minister will have the power to determine and appoint additional commissioners. These commissioners will eventually be appointed by the Governor in Council upon the recommendation of the minister. I find it hard to be assured of the independence of the person appointed as the chairperson when clearly the Minister for Gaming has usurped the powers and independence of the commission before it has been established. However, as I said, we are not opposing this bill.

Mrs COOTE (Southern Metropolitan) — It gives me great pleasure to speak on the Victorian Commission for Gambling and Liquor Regulation Bill 2011, and I would like to praise the Minister for Gaming, Michael O'Brien, for the introduction of this bill. When the Liberal Party was in opposition it listened long and hard to representations on this industry and the complications that surround both gambling and liquor in this state, and I would have to suggest that Minister O'Brien is one of the Baillieu government's best operators — he has done a phenomenal job and he is to be congratulated. The bill reflects the knowledge this minister has of the whole sector. The bill delivers on an election commitment. As I said, Minister O'Brien was out there listening to all the stakeholders in these issues, and the bill is a result of what he heard while in opposition, which he took to the people of Victoria and which is coming to fruition as this bill presented before us today.

The two elements were separated under the previous regime. The duties were divided between the Victorian Commission for Gambling Regulation, the director of liquor licensing and the liquor licensing panel. A liquor licence must be obtained before applying for a gaming licence, so it is logical to combine the regulation of gaming and liquor licensing into a single independent statutory authority. Despite this, at present gaming inspectors and liquor inspectors have separate roles and responsibilities and cannot enforce breaches of legislation which fall within the purview of the other. For example, a gaming inspector witnessing a bartender serving an intoxicated person alcohol in contravention of the relevant legislation could not take action, and a liquor inspector witnessing a gaming attendant breaching gaming legislation could likewise not take action. This has resulted in liquor and gaming regulation being confusing, rather than straightforward, which is going to be addressed in the bill.

There are more than 500 gaming venues across Victoria. The Victorian Commission for Gambling Regulation in its 2010–11 annual report lists 26 778 electronic gaming machines across 514 venues. There are 33 762 Victorian employees licensed as gaming industry employees and another 3702 Victorian employees are licensed as casino special employees. We hear a lot of negatives about this sector, but it is really important to understand that most people operate very responsibly within it. I have just told members how many people are employed by the sector, and it is really important to keep the balance when we are debating these issues and to understand that it is one of the biggest employers we have in this state.

Crown Casino is the largest gaming venue in Southern Metropolitan Region, and 16 million people visit it every year. That is over 40 000 people per day, approximately 7 per cent of whom are international guests and a further 13 per cent are interstate guests. Crown contributes significantly to Victoria's quality tourism experience and its reputation for excellence, which is vital for the industry as a whole. The Crown entertainment complex offers world-class dining and shopping experiences. It assists in attracting visitors, but it also has flow-on benefits in the hospitality and retail sectors. It is Victoria's largest single-site, private sector employer with over 6500 employees, over 3300 contractors and an annual payroll of over $350 million. In addition to Crown's contribution to the community through wages paid, it spends over $125 million every year with local suppliers of goods and services, and it pays over $3 billion annually in casino tax and a further $5 million in an annual Crown levy. It is extremely important to remember that side of this debate.

Southern Metropolitan Region has a plethora of fabulous bars and clubs. It is a haven for people, young and old, and tourists, international and interstate. We pride ourselves in Southern Metropolitan Region on having some really fabulous operators. One of those, an excellent example, is the Caulfield RSL. I am going to visit the Caulfield RSL on 6 November to commemorate Remembrance Day. It is important to understand that the Caulfield RSL commenced in 1919, and every year it has an Anzac Day ceremony and a Remembrance Day ceremony.

The Caulfield RSL reinvests the profits it makes into the community, and the club has written a letter to me stating that it has always taken seriously its social responsibility to the membership to provide a safe environment that promotes informed choices and reinforces the core RSL objectives of watching out for a mate. The Caulfield RSL is very concerned about problem gambling with the poker machines it has there. Every week about 500 people use the facility without using the gaming machines, including nursing home residents and senior citizens who enjoy the substantial meals the club provides. The club is very cognisant of making certain it deals with anybody who might present as a problem gambler.

In the city of Stonnington we have the absolutely first-rate Stonnington accord, which I have mentioned in this chamber before. It is an accord between the licensed operators and the police. I particularly would like to put on the record the extraordinary solo performance by Inspector Adrian White from the Prahran police station in our robust nightclub district in and around Chapel Street, as well as the work of the operators of the nightclubs, the citizens and the council, all of whom are involved with the Stonnington accord.

This bill will help reduce the regulatory burden for pub and club owners, especially for those who operate a gaming room. Liquor inspectors and gaming inspectors will become liquor and gaming inspectors able to enforce both types of legislation and educate licensees to help them meet their requirements. The coalition government is bringing certainty, transparency and common sense into the gaming and liquor licensing regime.

Before I finish, it is important for us all to understand that the last government botched the pokie licences to the tune of around $3 billion of lost revenue to the state of Victoria.

Mr Drum — In one day!

Mrs COOTE — In one day, as Mr Drum rightly says, $3 billion was lost by the previous Labor government when it absolutely botched the sale of the pokie licences. Imagine what could have been done for problem gamblers, the health industry, education and disability services in this state with an extra $3 billion in our coffers. In any case, it is all there and able to be read and dissected in the recent Auditor-General's report. It would not have happened under Minister Michael O'Brien. He is to be commended for bringing in this bill. It is a great pity he was not there at the negotiations for those licences.

Motion agreed to.

Read second time.

Committed.

Committee

Hon. M. J. GUY (Minister for Planning) — I seek leave for Mr Elsbury to sit at the table.

Leave granted.

Clauses 1 to 20 agreed to.

Clause 21

Ms HARTLAND (Western Metropolitan) — I move:

Clause 21, lines 31 to 33, omit subclause (3) and insert —

"( ) If a commissioner has disclosed an interest to the Chairperson in accordance with subsection (1), the Chairperson must, as soon as practicable, cause a written

statement specifying the nature of the interest, to be published on the Internet site of the Commission.

( ) If the Chairperson has disclosed an interest to the Minister in accordance with subsection (2), the Chairperson must, as soon as practicable, cause a written statement specifying the nature of the interest, to be published on the Internet site of the Commission.

( ) The Commission must make guidelines for the purposes of this section specifying —

(a) the types of interests that a commissioner must disclose; and

(b) how a written statement under subsection (3) or (4) should be published, including the specification of circumstances where it may be appropriate to excise parts of a written statement, having regard to —

(i) the nature of the interest being disclosed; and

(ii) whether publication of the written statement in full would compromise confidential or commercially sensitive information or the privacy of an individual; and

(iii) the public interest.".

This amendment is very simple. If any of the commissioners or the chairperson has an interest in a matter to be considered by the commission, the amended clause would require the commission to specify the nature of the interest on the commission's website. The precise details of what would be included in the public disclosure would be a matter for the commission itself to work out as it establishes its guidelines.

There are a number of justifications for this amendment, including that if any areas of public policy were to be susceptible to influence-peddling and secret deal-making, they would be gambling and liquor — unfortunately planning possibly comes in there as well. Under the current drafting only the relevant commissioner and the chairperson need to know about a real or perceived conflict of interest, and to my mind that is not good enough. I am quite disappointed that the government has indicated that it is not going to be supporting this amendment, because I thought the government ran on campaigns about transparency.

Because the appeal rights to the Victorian Civil and Administrative Tribunal have been removed by the bill, the commission will be the only entity able to make merit-based decisions. It is critical that a further disclosure safeguard is applied beyond what might normally be expected of public servant decision-makers. The public sector standards commissioner's conflict of interest policy framework lists six measures that can be taken to manage conflict of interest. The six Rs are: register the interest, restrict the involvement in the matter, recruit a third party to the task, remove yourself from the matter, relinquish the private interest or resign. The current bill does not guarantee any of those measures, and the amendment makes the registration mandatory instead of optional.

These are decisions that will affect entire communities, so these communities should be entitled to have all relevant information placed before them about how a decision has been reached. The bill gives a lot of information about reasons for decisions being published, but the reasons are not the whole picture; the public needs to be certain that there is no hidden potential for conflict of interest or bias. I do not believe it is good enough that only the commissioners know about a perceived or real conflict, because they are also the people making the decisions, including the appeal decisions. Obviously previously VCAT would have made these decisions, but it is now out of the picture. The commission will now have a concentration of disciplinary powers alongside application and appeal powers.

While we were instructed that both the minister and the commission's guidelines could cover the disclosure of interest, we want it put in the legislation. This is to guarantee, firstly, that it will happen and, secondly, to make public disclosure available. As it stands, clause 21 only deals with disclosure, not publication, and it could go beyond the power of the commission to publish information on potential conflict, even if it wanted to.

Committee interrupted.

DISTINGUISHED VISITORS

The ACTING PRESIDENT (**Mr Finn**) — Order! Before calling Mrs Peulich, I acknowledge in the gallery a former member of this house, Sue Wilding. It is lovely to see you.

VICTORIAN COMMISSION FOR GAMBLING AND LIQUOR REGULATION BILL 2011

Committee

Committee resumed.

Mrs PEULICH (South Eastern Metropolitan) — A successor of the same office!

I note Ms Hartland's comments; however, the bill does provide for an internal review mechanism. There will be a minimum of three commissioners, excluding the original decision-maker, to make sure that any concerns can be addressed. They can review an original decision by a single commissioner or staff member under delegation. The commission will make a fresh decision which may affirm or vary the original decision or make a new one.

The bill removes the merits review jurisdiction for liquor licensing decisions from the Victorian Civil and Administrative Tribunal (VCAT), but the appeal to the Supreme Court on a point of law will remain. Appeal rights to the full commission will exist in the vast majority of liquor cases.

In a very limited number of cases where the commission decides to sit as a full commission in the first instance, the only appeal rights will be to the Supreme Court on a point of law. The bill makes no changes to VCAT's merits review jurisdiction in respect of gaming matters; however, as Ms Hartland mentioned, the minister will be issuing decision-making guidelines to the commission, and the guidelines-making power will enable the government to provide appropriate policy direction, including on the matters that Ms Hartland has canvassed, to the commission in exercising its gambling and liquor regulatory functions. In so doing the minister himself will make sure that there are appropriate checks and balances and the accountability that this Parliament demands.

Hon. M. J. GUY (Minister for Planning) — I do not want to repeat what Mrs Peulich has said, but I think she has given an accurate indication of the government's position on the Greens amendment. While we certainly appreciate the spirit of Ms Hartland's amendment, we believe there are adequate measures to accommodate her concerns.

Ms HARTLAND — Could the minister clarify whether he thinks there is enough transparency in this? I think this amendment is a fairly simple one. We are requesting that a perceived or real conflict of interest of a commissioner be explained and that it be put on the website. We are not asking for a huge amount. Why would that be so difficult?

Hon. M. J. GUY (Minister for Planning) — I point Ms Hartland to three subclauses of clause 21 of the bill. A commissioner who becomes aware of a conflict of interest involving himself or herself must inform the chair. If the chair becomes aware of a conflict of interest involving himself or herself, then he or she must inform the minister. The commission must make guidelines on these matters, and these must be published on the commission's website.

Ms HARTLAND (Western Metropolitan) — I am aware of that, but it does not give the community the opportunity to understand what that conflict was, because it does not have to be disclosed.

Hon. M. J. GUY (Minister for Planning) — I reiterate that subclause (1) of clause 21 states that the guidelines the commissioner will make on these matters must be published on the commission's website. We believe that is appropriate and transparent and that it provides the necessary mechanisms to ensure the transparency Ms Hartland is seeking.

Ms HARTLAND (Western Metropolitan) — I am aware that it is required to publish the guidelines, but it does not anywhere say that the conflict of interest is required to be published so the community will know why someone removed themselves and why there was a perception that their conflict may affect that decision. Just having guidelines published does not give the community any access to understanding the reasons.

Hon. M. J. GUY (Minister for Planning) — I say, with respect, clause 21 says the guidelines can include details of when written statements could be appropriate, gives the circumstances where commissioners should remove themselves from deciding a matter and contains details of what interests must be disclosed. The commission can also determine the specifics of who needs to know where an interest is identified, such as the minister, the chair, the public or the relevant parties. Those commission hearings can be held in public, except where circumstances prevent it. They will go through a probity process. Clause 5 provides that the minister may issue overarching decision-making guidelines to the commission and that the commission will cover those matters. Again, we genuinely believe mechanisms in relation to probity have been put in place that will adequately cover the concerns that Ms Hartland has raised.

Ms HARTLAND (Western Metropolitan) — Again, there is no mechanism for the community to be informed of those conflicts. They are internal guidelines and the guidelines will be published, but there is no way that a community member can know what the perceived or real conflict was.

Hon. M. J. GUY (Minister for Planning) — I respect Ms Hartland's points and the fact she has made those points which she believes are very important. We too think they are important, and that is why in

clause 21 we have put in another of those mechanisms. Let me say again that those guidelines must be published on the commission's website, and as I have said in points I have raised earlier, the guidelines can also determine the specifics of who needs to know where those interests are identified, and one of those is the public.

Business interrupted pursuant to standing orders.

QUESTIONS WITHOUT NOTICE

Box Hill Hospital: bed numbers

Mr JENNINGS (South Eastern Metropolitan) — My question is to the Minister for Health. In media reports this week the minister claimed that he is unable to clarify the number and the nature of bed closures at Box Hill Hospital. Does this mean that there has been a breakdown of the relationship between the minister, his office and Eastern Health, which runs the hospital?

Hon. D. M. DAVIS (Minister for Health) — I am always cautious in accepting the statements of the opposition in terms of reportage of this nature. That aside, it is a matter for health services how they manage their particular clinical activities, including beds and other clinical activities as appropriate.

Supplementary question

Mr JENNINGS (South Eastern Metropolitan) — I thank the minister for his very cautious answer to that proposition. Nonetheless, in that answer he indicated, by the sound of things, that he does not have or will not express a view or set a direction for operational decisions by health services about the number of beds at Eastern Health. In his supplementary answer can the minister confirm that that is what he said in his substantive answer?

Hon. D. M. DAVIS (Minister for Health) — Again I am always cautious about being verballed by the opposition, but I will make the point to the member and to the house that we negotiate arrangements with particular health services, and that includes their activity levels and a range of other matters. That is a point of ongoing annual negotiation and further discussions. Health services manage their clinical activities day to day.

Housing: work and learning centres

Mr KOCH (Western Victoria) — My question without notice is to the Minister for Housing, who is also the Minister for Children and Early Childhood Development, my colleague the Honourable Wendy Lovell. Can the minister inform the house of the details of the announcement of the first two work and learning centres and their relationship to the coalition's fight against disadvantage?

Hon. W. A. LOVELL (Minister for Housing) — On Tuesday last week I was thrilled to deliver on a key election promise of the coalition and announce the locations of the first two of the coalition's five promised work and learning centres on public housing estates. As members would be aware, last week was Anti-Poverty Week, and I was delighted to be with the Premier when he announced the first two locations of the work and learning centres, which will be in North Geelong and on the Carlton housing estate. The coalition will pilot five new work and learning centres on public housing estates as part of its commitment to helping Victoria's most disadvantaged and vulnerable people to break the cycle of disadvantage. Providing meaningful, productive and sustainable education, training and work opportunities for people is central to the fight against poverty.

Public housing neighbourhoods have been selected for this program as they are far more likely to experience high concentrations of unemployment and low levels of education. These centres will provide important training and employment assistance to the people in our community who need it most. Not having a job can exclude people not only economically but also socially. People become trapped in a cycle of disadvantage and become isolated and withdrawn. A pathway to a stable job is a proven circuit-breaker. The government will work in partnership with the Brotherhood of St Laurence in rolling out the work and learning centre program. The brotherhood has announced that it will partner with Northern Futures in Geelong and also the Church of All Nations in Carlton to deliver these first two centres.

When I was at St Mary's House of Welcome last week, Sister Roseanne and two of the board members said to me that to solve disadvantage we need to offer people HOPE, which stands for housing, opportunity and permanent employment. That is St Mary's House of Welcome's philosophy, and it sits well with what the Baillieu government wants to achieve. We want to offer people housing, opportunity and permanent employment.

Hospitals: bed numbers

Mr JENNINGS (South Eastern Metropolitan) — My question is for the Minister for Health. Yesterday I did not ask this question, because I did not want to rain

on the minister's parade on the day that he opened, along with Her Majesty the Queen, the Royal Children's Hospital. Can the minister confirm that whilst he was engaged in that activity of opening new beds he was contemplating closing beds at Port Fairy Hospital and the Koroit aged-care facility?

Hon. D. M. DAVIS (Minister for Health) — I think most people were happy with the opening of the Royal Children's Hospital yesterday. I spent much of the day working on that matter and very much enjoyed the day with the many people who were active there. I indicate that there are lots of things happening around the state that health ministers are asked about and respond to, but I was not contemplating closing beds.

Supplementary question

Mr JENNINGS (South Eastern Metropolitan) — I thank the minister for that. I join him and all Victorians in being proud of the Royal Children's Hospital, so I was pleased with the day, but I would be concerned if the minister had been contemplating those bed closures. Can I take it that the minister has confirmed categorically that there will not be bed closures at Port Fairy Hospital or the Koroit aged-care facility?

Hon. D. M. DAVIS (Minister for Health) — I make the point that I am not aware of any planned bed closures at Port Fairy — and I make that point quite clearly — but I am aware that the management and the board of the important long-term service at Koroit has written to me indicating that they wish to close that service. The board has indicated that demand has fallen for services at Koroit. It has assured me that all staff will be found placements elsewhere and that it will work with each of the families of current residents to ensure that those residents are provided with services nearby. I understand there is a strong level of support at the board level for that decision, because over time there has been a diminishment in the requirement for additional beds — —

Mr Jennings — In your first answer you said you were not aware of it or contemplating it.

Hon. D. M. DAVIS — In the first question, you asked me whether I was aware of it and contemplating it yesterday.

The PRESIDENT — Time!

BreastScreen Victoria: government support

Mrs KRONBERG (Eastern Metropolitan) — I direct my question to the Minister for Health, who is also the Minister for Ageing, the Honourable David Davis. Can the minister inform the house of how the Baillieu government is supporting BreastScreen Victoria?

Hon. D. M. DAVIS (Minister for Health) — I thank the member for her question, and I note the long tradition of bipartisan political support for health initiatives in the area of cancer awareness and prevention. BreastScreen Victoria performs a very important function, offering screening services across the state, including mobile services. I was pleased to meet with a number of members of this house and the other house and to host that meeting jointly with Jane Garrett, the member for Brunswick in the other house.

At that meeting we drew attention to the need to inform women of the need to undertake breast screening, particularly those in the age groups of 40 to 49 and 50 to 69. In particular there is a need to lift the screening rate because there are many women who do not avail themselves of that opportunity. The prevention outcomes from early detection and treatment are very important. Members of all political parties can perform a useful role for the community in drawing attention to the need for women to undertake those breast screening steps.

I also note that the Victorian government is committed to supporting BreastScreen Victoria, and I look forward to making sure, in tandem with the commonwealth, that screening rates are high. I invite all members of this house and the other house to participate in that process by encouraging women to take up the opportunity of free breast screening and informing their local communities of the preventive health results that occur and the significant health benefits that can be achieved for women.

South West Healthcare: funding

Mr JENNINGS (South Eastern Metropolitan) — My question is for the Minister for Health. Our productivity is very high in question time today. In the annual report of South West Healthcare, which was tabled in the last sitting week, there was an alarming comment that indicated that hospital stays may be shortened due to demand pressures rather than for clinical care reasons. Will the minister ensure that South West Healthcare or any other service will not be compromised in clinical care because the growth funding the minister provides does not keep up with demand?

Hon. D. M. DAVIS (Minister for Health) — I understand that South West Healthcare will have a significant increase in its funding this year of about

6 per cent. Equally I understand that South West Healthcare, like all health services in this state, focuses on good clinical outcomes, and I have no doubt it will seek to get the best clinical outcomes for the patients in its community. I have a high level of confidence in that service. Obviously it serves the people of the south-west very well.

Supplementary question

Mr JENNINGS (South Eastern Metropolitan) — I thank the minister and congratulate him on his attitude and response to that question. The community in the south-west would be aware that the commitment of the outgoing Labor government was to fund a $115 million redevelopment of the Warrnambool hospital and 29 new beds. Does the minister agree that the real challenge for that community now is to make sure that recurrent funding is available to keep up with demand pressures, and does the minister give an undertaking to make sure that he measures that appropriately and responds with adequate resources, which are recurrent resources, for that service?

Hon. D. M. DAVIS (Minister for Health) — I am not sure a question including the words 'do you agree' is the sort of question that would normally be answered in this chamber. Notwithstanding that, I am happy to respond by stating that the government has a firm commitment to South West Healthcare and is determined to see good services delivered through those facilities. Members would be aware that I have visited those services in recent times, as has the Premier and others, and we were very impressed with the quality of service. There is every reason to have a high level of confidence in the services delivered by South West Healthcare.

Vocational education and training: funding

Mr O'BRIEN (Western Victoria) — My question is to the Minister for Higher Education and Skills, who is also the Minister responsible for the Teaching Profession, the Honourable Peter Hall. I ask the minister if he can advise the house of the public consultation process being undertaken by the Baillieu government concerning the government's review of vocational education and training fees and funding.

Hon. P. R. HALL (Minister for Higher Education and Skills) — I thank Mr O'Brien for his question. The report to which he was referring was the report that was tabled in this chamber on 11 October, that being a report by the Essential Services Commission on the vocational education and training fee and funding review. I said at the time of the tabling of that report that there would be a public consultation process following that so that the general public could have an opportunity to comment on the recommendations of the Essential Services Commission. I am more than happy to respond to Mr O'Brien's question and give some further details of that consultation process, because it seems there are some in this Parliament who are unfamiliar with the opportunity that has been provided.

Following that report tabled on 11 November, I asked an expert panel to undertake consultation broadly across Victoria. As a response to that, well-advertised stakeholder sessions and opportunities for the general public to contribute to the report were listed on the website. On Tuesday, 18 October, a special meeting for adult and community education providers was convened. Later that day a special meeting for private registered training organisations was convened. On the next day — the Wednesday — a special industry business sector was convened and public providers, which basically included our TAFE institutes, had a special day on Thursday, 20 October. This week meetings have been held in Colac, Melbourne and Traralgon for the general public to have some input. Next week there will be further consultation meetings at Dandenong, Shepparton and Bendigo.

I was therefore bemused to read a press release dated Tuesday, 25 October, from the Labor opposition in Victoria, and I quote the shadow minister for higher education, the member for Eltham in the Assembly, Mr Herbert:

> The Baillieu government is attempting to rush through consultation when the public is preoccupied with the Queen's visit and the Melbourne Cup.

Mr Herbert suggests that because the Queen visited Victoria yesterday and because the Melbourne Cup will be run next week, the consultation process should be extended for a period of time. Mr Lenders, the Leader of the Opposition, told us of the scant 4-hour visit by the Queen to this state and suggested to us it should be business as normal. I also put on record — —

Honourable members interjecting.

Hon. P. R. HALL — Victoria does stop for the 3½ minutes it takes to run the Melbourne Cup. To suggest, therefore, that any consultation is being inappropriately interrupted by a 4-hour visit by the Queen or the 3½-minute running of the Melbourne Cup is, to me, absolutely ludicrous. But I make this special offer to the shadow minister: given that he had no input and made no submission to the first round of the review, if it is necessary, I will give him special dispensation of a week's extension of the time for

submitting to the review by the expert panel that I have convened. The Baillieu government is serious about providing opportunities for all Victorians to have input, so if, unlike all other Victorians, Mr Herbert is unable to meet the generous time line for this round of consultations, I will extend it for him.

East Wimmera Health Service: Charlton services

Ms MIKAKOS (Northern Metropolitan) — My question without notice is to the Minister for Ageing. The Charlton campus of the East Wimmera Health Service, which includes the Kara-Linga nursing home and Charlton hostel, received extensive flood damage as a result of January's floods and has remained closed since. Given that a business case had been prepared for a new service model for this health service prior to this year's floods and 10 months have now passed since the floods, what progress has been made with regard to the repair or rebuilding of the Kara-Linga nursing home and Charlton hostel, and when will these aged-care services be running again?

Hon. D. M. DAVIS (Minister for Ageing) — Members of this house will well understand the terrible situation that occurred in Charlton earlier this year with the floods, and those matters have been subject to extensive discussion in this chamber. Charlton, of course, was particularly hit by those floods, and the fact is that the hospital and the health service in general were severely impacted. I and others in this chamber have been through the town and looked at the damage to a number of facilities around the town.

In terms of the health-care services, we made sure that in the initial phase a primary care MASH (mobile army surgical hospital) style unit was put in place, which provided services very quickly for people. It is true that there was not a full range of services, but it did provide some services. After that we ensured that portable demountables were put in place to provide further services. Aged-care services hub nurses moved in and out of those demountables to provide services to people in the community. Primary care services were also provided from the demountables.

In the budget this year $1 million was provided for the scoping and planning of further services for Charlton, and significant work has been done on that. I know my department has been heavily engaged with the board of the health service. I have had conversations with the CEO and met with her a number of times and also with the board chair. We have had discussions with municipal officials and others through the town. Further additional service planning has been undertaken since then.

Obviously the impact of the floods has been severe. All those who were in aged care in the town have, where appropriate, been moved to other campuses of the health service, and a number of others have been provided with home care. There has been a great deal of attention and focus on supporting the town in every way possible. The government will make further statements on this. We are determined to make sure Charlton has proper services.

It would be fair to say that one of the lessons learnt from the floods is that the positioning of the health service on the flood plain was not wise. This was obviously a decision made many years ago, but it is clear that the health service in its current position is at a level that could be impacted by future floods. There is a significant challenge in planning for services for the next 40, 50 and 60 years into the future. We are working through that in a methodical way, and we are consulting with the health service, the council and the community. A great deal of work has occurred. Ms Mikakos should understand that we are committed to maintaining strong hospital and aged-care services in the town of Charlton.

Supplementary question

Ms MIKAKOS (Northern Metropolitan) — I thank the minister for his answer. Everyone understands the anxiety in the community since January's floods, but part of my question — and the key thing the community wants to know about — concerns issues around certainty and time lines. I ask the minister: can he give the affected families an assurance that they will be able to return to these facilities, and if so, when?

Hon. D. M. DAVIS (Minister for Ageing) — As I have outlined, the government has moved very swiftly to put the temporary services in place — —

Mr Lenders interjected.

Hon. D. M. DAVIS — No, I think people were extremely surprised at the speed with which that MASH-style unit was put in place. They were also surprised at the quality of the demountables and the support that was put in with them. The demountables are obviously not a permanent solution, but they have provided significant services for the town. That is something of which the government is proud. We think the future of health services and aged-care services is in the town.

A significant service planning process has been undertaken. I have received some of that information in recent days. I have been in discussions with the CEO of the health service and with the board's chair and others in the town. It is an important service, and we are deeply committed to making sure that Charlton has a restored health and aged-care service that it can be proud of and that will deliver services for the next 40 or 50 years.

Recruitment industry: performance

Mr O'DONOHUE (Eastern Victoria) — My question is to the Minister for Employment and Industrial Relations, the Honourable Richard Dalla-Riva. Can the minister update the house on the importance of the recruitment industry to identifying and addressing skill shortages in the economy?

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — I thank the member for his question and for his interest in this area. This is an important industry that is clearly linked to employment in this state.

Earlier this month, following on from the processes of engagement undertaken by the Minister for Higher Education and Skills, I was pleased that we also undertook a round table process with the recruitment and consulting industry. This was an opportunity for us to hear firsthand from business and from industry associations about the issues and barriers that confront this important industry that employs more than 100 000 workers across Australia. We need to ensure that the on-hire employment industry is supported by positive policies. It is trying to do the best it can in terms of innovation and ensuring that there is support for a strong skills base.

The government heard about the industry's importance in ensuring that our industries are dynamic, outward looking and agile and that our people are skilled, innovative, flexible and adaptable. That is why earlier this year Victoria was the only state to join with the National Retail Association in its efforts to reduce minimum shift times for casual employees who are high school students. We saw that as being about bringing in a more balanced and common-sense approach to workplace relations.

For its part, as we learnt at the industry round table, the private recruitment and consulting sector also acknowledged that it is important to identify areas with low levels of productivity, skills shortages and regulatory bottlenecks which constrain growth in our industries. Not surprisingly, there were concerns about the national policies and frameworks that impinge upon the opportunities for industry to move forward.

We also need to understand the challenges of the high Australian dollar, which even has an impact on the recruitment industry, relatively high interest rates, intense global competition and of course the deferred consumer confidence because of Labor's carbon tax. In these difficult global conditions the aim must be to make it easier, not harder, for our businesses to be strong and successful.

The recruitment industry is a very important one in terms of employment in this state. That is why I note with concern what has been happening to a company known as Unions National Pty Ltd, which has been trying to drum up business for the trade union movement. As I am sure is the case for members opposite, I read with great concern the recent reports in the *Australian* about the plight of this company. Unions National is a prominent company in Victoria. It is designed to find and recruit new union members. According to today's reports, the company has gone into liquidation owing up to $4 million and has begun standing down its workforce, with as many as 74 employees affected.

This is very distressing. I have always indicated that when any company is facing distress like this and certainly when a company announces it is reducing its workforce, it is distressing for the employees and families involved. I am sure those opposite will share my concern about that recruitment drive gone badly wrong.

Rail: regional link

Mr BARBER (Northern Metropolitan) — My question is for the Minister for Planning, Mr Guy, and is in relation to the regional rail link project. The minister would be aware that condition 1 of the Environment Effects Act 1978 approval requires a noise impact assessment report in consultation with the Environment Protection Authority.

Page 23 of the regional rail link report, which I have provided to the minister, seems to indicate that 15 V/Line trains will be running at the baseline — year zero — and that an extra three trains will be running in morning peak, followed by a total extra four and a half trains 10 years afterwards. Can the minister confirm that this is the operating assumption under which he has approved this report?

The PRESIDENT — Order! I am a little concerned that the subject matter of the question, in respect of

operating timetables, seems to be outside the responsibility of the minister. Whether or not he has used those assumptions, I will allow him to respond to that question. But it seems to me that Mr Barber was going to some detail that is not necessarily a part of his jurisdiction.

Hon. M. J. GUY (Minister for Planning) — In relation to Mr Barber's question, the noise impact assessment report which was presented to me works through details of timetabling information and predictions that were provided to us by the Department of Transport.

Supplementary question

Mr BARBER (Northern Metropolitan) — I thank the minister, but $5 billion does seem an extraordinarily high price tag to run an extra three regional trains in the morning. I did ask the minister about the Environment Protection Authority being consulted in the preparation of this report. As reported, the EPA's previous comments on the early version, as the minister knows, were:

> In Footscray, for the most exposed residents, a vast majority of the population will experience chronic noise-induced sleep disturbance, with very significant proportions 'highly disturbed …

It also said:

> For the most exposed residents in other areas, almost half the community will experience chronic noise-induced sleep disturbance.

What is the EPA's comment now, as it was required to be consulted before the minister approved this report, and has this seemingly dramatic reduction in the number of trains that this project will service got anything to do with the apparently reduced effects?

Hon. M. J. GUY (Minister for Planning) — In relation to the first point of Mr Barber's question, the project will take V/Line trains off the metropolitan line from Werribee into the city. It will greatly free up the times during which metropolitan trains can access the Werribee line, which services the fastest growing area in Australia. The project will accommodate the electrified system back into Melbourne and allow greater patronage of it. It will also allow for 160-kilometre-an-hour services leaving North Melbourne to run at full speed so we can have a quicker system operating to get regional trains off the metropolitan line to allow greater capacity on the metropolitan lines, which is what we need to do to accommodate the population in Melbourne's fast-growing western and north-western suburbs. Noting that the federal government went cold on funding this project, the Baillieu state government is very committed to making it happen. The state government believes it is right. I will take the substance of Mr Barber's point on notice.

Urban Renewal Authority: board appointments

Mrs PEULICH (South Eastern Metropolitan) — My question is also directed to the Minister for Planning. I ask: can the minister inform the house of the Baillieu government's commitment to urban renewal and any actions that have been taken to facilitate these goals?

Hon. M. J. GUY (Minister for Planning) — What a pleasure it is to have the last question on a Thursday in question time and respond to my colleague Mrs Peulich in relation to urban renewal.

It was a great honour for me to announce this morning the board of Victoria's new Urban Renewal Authority, the nine men and women who will guide our state's urban renewal objectives. With the new authority, there will be great scope for urban change in built-up, established areas such as the Fishermans Bend precinct, which the government has discussed, and the completion of Docklands and other areas around Melbourne. The Baillieu government believes we can get greater urban renewal outcomes and greater density and achieve a terrific advantage for Melbourne with our competitive advantage over other cities. That is urban renewal.

It was a pleasure for me to announce the appointment of the chairperson of the board of the Urban Renewal Authority, Mr Peter Clarke, a former councillor, mayor, architect and head of the Royal Australian Institute of Architects (Victoria) and the Property Council of Australia (Victoria); and of the deputy chairperson, Mr Ken Fehily, a former partner of PricewaterhouseCoopers and Arthur Andersen. Bill Bowness brings skills and abilities as CEO of the Wilbow Group. Lorna Gelbert is a law partner at Madgwicks with over 35 years experience in property and commercial law. She is the chair of the Law Institute of Victoria's property law advisory committee and has great skills and experience.

Judith Nicholson has 25 years consulting experience in town planning and is a former vice-president of the Victorian division of the Planning Institute of Australia. Graeme Parton, a director of Charter Keck Cramer, brings 35 years experience to the board in relation to property development and construction. Tim Shannon is an architect and was managing director of

international firm Hassell from 1993 to 2008. Professor John Stanley has corporate experience from serving on the VicUrban board and is also on the new Urban Renewal Authority board. He was a previous State Services Authority commissioner and is a consultant on transport and logistics. Jan West, AM, a chartered accountant and senior audit partner with Deloitte, brings invaluable experience to the board.

The board will set up a team of men and women who can guide Victoria's urban renewal objectives, which this government believes are incredibly important in making sure that in urban renewal Melbourne positions itself with a competitive advantage over other Australian and Asia-Pacific cities and we again see Melbourne as the greatest city in Australia in which to do business and in terms of urban renewal.

VICTORIAN COMMISSION FOR GAMBLING AND LIQUOR REGULATION BILL 2011

Committee

Committee resumed.

The DEPUTY PRESIDENT — Order! Before calling Ms Hartland, I thank Mr Finn for assisting the committee in the earlier stage.

Ms HARTLAND (Western Metropolitan) — I ask the minister: what will happen if three of the commissioners have exactly the same conflict of interest? How will that be dealt with?

Hon. M. J. GUY (Minister for Planning) — I am informed that the commission can take on additional people as required. Noting it is a hypothetical situation, it is one that would be considered by the minister at that point in time.

Ms HARTLAND (Western Metropolitan) — When those extra commissioners are taken on, how will that be disclosed to the public so that community members know why new commissioners are being taken on? The minister has still not answered the question about how the community will know there is a conflict of interest.

Hon. M. J. GUY (Minister for Planning) — With respect, Chair, I believe I have, and I believe clause 21 can answer the points Ms Hartland is putting.

Ms HARTLAND (Western Metropolitan) — I do not believe the question has been answered, and I do not know how long I will have to keep asking the same question. I am asking: how does the community find out that there is a conflict of interest with commissioners when at this stage there is no ability to disclose in the bill?

Hon. M. J. GUY (Minister for Planning) — As I think I have stated in relation to clause 21, I believe and the government believes the provisions we have put in place are adequate to deal with those matters. We believe the transparency arrangements are adequate. I appreciate that Ms Hartland believes differently from me, but I believe the points she has raised a number of times have been properly answered. I believe clause 21 covers the concerns she has raised. Whether it is in relation to the commissioner or the material that needs to be made available on the website or the discretion of the minister, that has all been answered.

Ms HARTLAND (Western Metropolitan) — Mr Guy and I will have to disagree on that. I do not believe Mr Guy has actually answered the question at all, and that is why I have to keep asking it. We also received advice from parliamentary counsel that this needed to be inserted in the legislation or else there would not be any reason why the information would have to be published.

Hon. M. J. GUY (Minister for Planning) — I ask Ms Hartland to repeat the second part of her question.

Ms HARTLAND (Western Metropolitan) — In drawing up these amendments we sought advice on how this would affect the legislation. It was pointed out to us that guidelines in relation to publishing these disclosures would have to be expressly inserted in the bill, which is what we are trying to do, otherwise any guidelines ordering publication would be struck out by the court as beyond the power of the legislation.

Hon. M. J. GUY (Minister for Planning) — I am not aware of the advice that Ms Hartland has been provided with. It is inappropriate for me to comment on the advice Ms Hartland has received. I can answer questions on the legislation at hand, but I am not aware of the advice Ms Hartland is referring to.

Ms HARTLAND (Western Metropolitan) — The advice we received was that this needed to be inserted into the legislation or it would not have any effect. If that is not the case, I am asking the minister to explain why that is.

Hon. M. J. GUY (Minister for Planning) — From whom did Ms Hartland receive that advice?

Ms HARTLAND (Western Metropolitan) — My staff member received that information from parliamentary counsel. I am happy to provide that in

writing at another stage, but that is the information that I have received.

Hon. M. J. GUY (Minister for Planning) — I can comment on the legislation at hand, but I do not feel able to comment on an opinion from parliamentary counsel which I have not seen.

Ms HARTLAND (Western Metropolitan) — I have a final comment to make and then I will leave it at that. I am obviously disappointed that the government is not going to accept the amendment because I think it would have made the legislation much more transparent. The government is obviously not interested in transparency. This was an important amendment for the community, but the community is not going to be able to see exactly what is happening. I do not know whether the question I raised earlier, about what happens if you have a number of commissioners with the same conflict at the same time, was adequately answered. You can keep bringing in new commissioners, but nobody is actually going to know about it except for other commissioners. That does not sound very transparent to me.

Committee divided on amendment:

Ayes, 18

Barber, Mr	Pakula, Mr
Broad, Ms	Pennicuik, Ms
Darveniza, Ms	Pulford, Ms
Eideh, Mr	Scheffer, Mr
Elasmar, Mr	Somyurek, Mr
Hartland, Ms (*Teller*)	Tarlamis, Mr
Jennings, Mr (*Teller*)	Tee, Mr
Leane, Mr	Tierney, Ms
Mikakos, Ms	Viney, Mr

Noes, 20

Atkinson, Mr	Hall, Mr (*Teller*)
Coote, Mrs	Koch, Mr
Crozier, Ms	Lovell, Ms (*Teller*)
Dalla-Riva, Mr	O'Brien, Mr
Davis, Mr D.	O'Donohue, Mr
Davis, Mr P.	Ondarchie, Mr
Drum, Mr	Petrovich, Mrs
Elsbury, Mr	Peulich, Mrs
Finn, Mr	Ramsay, Mr
Guy, Mr	Rich-Phillips, Mr

Pair

Lenders, Mr	Kronberg, Mrs

Amendment negatived.

Clause agreed to; clauses 22 to 104 agreed to; schedule agreed to.

Reported to house without amendment.

Report adopted.

Third reading

Motion agreed to.

Read third time.

ENERGY LEGISLATION AMENDMENT (BUSHFIRE MITIGATION AND OTHER MATTERS) BILL 2011

Second reading

Debate resumed from 13 October; motion of Hon. G. K. RICH-PHILLIPS (Assistant Treasurer).

Mr TEE (Eastern Metropolitan) — I welcome the opportunity to speak on the Energy Legislation Amendment (Bushfire Mitigation and Other Matters) Bill 2011, which, as the second-reading speech suggests, is in part a response to the findings and recommendations of the 2009 Victorian Bushfires Royal Commission. It is worth noting that the commission report was tabled more than 12 months ago, on 31 July 2010. We are now working through a number of the recommendations and implementing them, and this bill is part of that process.

It is also worth noting that this government's implementation of the 2009 Victorian Bushfires Royal Commission recommendations has a chequered history. This further bill is part of a number of attempts to implement the bushfires royal commission recommendations. It is worth remembering that when in opposition the now government gave a commitment that it would implement the royal commission's recommendations lock, stock and barrel, but there are some concerns about whether or not it has delivered on its election commitment. I think it is fair to say that there have been a number of failures in terms of its commitment.

Mr Drum — A number of failures — what are they?

Mr TEE — Mr Drum asked me what those failures are. Let us talk about the buyback scheme and how it was almost impossible to meet the criteria of that buyback scheme. It was almost impossible because of the restrictions his government put on it. Let us have a look at the bushfire-prone areas map. Mr Drum asked me what the failures are. What about the bushfire-prone areas map, which seeks to identify those areas that are at risk?

Somehow large areas of the state which, from either Black Saturday or Ash Wednesday, were classified as

at risk have been left out of Mr Drum's government's map. It is a map that is like Swiss cheese. The protection for Victorian families living in country Victoria is full of holes. There are massive gaps, and the reason for that is that Mr Drum's government did not consult local communities, local councils or local builders, and now those maps are deficient. The consequence of that is alarming when you think for a moment what is at stake.

But on the contrary, on the other side of the equation, when you are thinking about these maps there are parts of Melbourne's suburbs covered by them which require those areas, part of the urban growth boundary, to have ember protection in place. These are areas that might not be suburbs today but will certainly be suburbs tomorrow, and yet they are required to have ember protection.

On the other hand you have parts of the state that were affected by either the Ash Wednesday or the Black Saturday bushfires that are not required to have that protection. On the one hand you have people in country and regional Victoria wondering why the bushfire-prone area maps do not cover their area, and on the other hand you have future suburbs that will be free from ember attack — and the consequence of that is a financial one.

The Building Commission on its website — until it was recently taken down; I will leave it at that — estimated that the cost of ember protection would be $12 000. So you will have suburbs in Melbourne where homes will be protected from ember attack at a cost of $12 000 per house. There is a question, and there are views in the community, about whether some of those areas ought not be covered. There is a real issue in terms of the delivery of the bushfires royal commission's recommendations by this government and real concerns about the government's commitment and ability to deliver on those recommendations.

It is in that context that we look at this bill, what it seeks to do and the next steps in terms of the implementation of the recommendations of the royal commission. On the one hand we have bushfire-prone area maps that have a Swiss cheese effect whereby areas are not covered. On the other hand under this bill the electricity distribution companies are required to make bushfire plans for their entire supply network. Under this bill there is a requirement that electricity distribution companies make a plan to protect against bushfires in parts of Victoria that will never be affected by bushfires.

Mr Drum — How do you know?

Mr TEE — Because I have just read the second-reading speech. It is in the second-reading speech.

Mr Drum — How do you know they will never be affected?

Mr TEE — It is in the legislation.

Mr Drum — How do you know whether they will be affected? How do you know that? Do you know that certain areas will never be affected?

Mr TEE — What the legislation provides and what the Minister for Energy and Resources, Mr O'Brien, said in the Assembly in his second-reading speech is that the current requirement under the legislation — that is, today's requirement — that you only provide a plan for those areas at risk, will be scrapped. We will get rid of that, and instead we will require electricity distribution companies to make a bushfire mitigation plan for all of Victoria. On the one hand you require electricity distribution companies to have bushfire mitigation plans for the whole of Victoria, but on the other hand you have a bushfire-prone area maps which has huge gaps in it in terms — —

Mr Drum interjected.

Mr TEE — I am not talking about buyback, I am talking about the standards that houses need to be built to in Victoria to protect those houses and families from bushfires. Under this bill electricity distribution companies will need to have a bushfire mitigation plan, but the houses will not be built to standards that protect against bushfires. In other areas the next-door neighbour's house might be, because the map is so confusing — some areas are covered and some are not. What you have is a very inconsistent approach, and that is going to lead to confusion. If you have confusion out there, it spells danger — not particularly out there, but if you have confusion in any area, if you have an inconsistency in your approach or if there is confusion about why particular streets are covered in bushfire-prone areas maps and other streets are not covered, it spells danger. The stakes are very high.

Sitting suspended 1.00 p.m. until 2.02 p.m.

Mr TEE — Before the lunch break, I was addressing parts of the Energy Legislation Amendment (Bushfire Mitigation and Other Matters) Bill 2011. I talked about the requirement for electricity distribution companies to make bushfire mitigation plans and for them to cover the entirety of the network. A number of other amendments in the bill will change the powers of Energy Safe Victoria, or ESV, including extending its

powers to require audits of compliance with electric line clearance plans, to prohibit building works that make electrical installations unsafe and to amend the powers of entry, search and direction. There are also additional powers to impose sanctions for failing to comply with the legislation.

Caps have been placed on the amount of compensation that can be provided when there is any wrongful disconnection. This is an issue that we will take up during the committee stage. We on this side of the house are always concerned about any reduction in entitlements for consumers, families and small businesses. Currently consumers, including residents and small business customers, are entitled to be paid $250 for each day they remain wrongfully disconnected from electricity or gas. This is a very powerful tool. Retailers will have a direct financial incentive to focus on getting it right and making sure that their customers, including small businesses and families, are reconnected as soon as possible after they have been disconnected.

If a customer is in arrears, retailers have to go through a rigourous procedure. They have to contact the customer, and they have to try to establish payment arrangements before there can be any disconnection. If these procedures are not followed, if any consumer or customer is disconnected and if that disconnection is wrongful, then in our view the customer or consumer should rightfully be compensated. This bill puts some limits on the rights of consumers. If there is a wrongful disconnection, the consumer must notify the retailer within 10 days. Under this bill, if there is a failure to contact the retailer, then a cap on compensation will be imposed. That cap could be $3500 or some other amount prescribed in regulations.

Our concern — which we would like to have addressed during the committee stage — is the change which will see the onus being transferred from the retailer to the consumer. Up until now the onus has been on the retailer to get it right and restore electricity or gas as quickly as possible. That onus has been backed by a direct financial incentive. Once the cap is reached, which could be $3500 or some other prescribed amount, what incentive is there for the retailer to connect a customer as quickly as possible? There might be a gap. There might be an area where a customer — a family or a small business — is wrongfully disconnected without there being any compensation past that initial amount and therefore no incentive, or very little incentive, for any retailer to reconnect that person as quickly as possible. That is an issue that has emerged for the opposition, and we are keen to explore that provision in the committee stage.

The final aspect I wish to comment on is that this is part of a series of amendments that will occur. There is also a further report, and the government has signalled that we will be seeing further amendments once it has considered that report, so this is part of that process. With those words, I await the committee stage.

Mr BARBER (Northern Metropolitan) — While some of the measures in this bill may be worthwhile in and of themselves, they do nothing to assure Victorians that there is not some kind of continuing slippage going on in the commitment to reduce the hazard from bushfires in Victoria. It is essential if we are to avoid such a tragedy occurring again that we have strong measures designed both to reduce the risk of a tragic fire starting and to ensure that we are well placed and well hardened against its consequences if one gets out of control, as we saw tragically in 2009.

There is a confused policy response and message on powerlines and the frequent form of ignition we see from the power grid. We have already seen one civil matter dealt with by the courts with tens of millions of dollars worth of compensation recently committed to those affected near Horsham, and I am sure we will see many more like it of a similar scale. It appears, though, that that is a stronger driver of the behaviour of power distributors than we are seeing from this kind of box-ticking exercise that has rolled through in various forms of legislation amending the same act, which is the Electricity Safety Act 1998.

The monopoly power distributors are extremely powerful and not at all averse to flexing their muscles. They are shoving smart meters down people's throats, jacking up their prices, contributing a major hit to our electricity bills, gaming with the federal regulator at every opportunity and selectively challenging different aspects of those federal decisions. If you have tried to get solar panels connected on your roof in certain parts of Victoria, and the examples that have come to me have been from country Victoria, you know you could be waiting three months, six months or even more from the day you sign up for those solar panels until the day you get final approval, they are switched on to the grid and you can start earning back some of your money.

In my view we have a fundamentally flawed model for running our electricity system here in Victoria, particularly in relation to distributors. We either need to regulate the hell out of them or send them back to Singapore and Hong Kong, where they came from, and come up with a different model for that essential part of our electricity system.

Mr P. Davis — Do you want to buy back the system?

Mr BARBER — We will see what it costs to buy back the system or what might be on the table, Mr Davis, when the grid is properly regulated and providing the proper services that Victorians expect, because at the moment the distributors get what they want, and you, as an individual user of power, are absolutely stuck with that monopoly. We either have a contestable system or we have a highly regulated system, but at the moment it is half pregnant. It is as it was when it was set up by the former Kennett government. It was for all intents and purposes left in that same way through the life of the Bracks and Brumby governments. Many of the matters that contributed to the tragic Black Saturday fires had been there ever since the system was first privatised and as a result of the steady-as-she-goes regulatory attitude adopted over the 11 years of the previous government.

We now know it is an extremely serious issue, but it is the dead cat that nobody wants to put on the table. I just put it on the table, and I got an extremely strong reaction from Mr Davis. But he was around for the entire process, so he may have a different perspective on the issue; he may educate me, and I will be listening keenly. That is the disquiet out there in the public about those serial recidivist arsonists — that is, the distribution companies. This bill extends slightly their responsibilities for risk management. That has got to be a good thing, so we will vote for those provisions.

The bill is called the Energy Legislation (Bushfire Mitigation and Other Matters) Bill 2011, and it is the other matters that may have slipped under some other people's radar. They relate to the VEET (Victorian energy efficiency target) scheme, the very efficient and effective scheme that we have had here in Victoria for driving energy efficiency through households and, soon, through commercial opportunities as well. It is a scheme that, whether or not you participate in it, lowers your electricity bill. If you participate and get free or subsidised energy efficiency products into your home or business, you will really cut your energy bill. But by driving down the demand for electricity in Victoria we actually push down the wholesale price of power, and the relevant figures on this are to be found in the regulatory impact statement on the expanded VEET target. That was a job of work commenced by the previous government. It was signed off by the new minister, who actually expanded the target, and I applaud him for doing that. I was lobbying heavily for that target to be expanded.

Already tens of thousands of homes across Victoria — I believe the figure is over 100 000 homes — have had products installed to improve their energy efficiency. Tens of thousands of electric hot-water heaters, many of them in country areas, have been removed and replaced with a more efficient version — solar or gas or solar-gas boosted — and, basically, the more we do under this scheme, the more we save. It pushes down the need for extra investment in power generation, and where it works on the peaks of power demand it can actually save us very large amounts across the grid. These are the few hours a year, sometimes less than 20 hours a year, when the wholesale price of power might go from $20 or $30 an hour up to $10 000 an hour and more. By flattening out those peaks we actually reduce the need for investment in peak plant, and we also reduce the total amount by which the cost of wholesale power rises.

I am a strong supporter of the VEET scheme, and this section provides for stronger enforcement powers to ensure that there is no misuse of the scheme by those who generate energy efficiency and who provide the certificates that are the currency of the scheme. I hope the minister can confirm that in the time since he has been in charge he has detected no wide-scale rorting or any problems and that these measures are really just a precautionary power that he is giving himself.

The last matter from the bushfire mitigation and other matters bill is the question of wrongful disconnection. Since privatisation, Victoria has had a strong regime in place with regard to wrongful disconnection. In some cases it is actually a lot better than in other states; perhaps this is because at the time privatisation was introduced, there was a need to bring in some strong powers. They are now being somewhat weakened in the following fashion.

The current scheme for wrongful disconnection is quite an effective one. You will get a prescribed amount for each day you are disconnected, and in order to get your payment you only really need to demonstrate that the disconnection was wrongful and the number of days for which it occurred. By having a prescribed amount, it means there does not have to be an argument about the extent of your loss; you just get a very simple payment. I think that is an effective form of regulation rather than making it a source of further litigation. However, an attempt is now being made to cap the amount of compensation that is available to you unless you go through further steps.

The Essential Services Commission (ESC) did extensive work in this area through public consultation and discussion papers, and through that we learn that

from the period 2005 through to 2009 there were over 27 000 disconnections of electricity. More than 550 of those were considered to be wrongful disconnections, so that was around a 2 per cent wrongful rate. The payments made under that scheme were quite extensive. There were anything from 150 to 240 payments a year, and the total amount paid was in the hundreds of thousands. The average payment was around the $500 to $900 mark. Some were as little as $22, but in some cases there were payments of tens of thousands of dollars. You can well imagine in the case of a business, for example, why the losses could be huge if the business were wrongfully disconnected; it would be losing money every day. Let us say you are running a butcher, for example, and you lose your electricity; your losses could be quite massive.

For an individual the effects could also be dire, but it is in the case of individuals, particularly vulnerable individuals, that we need to be extraordinarily cautious and protect them at all stages. Unfortunately the way this amendment is proposed allows companies to get away with wrongful behaviour if an individual does not take certain steps to preserve their rights. We know it will be vulnerable people who will have the greatest difficulty in preserving their rights. My philosophy on this is that if a disconnection is wrongful, it is wrongful. It should not really be a matter of whether you do or do not take certain steps within a certain period — 14 days in fact — that your rights may be destroyed.

The companies argue that there are all these examples of where it is quite an odious provision. They say, 'If someone's beach house disconnected and that person does not even notice because they are not there, why should we be punished when the person has not really experienced any loss?'. The difficulty with that argument is in separating out in legal terms what the difference is between a beach house and a principal place of residence. You can define them legally, but in practical terms how do you create a rule that ensures that vulnerable people are not harmed or that they do not experience some serious loss that the company then gets away with? Members should remember at all times that we are talking about a wrongful disconnection; there will be no argument when this provision is in play that the disconnection was wrongful. The only real argument here is that the companies do not want to have unlimited consequences running into the many tens of thousands of dollars.

This whole issue was argued out during the submission process by the Essential Services Commission. In the Consumer Utilities Advocacy Centre's submission on the draft report, in relation to this issue of the hypothetical beach house example, CUAC noted:

> We strongly disagree with this line of argument. The fact that the property is vacant at the time of disconnection does not make the disconnection process (if wrongful) any less wrongful. We believe that retailers should exercise the same level of diligence and care with regard to the disconnection process for all properties, whether a principal place of residence or not …
>
> We see merit in extending the WDP scheme to customers who have been wrongfully disconnected by their distribution business —

back to those guys again —

> (That is, the distribution business is solely responsible for the wrongful disconnection). We believe that customers should have an equivalent level of consumer protection in the event that they have been wrongfully disconnected by their distribution business —

and so forth.

Of course those are the examples that the company has put forward. It is equally easy to imagine other examples. If you have to make a complaint or register an objection within a certain period of time to preserve your right to claim the wrongful disconnection beyond the initial period, that puts you in a vulnerable position. It also puts the company in a position where it is not going to be particularly diligent in seeking out or holding on to your complaint.

We can well imagine someone who is elderly or someone who perhaps has a poor command of English ringing up the company, making a complaint about being disconnected, the company not bothering to keep any record of it and the person being unable to, or not realising they are required to, keep some sort of record of it, and as a result the company getting off scot-free. It completely reverses the incentives and the onus, if you like, from companies at the moment having to be as diligent as they possibly can to giving them every reason in the world to ignore things after a certain period because it will mean they have cut their losses.

These are not the sorts of provisions that should be granted to an essential service, let alone a service as essential as electricity. A halfway house solution was suggested in some of the submissions to the ESC, which would have been that the customer had to complain within a certain time in order to preserve their automatic right; if the customer did not complain, they would still have a right but would have to go through further steps to reclaim that right. It might have been that the customer had to go through further processes or perhaps even appeal to another jurisdiction.

We should bear in mind that many of the complaints of improper disconnection are coming via the energy and water ombudsman; that is where these things tend to

originate before going back to the companies. The government could have come up with a number of different schemes to encourage the thing it wants to encourage, which is a limitation of compensation to only those who are deeply affected, while also preserving other people's rights to come back and seek some compensation after the elapsed time in the case of extreme examples where a person has been strongly affected or a business has been heavily financially affected.

It is not my job to draft such possible amendments. This is the government's bill. It got elected on a platform of protecting vulnerable consumers from electricity companies and particularly from rocketing electricity bills. The government should have been like a tiger guarding the fort on this issue; instead it has rolled over to a process that was commenced by the previous government. By the way, it was not only the companies that lobbied for this change; the Department of Primary Industries in its submission fully backed the change we now see in front of us.

Consumers are on their own. Only the minister could have been their champion because nobody else was going to be, notwithstanding the good efforts of the Consumer Utilities Advocacy Centre. When it comes to dealing with that particular clause of the bill in the committee stage, the Greens will be voting for its removal. However, we are quite happy to have further dialogue with the government about a different scheme — the halfway house scheme that was suggested in submissions but not picked up.

Mr P. DAVIS (Eastern Victoria) — I am grateful for the opportunity this afternoon to make some brief remarks on the Energy Legislation Amendment (Bushfire Mitigation and Other Matters) Bill 2011. I note that the bill makes various amendments to a number of acts, including the Electricity Safety Act 1998, the Victorian Energy Efficiency Target Act 2007, the Electricity Industry Act 2000, the Gas Safety Act 1997 and the Gas Industry Act 2001.

The amendments the bill seeks to make to the Electricity Safety Act 1998 are to extend application of the bushfire mitigation obligations of major electricity companies to the whole of their supply networks, rather than just their at-risk supply networks; extend the powers of Energy Safe Victoria to require audits of compliance with electric line clearance plans and responsibilities; prohibit the carrying out of building works that make electrical installations unsafe; and improve the operation of Energy Safe Victoria's powers of entry, search and direction.

In relation to the Victorian Energy Efficiency Target Act 2007 the bill proposes to give the Essential Services Commission expanded powers to suspend or revoke the accreditation of an accredited person, empower the Essential Services Commission to impose conditions or restrictions on accreditation, give the Essential Services Commission a new power to require accredited persons to obtain independent audits of their compliance with the act and strengthen and clarify the operation of the offence provisions in the act applicable to the creation of certificates by accredited persons.

Further, in relation to the Electricity Industry Act 2000 the bill proposes to cap the level of wrongful disconnection payments. In relation to the Gas Safety Act 1997 the bill will clarify the operation of the offence of supplying or selling unaccepted or unlabelled appliances and the search and seizure powers in the act. In relation to the Gas Industry Act 2001 it will cap the level of wrongful disconnection payments and make a statute law revision amendment to the act.

Before I address these principal matters I will give an overview of the perspective expressed in the comments made by the previous lead speakers, in particular Mr Tee and to a lesser extent Mr Barber. I find interesting the revisionism which occurs when legislation is in this place now that members are sitting on a different side of the chamber — although Mr Barber's status has not altered.

Mr Barber — I became a frontbencher.

Mr P. DAVIS — Indeed he has become a leader — Bob Barber. It is therefore Mr Tee who is the focus of these remarks. Mr Tee's observations, which were critical of the implementation processes of the Baillieu government in relation to the bushfires royal commission recommendations, I find surprising, given that it was the Baillieu opposition, unlike the Brumby government, that endorsed all of the 67 recommendations of the bushfires royal commission report, including provisions in relation to investment in upgrading powerlines to reduce and mitigate the threat from bushfires resulting from powerline failures. Importantly, as Mr Tee spent some time elaborating, it was the then Baillieu opposition, now the government, which committed to the buyback program for properties which could not, should not and would be better not to be inhabited as dwellings in future.

I note in relation to the powerline upgrades that the Brumby government failed to commit any financial support for that program, whereas this government has already committed $50 million as a starting point to

ensure that upgrade works can commence and continue. However, there is a bigger example of the hypocrisy about the standards in all of this — that is, there was fair warning over a decade under the Bracks and Brumby governments about the threat of bushfire to community safety, and the urgings from the then opposition to deal with fuel load mitigation were totally ignored. I have to then sweep into that basket of — —

Mr Barber — What about emissions from the electricity centres? Have you got any words on those?

Mr P. DAVIS — I thank Mr Barber for inviting me to comment on his public policy positions, because the public policy positions that he espouses are the fundamental reason that we have had devastating fires in this state. Mr Barber's view, as I understand it, is that man's footprint upon the earth is an abomination and that man should not manage the natural environment. I say to Mr Barber that clearly the reason that Victoria has had the holocaust it has had is that the public policy position espoused by Mr Barber and his acolytes has restricted the capacity of land managers to do an effective job of managing land.

The issues we are dealing with today are in relation to legislation that seeks to mitigate one of the features and facilitators of significant fire. Obviously in any case, whatever the fuel loads are, you have to have a source of ignition. That may be by a natural cause, such as a lightning strike, or it may be induced by man's activity, such as by a wheel bearing burning out on a motor vehicle and causing sparks. It may be by human activity in terms of the use of industrial equipment or it may be by sparks from electricity cables which have not been sufficiently maintained.

This bill deals particularly with the electricity industry, and it intends to deal specifically with the challenge of mitigating bushfires as a result of putting obligations on major electricity companies in respect of managing their supply network. In this case the amendments are intended to ensure that the whole of the supply network is managed rather than just what are classified as the at-risk networks. The reason for this is quite apparent — that is, there is a difficulty in identifying only those at-risk networks within management processes. It has been demonstrated on the advice of Energy Safe Victoria in consultation with industry that the phrase 'at-risk' is unworkable. It will therefore be removed, and the obligation will become one for the industry to manage the whole of the network. That is an amendment about which it is quite clear that there are some beneficial outcomes.

In relation to implementation of the electricity line clearance plan audits, this bill extends powers to Energy Safe Victoria (ESV) to require audits of compliance with electricity line clearance plans. There are some issues around local councils in respect of this, because they are concerned about meeting cost obligations regarding line clearance issues. Obviously the issue for us is that the ESV will be working cooperatively with councils, and where there is that cooperation no doubt there will be no issue of concern for a council in relation to any cost increases. However, there may be some challenges about that in relation to a lack of cooperation. That would be that the ESV would have the power to require that an independent audit be conducted and paid for by the council. This will assist in delivering on this aspect of the government's commitment to implement all of the recommendations of the royal commission and reduce the risk of bushfires from electricity assets.

In relation to the further aspect of the bill which is connected with building works in dwellings, currently there is a curious anomaly, which is that there is no legislative proscription on carrying out building works that make electrical installations unsafe. This has come to light because of the federal government's much-discredited pink batts policy, which turned out to be a disaster in many respects — not just financially, but in terms of causing electrical fires — because of the way that installation was undertaken by unqualified people in many instances, therefore causing risk to dwellings in particular.

The example given is that ceiling insulation is a net benefit in terms of managing the utilisation of electricity for heating, and indeed cooling, thereby saving on electricity bills. The problem is that if it is installed in a way that creates an electrical hazard, it is a threat to property and life. I know there are people in this chamber, both on the opposition benches and the crossbenches, who are great advocates for this federal Labor scheme, but it significantly damaged the reputation of what was previously a pretty well-regarded business of rolling out insulation in domestic dwellings. We need to give comfort to the community that in future there will be no further building works that create a higher level of risk to households and buildings generally than is necessary, and this amendment seeks to address that issue.

I want to say something about the Victorian energy efficiency scheme as a matter of principle. I know Mr Barber would highlight a particular aspect of that scheme in relation to his cause célèbre, being greenhouse gas emissions. I would like to talk about it briefly from the point of view that, irrespective of

where you sit in the paradigm of a view about the consequences of emissions and climate change, the reality is — —

Mr Barber — It is in the mainstream, but you can say where you sit.

Mr P. DAVIS — It depends on which paper you read. If you read that newspaper with a circulation of about 100 000, you are probably in the mainstream, but if you read the other paper — the small paper that has got a circulation of about 680 000 — you will find that I sit pretty well in the middle of the mainstream.

The issue here is not that of emissions and their effect on our climate, it is about the better utilisation of our resources. I think people in this chamber can, from whatever their perspective on climate change, jointly advocate the wisdom of better utilising our resource base. I think it is becoming more apparent that we have declining access to the traditional resources in the broad hydrocarbon field, whether it is oil, gas or coal. You can keep finding oil and coal at higher and higher a cost, but eventually the rapacious demand of contemporary society will use those resources to the extent that they are hard to discover and produce. That will mean that we will need to shepherd the resources we currently have, particularly those that are reasonably winnable.

I am a great advocate, and have been for a very long time, of the more efficient utilisation of resources. The energy efficiency target scheme is a worthwhile scheme, and I think it is important for us to note that the previous government did not have a good record in this field. However, the efforts of the Minister for Energy and Resources in the Baillieu government in ensuring that this scheme continues, that we do not have rorting of the scheme and that we make certain there is integrity to the scheme will ensure that the benefits are able to be transposed to the wider community. It is noted, of course, that any rorting will have a deleterious impact on the operation of the scheme and also on the costs to consumers.

I want to talk about the wrongful disconnection scheme, but I will do so in brief because I know we will deal with this in the committee stage, as Mr Barber and Mr Tee have flagged they wish to take this matter to committee. In principle, the government supports a scheme that compensates consumers who are wrongfully disconnected from their energy source. If consumers are disconnected and it is an inconvenience, logically they would advise their supplier that disconnection had occurred.

I am a little troubled by Mr Barber's hypothesis that somebody could be disconnected for an extended period and not make a complaint about it. I am not quite sure of the logic of that. At any rate, the government has had a look at the Essential Services Commission review, which commenced under the previous government, and has adopted the Essential Services Commission's recommendations. The reason it has done so is that the scheme needs to operate effectively. If it operates unfairly and pays some customers who it perhaps should not be paying, that will drive up the cost of business and those costs will flow to everyone's bills.

The important issue that I wish to raise in response to Mr Barber's rhetoric is that, notwithstanding his claim, I am advised that the Consumer Utilities Advocacy Centre has in fact been consulted in relation to these amendments and supports the changes. In its report the Essential Services Commission noted that the energy and water ombudsman also supports the changes. There has not just been a public inquiry process with a submission period, a draft report and a final report that was received and adopted by government; there has been extensive consultation with stakeholders, who in effect represent consumers who experience difficulties with their energy retailers and distributors.

I am confident that the amendments, such as they are, preserve a consumer entitlement and keep the scheme in balance. There will always be a natural tension between consumers and business in these matters, and it is a fundamental function of government to regulate in such a way that all stakeholders share in the ownership, if you like, of responsibility for ensuring that such a scheme works effectively. I do not intend to say more at this stage because I am more interested in hearing the detailed commentary in the committee stage. I conclude my remarks by indicating that I strongly support the government's legislation.

Mr SCHEFFER (Eastern Victoria) — This bill makes changes to five acts: the Electricity Safety Act 1998, the Victorian Energy Efficiency Target Act 2007, the Electricity Industry Act 2000, the Gas Safety Act 1997 and the Gas Industry Act 2001. The opposition will not be opposing the bill, as Mr Tee has indicated. Mr Tee has already spoken about the details of the bill, so there is no need to go over those matters again. I will use the time available to me to make some comments of a more general nature on some of the matters with which this bill is concerned.

First of all are the bushfire mitigation provisions and the importance of holding the government to its promise that it would implement every one of the 2009

Victorian Bushfires Royal Commission's recommendations. Members will remember that the coalition pledged to implement the royal commission's recommendations long before the release of the final report, causing some media speculation at the time about whether the coalition was either crazy brave or just plain crazy.

The coalition committed itself without even considering what might be involved in some of the more complex recommendations or knowing what some of the recommendations might cost. The voluntary property buyback scheme for homeowners in high-risk areas, the upgrading and replacement of overhead powerlines and the property tax to fund fire services — together estimated to cost tens of billions of dollars — were amongst the most difficult recommendations to which the coalition committed.

Recommendation 34 of the bushfires royal commission was one of the recommendations that referred to Energy Safe Victoria and put the view that the state should amend the regulatory framework for electricity safety to strengthen Energy Safe Victoria's mandate in relation to the prevention and mitigation of electricity-caused bushfires and to require it to fulfil that mandate. The bill before us today addresses this recommendation.

The royal commission devoted considerable attention to how the number of fires could be reduced and noted that human activity caused more than half of the bushfires, with a third caused by the failure of electricity assets. The commission noted that the data showed that more than 200 fires a year were caused by faulty electricity facilities. It also noted that Victoria's electricity infrastructure is ageing, that infrastructure malfunction caused three fires and that we need to make major changes to the way these facilities operate and are managed.

The commission wrote that Energy Safe Victoria — the electricity safety regulator — should take a proactive role in making sure that it stress tests the robustness of the distributors' bushfire mitigation plans rather than merely confirming that they have plans, which is the current requirement. It said the regulatory powers invested in Energy Safe Victoria should be strengthened and that it should be given additional resources to maximise its ability to deliver.

According to the commission, Energy Safe Victoria should have a clear mandate to prevent and mitigate electricity-caused bushfires, so it makes sense to strengthen the requirements as the government is doing through this bill. However, the changes relating to bushfire mitigation introduced in this bill are part of a regulatory improvement process that has been under way since 2003. In 2010, under the Brumby government, interim regulations arising from the royal commission's recommendations were implemented, but these interim regulations were designed to last 12 months and arose from the urgent need to have some measures in place before the 2010–2011 fire season.

A regulatory impact statement relating to the Electricity Safety Amendment (Bushfire Mitigation) Regulations 2011 prepared for Energy Safe Victoria states that the total cost of the regulations is estimated at between $3.4 million and $10 million per annum, with the majority of the cost being attributable to the need for more frequent inspections, and that this cost will in the long run be passed on to consumers of electricity. The statement says the average cost of bushfires caused by electricity infrastructure has been estimated at $60 million and that the regulations will lead to a net benefit for the Victorian community.

As an aside, it is worth pointing out that this is another reason for the increase in electricity prices that the state and federal coalition will no doubt attribute to the effect of the carbon price. The truth is that these price rises have absolutely nothing to do with the carbon price and everything to do with changes in the climate which are consistent with the findings of climate scientists and which the coalition pretends to disbelieve.

On the recommendation of Energy Safe Victoria, the bill replaces the current requirement for electricity network mitigation plans to be prepared only for at-risk components of the network with the requirement for mitigation plans for the entire network. The bill extends the powers of Energy Safe Victoria so that it must require compliance audits of electricity line clearance plans in conjunction with local stakeholders. The bill also prohibits a person from constructing a building that may make an electrical facility unsafe, and it strengthens Energy Safe Victoria's powers of entry and search. The changes contained in this bill appropriately extend the work that was commenced by the previous government in conjunction with Energy Safe Victoria and in accordance with the report and recommendations of the royal commission.

The bill also makes changes to the Victorian Energy Efficiency Target Act 2007. I take this opportunity to acknowledge the importance of the Victorian energy efficiency target scheme, which was devised and implemented by the Labor government. I am pleased that despite the public rhetoric of a number of government members, a number of other government members and the Minister for Energy and Resources in

his second-reading speech have applauded the scheme and the legislation that it is based on.

The establishment of the Victorian energy efficiency target scheme to reduce greenhouse gas emissions, to make electricity and gas use more efficient, to encourage investment and employment and also to encourage technology development in power businesses that can help reduce the use of gas and electricity was and is a landmark Labor initiative. Basically the scheme puts an obligation on the large energy retailers to reduce a certain quantity of greenhouse gas emissions and to help consumers to reduce the amount of energy they use through, for example, buying green energy and installing more efficient hot-water systems, solar panels and insulation. I am delighted that the government is doubling the current reduction target from 2.7 million tonnes per annum to 5.4 million tonnes per annum and that this will be extended to businesses.

In years to come federal and state coalition governments will seek to claim credit for the many benefits that will arise from the commonwealth's Clean Energy Act 2011, because what the coalition now rails against will soon be universally accepted as no more than common sense. The conservatives will then applaud it and claim it as their own.

The evidence of the economic benefit of greenhouse gas mitigation is already before us, and Gippsland businesses are beginning to seize the associated opportunities. Earlier this month I attended the launch of the low-carbon growth plan for Gippsland that was undertaken by ClimateWorks Australia. While no members of the government were present at the launch, I know that ClimateWorks briefed some of them, including Mr Russell Northe, the member for Morwell in the Assembly, who is The Nationals. I welcome the fact that progressively The Nationals are embracing the positive greenhouse gas abatement policies and strategies towards a low-carbon future for Gippsland. I note that Mr Hall, who is in the house, is amongst those and is a very enthusiastic supporter of many of these measures, which is good to see.

The low-carbon growth plan for Gippsland states that by 2020, under a businesses-as-usual approach, greenhouse gas emissions are expected to rise by 9 per cent above 2000 levels and that by implementing the opportunities identified in the ClimateWorks plan, emissions could be reduced by 10 per cent below 2000 figures. The report states that while there is a lot of focus on the power sector, all sectors have a role to play, and, most importantly, reducing emissions can benefit households, businesses and landowners. In fact Gippsland can reduce its greenhouse gas emissions by 1.5 million tonnes per year and save almost $100 million a year.

ClimateWorks prepared an emissions reduction curve that graphically shows the extent to which industry sectors can reduce their emissions and in what ways. The vast majority of sectors are shown to be better off, with forestry, soil carbon sequestration, residential solar photovoltaic installation, buses and rigid trucks, and chemicals incurring cost increases. But the really interesting fact about this, which those who are still campaigning against the carbon price need to look at very carefully, is that the introduction of the clean energy act and the carbon price actually improves the profitability of emissions reduction opportunities for households and businesses by some 21 per cent. The report states that the carbon price will make some greenhouse emission opportunities profitable that would otherwise have come at a price.

The other point to remember in this — and this is not lost on business — is that industry and business do not have to be passive price takers. They can and will learn to negotiate lower prices that improve their efficiency and increase their profitability and competitiveness. This is by way of a background to the target scheme that has been in place. I think the clean energy act and associated activities in Victoria will prove to be a boon and a benefit to many industries operating in Victoria.

Ms PULFORD (Western Victoria) — This bill has a number of elements, and previous speakers have gone into those in some detail. I would like to make some comments this afternoon on the proposed requirement that electricity companies apply their bushfire mitigation obligations to the entire network rather than just the at-risk parts of their supply networks.

In recent years we have seen bushfires encroaching suburban areas and areas that have not traditionally been thought to be at high risk of forest fires. Black Saturday, which occurred some two and a half years ago, certainly showed us just how dangerous and unpredictable fire can be. Mr Scheffer spoke about some of the challenges that arise as a result of our changing climate. Certainly erratic weather, more extreme dry spells and extreme heat — conditions like those we saw on Black Saturday and in the weeks leading up to that — have really put us in a whole new environment when it comes to dealing with fire. This is coupled with the fact that there are people living in the hinterland areas and other parts of Victoria that have traditionally not had great population settlement. This trend has occurred for any number of reasons, including housing affordability and an enjoyable country lifestyle.

Recently places in Victoria, interstate and overseas — for example, in Canberra, in California and here, on the edges of Narre Warren — have experienced fires, so the rule books have been somewhat rewritten about what might constitute an at-risk area. For that reason, greater vigilance by our energy companies is something we would all welcome.

This aspect of the bill we are discussing today is a result of the ongoing work initiated by the Labor government and now being done by the new coalition government to deal with the recommendations of the 2009 Victorian Bushfires Royal Commission. There have been some points of difference around the extent to which the bushfires royal commission recommendations would be fully implemented. The then Labor government had a desire to engage in a process of consultation with the community on half a dozen or so matters, including the questions of retreat and resettlement and of undergrounding powerlines. I attended a number of consultations and public meetings during that period. It was a brief period of consultation, but we felt it was an important opportunity to hear from people who would be directly affected by a lock, stock and barrel implementation of the bushfires royal commission recommendations, which, by contrast, was the position of the coalition, then in opposition.

Some legislation was introduced that dealt with some of those recommendations, and some of the work to implement the recommendations had occurred prior to the state election. In the life of this Parliament we have considered other elements of the work that needs to be done to implement the bushfires royal commission's recommendations, and the greater requirement on our energy companies to ensure the best possible standards of safety in communities right across Victoria to lower the risk of fire is part of that work. We have had plenty of stern lectures from the government about the point of difference between Labor's position — that is, to not fully implement every single recommendation of the royal commission — and the coalition's position. Now that the cold, hard reality of government is sinking in, we see the government backing away somewhat from the clear signal it sent about the full implementation of all the recommendations — a position that was taken before the royal commission final report had even been seen. Anyway, that is now for the government to be considering and for us to be appropriately scrutinising.

On the question of powerlines, it is certainly the view of many, including Michael Gunter, a constituent of mine who is a campaigner on these issues, that live powerlines are an inherent fire threat. With the slow provision of fire refuges and the ongoing wait to see the recommendations of the government's Powerline Bushfire Safety Taskforce, these things will take time. There is a suite of measures that need to be undertaken to ensure that Victorians are safe in the circumstances of an extreme day like Black Saturday or any number of other awful fire days that are a little less extreme than that.

We would like to see the final report of the powerline safety task force. The early indications from the work of that group led to public reports of costs of the order of $20 billion. This is one of the concerns that Labor members heard expressed during community consultations while we were in government. The Baillieu government was elected in no small part on a promise to reduce cost of living pressures for Victorians, so this is a very expensive project. We would like to see that report, and we would like to get some sense from the government about how it is going to fully implement that recommendation of the royal commission or whether it will weasel out of it.

On the question of the cost of action, or inaction, on powerlines, I bring to the attention of members reports in the last few days of what would appear to be an imminent settlement of Powercor's class action, *Thomas v. Powercor Australia Ltd*. There are 67 plaintiffs involved in this action arising from the fire at Horsham on Black Saturday. The settlement requires a final approval in the Horsham courts next month, but there are many people in my electorate waiting with bated breath to see the conclusion of that matter. As I said at the outset, this happened two and a half years ago, so these things do take time to resolve, but the reports I have read in the media suggest that the payout in that class action could be of the order of $40 million. There are phenomenal costs to act but also phenomenal costs to not act, and safety must always be of paramount concern.

Previous speakers have also mentioned this, but on the related safety measure of managing bushfire risk for the people of Victoria, the government has in the last few days provided a half-baked delivery of the promise it made to implement the royal commission's recommendation on retreat and resettlement. This falls well short of the promised implementation of the recommendation. The royal commission's recommendation talked about all high-risk areas being eligible for some type of voluntary retreat and resettlement program, but this has been significantly limited by the government and will apply only to the areas that have been affected by the Black Saturday fires.

Areas in my electorate, like the Otway Ranges, are heavily populated and universally agreed as high-risk

areas, but they are not able to avail themselves of the voluntary buyback scheme the government has been crowing about. The Deputy Premier is gilding the lily when he crows in his press release about the implementation of this recommendation, because it falls well short. Many communities in Victoria will miss out on the opportunity that the government said before the election was a key point of difference between its response and Labor's response to the bushfires royal commission report.

Previous speakers have addressed a great many other elements of this legislation. With those comments about the things that we can all do to reduce Victoria's risk of terrible damage by bushfire, I think this is a step in the right direction in terms of the bushfires royal commission recommendations. As previous Labor speakers have indicated, we will not be opposing this legislation today.

Hon. P. R. HALL (Minister for Higher Education and Skills) — Just quickly in reply, I thank Mr Tee, Mr Barber, Mr Philip Davis, Mr Scheffer and Ms Pulford for their comments and contributions to this debate. As has been indicated by some speakers, there is a desire to take this into committee. A few questions have been asked of me, so in taking this to committee I suggest that those questions be explored under clauses 24 and 34. They seem to be the clauses on which discussion has been sought. At the request of members, I suggest that the bill be now committed.

Motion agreed to.

Read second time.

Committed.

Committee

Clause 1

Mr BARBER (Northern Metropolitan) — I understand from the purposes of the bill that it will extend the application of bushfire mitigation plans from the at-risk supply network to the supply network. I understand what that means in a legalistic sense. It was said earlier that this would create clarity, but I want to know the practical effect of that. What is the extent, in terms of coverage or kilometres of wires, of the difference between the at-risk network and the overall network, and what practical implications will that have for the company in terms of the burden of work it will have to do and the cost associated with that?

Hon. P. R. HALL (Minister for Higher Education and Skills) — I thank Mr Barber for that question. If we look at the whole of the network, we see that this bill will be applicable to the network that is controlled by transmission companies and distribution companies. A previous requirement was that they develop bushfire mitigation plans for the entire network. That has recently been changed to apply to only those areas of the network deemed to be at risk. The practice has been that every transmission and distribution company except one — and I think that is Powercor — has voluntarily submitted to the Essential Services Commission (ESC) a bushfire mitigation plan for the entirety of its transmission and distribution networks. This amendment will put into effect what the practice has been for the last 12 months for all but one distribution company.

Mr TEE (Eastern Metropolitan) — That is very helpful and goes a long way. I thank the minister. I would not mind getting a sense of the actual work involved. Does it involve inspections? Does it involve changes to the nature of the equipment? What will be the on-the-ground impact of extending the mitigation plans in this way?

Hon. P. R. HALL (Minister for Higher Education and Skills) — The bushfire mitigation plans encompass a range of requirements. They go to addressing issues like powerline clearance and asset renewal, and making sure the asset is in good condition and good order. Items of that nature are involved in the development and considered as part of the bushfire mitigation plans. In terms of the costs of doing that, given that all but one of the transmission and distribution companies have already submitted a bushfire mitigation plan for the entirety of the network voluntarily, the additional cost of the requirement to cover the whole of their network will not be significantly different to that which the companies now voluntarily incur.

Mr TEE (Eastern Metropolitan) — Again I thank the minister. Is there any capacity for those costs to be passed on to consumers? I understand what the minister is saying in terms of the costs being already built in. My question is: can those costs be passed through to consumers?

Hon. P. R. HALL (Minister for Higher Education and Skills) — It is my view in respect of that question that the costs for the preparation of bushfire mitigation plans, as part of the overall costs of distributing and transmitting electricity around the state, are reflected in the price that consumers pay. Yes, the costs for undertaking that function would be embedded in the cost that consumers ultimately pay. The important thing with this provision is that the practice has been that the transmission and distribution companies have already

been, in large part, submitting bushfire mitigation plans for the entirety of their transmission and distribution networks. The government does not see this requirement as putting any additional costs on consumers. As I said, all but one distribution company already comply with the requirements of this amendment.

Clause agreed to; clauses 2 to 23 agreed to.

Clause 24

Mr BARBER (Northern Metropolitan) — I fully understand and support the need for these sorts of powers to ensure that the Victorian energy efficiency target (VEET) scheme is well regulated. I believe it is well regulated, and I have followed the Essential Services Commission's role. Does the government believe the scheme is well regulated? Is there any particular rationale for the extra powers above and beyond those that have been available in the past over the first few years of this scheme?

Hon. P. R. HALL (Minister for Higher Education and Skills) — I thank Mr Barber for his question. For the information of the committee, there have been a couple of recent suspensions by the Essential Services Commission. There was one in February, when the accreditation of a business operating under the scheme — and I will not name the business unless Mr Barber specifically asks for the name of that business — was suspended for 12 months for breaches of the scheme rules. In June another business was suspended for eight months. Those two bring to five the total number of suspensions that have occurred since the commencement of the energy saver incentive scheme on 1 January 2009. The provisions in this clause give the ESC some additional powers not only to suspend but also to put conditions on the licence. They give the ESC greater flexibility in dealing with any issues that may arise from an accredited person in this regard.

Clause agreed to; clauses 25 to 27 agreed to.

Clause 28

Mr TEE (Eastern Metropolitan) — My question goes to the auditing of certificates. There is a provision that essentially allows for a batch of certificates to be knocked out on the basis that an audit has found that a high proportion of those certificates would not be eligible for registration. I am referring to paragraph 5 of clause 28. I am curious about the process that the audit would involve. Essentially an audit is conducted and the ESC decides that as a result of its audit it will knock out a complete batch of these certificates. I suppose I am looking for some assurance on the nature of the process that will be conducted, the size of the audit and so on.

Hon. P. R. HALL (Minister for Higher Education and Skills) — I will need to take some advice on exactly how the process works. I think what you are asking is: what is the catalyst for initiating an audit, and how is that audit process undertaken?

Mr TEE (Eastern Metropolitan) — Yes, and then the second part of my question, if you are getting advice, would be: if a batch of certificates for which a fee has been paid is ruled out on the basis of the audit and it is subsequently found that some of the certificates that have been ruled out should not have been ruled out, is there compensation?

Hon. P. R. HALL (Minister for Higher Education and Skills) — Again, I do not have the technical details at hand. I am happy, if Mr Tee wants to pause for a minute or two, to try to seek that advice. If it is critical for the process or for this committee proceeding and if he is prepared to offer those questions on notice, I will ensure that he gets a formal written response to those matters.

Mr TEE (Eastern Metropolitan) — I thank the minister for his offer. These issues were raised in the Legislative Assembly, and the minister was asked for a response as part of the debate in the Assembly. That response has not yet been provided, so I am not sure how much more notice is required.

Hon. P. R. HALL (Minister for Higher Education and Skills) — All I can say is that if Mr Tee wants me to respond now, I will duck over to the advisers box and see if I can get an immediate answer. However, if he would prefer to have a detailed written response, I will give him an assurance that that will be provided to him.

Mr TEE (Eastern Metropolitan) — We may be able to progress the matter more quickly, I think, if we can get an immediate response and see if that satisfies the concerns.

Hon. P. R. HALL (Minister for Higher Education and Skills) — I can offer this advice to the member. First of all, the audits are chosen to be undertaken on a random but mathematical statistical basis, but where there has been seen to be a track record which might prompt some closer scrutiny of a person accredited to undertake these particular tasks or if there is a history which might cause the ESC to have some concern about that accredited person, then there is a reasonable likelihood that that person or accredited body would be

audited on a more frequent basis. So the way in which, first of all, audits are undertaken is based on a random sample or when there is a reason for them to be done on a basis that is more than just random in terms of sampling. When these certificates are presented they are paid an amount for them — $1 per certificate. If some certificates are rejected, then the income is not received for them, but at a latter point of an appeal, if those certificates are then deemed to be appropriate, at that point in time the money is paid to the agent for them. If Mr Tee would like, I will get some further advice just to clarify the point.

Just to give some clarification on this issue — it is wonderful the knowledge you acquire when you get into these sorts of situations — the accredited agent pays $1 for each certificate they submit. If those certificates are ultimately rejected, the money is refunded to them.

Mr TEE (Eastern Metropolitan) — So $1 is paid for the certificates, and that money is reimbursed if it is subsequently found that they were ruled out, in effect, in error?

Hon. P. R. HALL (Minister for Higher Education and Skills) — For clarification, the $1 is only paid when the certificate is registered. If it is omitted and not registered, there is therefore no requirement to pay money.

Mr TEE (Eastern Metropolitan) — Is there no fee payable until the certificate has been successfully registered?

Hon. P. R. HALL (Minister for Higher Education and Skills) — That is my understanding.

Mr TEE (Eastern Metropolitan) — I want to tease out the process, which is the other part of my question. The bill provides for an audit or investigation, and the minister has indicated that an audit could be done randomly or if there is a suggestion that a particular person or organisation should be examined. I understand that, and new section 28(6)(a) goes to that. Subparagraph (6)(b) states:

> the ESC forms the view that the audit … indicates that a high proportion of the total of those certificates would not be eligible for registration …

In terms of the nature of the audit, are we looking at a few in a batch or half of a batch? Does it vary, and what is the size of a batch? I am looking for a bit of comfort that there would be a reason for the ESC to reject all of the certificates in a batch.

Hon. P. R. HALL (Minister for Higher Education and Skills) — The advice I have received is that if, for example, a random sample of 10 per cent of certificates were assessed and the majority of those were found to be non-compliant, then the judgement made by the ESC may be that many more certificates would not be compliant. There are no hard and fast rules, but the person making that assessment would take a sample, and from the outcome of that sample the person would make a judgement, an initial ruling, on whether the entirety of the batch of certificates are compliant or not.

Clause agreed to; clauses 29 to 33 agreed to.

Clause 34

Mr BARBER (Northern Metropolitan) — Clause 34 relates to the weakening of the wrongful disconnection regime. It is the clause that the Greens want to vote against. As I said during my contribution to the second-reading debate, I believe there is a better way for the government to balance the needs of both electricity providers and customers. I have put forward a suggestion as to how this can be rethought. If the government does not vote with me, it will mean I have lost the argument. I also point out for the sake of completeness that clause 41 has essentially the same provision in relation to gas, but I will test my support in relation to this clause, and if there is not majority support, we will not call for further divisions.

Mr TEE (Eastern Metropolitan) — On clause 34, I have a couple of preliminary issues that lead to where Mr Barber ended. It might be easier to perhaps deal with them. I want to check the prescribed amount that applies in relation to the 10 or 14 days. Subclause 34(2) says that the prescribed capped amount means $3500 or some other amount as prescribed by regulations. It appears to me — and I am asking the minister to confirm it — that the prescribed capped amount could be less than $3500. Effectively there could be a regulation that provides for a lower amount to be paid.

Hon. P. R. HALL (Minister for Higher Education and Skills) — This particular clause sets the figures $250 a day to a maximum of $3500. That is prescribed by regulation. Regulations can be changed; there is a process for doing that. Any changes to a regulation would go through the normal process and be considered by the Parliament or, if not, the Scrutiny of Acts and Regulations Committee. The member has asked the question: is it possible for those amounts to be varied? Yes, those amounts could be varied by regulation, but the process of changing regulations would need to be gone through.

Mr TEE (Eastern Metropolitan) — Can the minister give us an assurance that the government, at this stage, does not have any intention to lower the prescribed amount by changing regulation?

Hon. P. R. HALL (Minister for Higher Education and Skills) — In respect of these particular provisions, the government has accepted the recommendations of the Essential Services Commission. Clearly the Essential Services Commission has come to the conclusion that $250 per day is a reasonable set fee. The government has no intention of varying that.

Mr TEE (Eastern Metropolitan) — I raised in my contribution to the second-reading debate some concerns that some consumer advocates, but not all, have raised with the shadow minister about the cap that is provided for by this clause. Essentially those concerns are that the cap at 14 days or 10 working days would be conclusive of all compensation that a consumer or customer is entitled to receive. Can the minister enlighten us in terms of how far that clause goes? Is it the only compensation that a consumer or a customer is entitled to for wrongful disconnection?

Hon. P. R. HALL (Minister for Higher Education and Skills) — No, it is not conclusive; there are other compensation measures that can be applicable. In terms of answering Mr Tee's question, I turn also now to Mr Barber's question, because I think it is appropriate that I speak to both. As I said in a previous discussion on a previous clause, this particular provision comes from the recommendation made by the Essential Services Commission after a fairly extensive report entitled *Review of Wrongful Disconnection Payment* dated January 2010. I am sure that members who have an interest in this will have had a look at the work from the ESC on this very point.

I want to quote to the committee some of the important elements of that report, which have guided the government to come to the conclusion it has with respect to the capping of wrongful disconnection to the period of 14 days. On page 10 of the report the commission talks about some of its preliminary views. It states:

> … the legislation as currently drafted does not meet the test of mutual responsibility between the retailers and their customers.

That is referring to the current scheme whereby the $250 per day is uncapped. The commission says that it 'does not meet the test of mutual responsibility between the retailers and their customers'. It continues:

> In some cases, this has seen retailers having to provide compensation payments that are disproportionate to the loss and inconvenience suffered by customers for wrongful disconnection.

On pages 12 and 13 and on to page 14, the Essential Services Commission embarks upon a discussion about some views raised in the course of the inquiry. Under a small subheading 'Commission's final views' on page 12, the report states:

> The commission has noted the diversity of views in the submissions, particularly on whether the scheme should be restricted to a customer's principal place of residence.

It goes on to canvass those issues about whether these particular provisions for wrongful disconnection should only apply to a person's principal place of residence. Further, on page 13, the commission rules that out. It believes that the application of the scheme is best and fairest if it is spread more broadly.

On page 13, under the heading 'How should the payment be constructed?', the report states:

> The scheme should place an incentive on customers to contact their retailers quickly so that reconnection can be facilitated, while being fair in that the time period is sufficient to allow for customers to make arrangements if they need support in making that contact.

It goes on to elaborate on the suggestions that are now reflected in the amendments that we have to the act.

The Essential Services Commission came to the view that an appropriate balance should be struck between achieving what should be the joint responsibilities of both suppliers and users of electricity and gas because the same argument could apply to gas at a later point in time. There are some strong obligations on the supplier of electricity to rectify if there is any wrongful disconnection, but equally there should be some responsibility on the user, if they have knowledge of it, to notify the supply company of that disconnection. As it says in the report, it seeks to strike a balance between the two.

In terms of some of the submissions, page 14 of the report states:

> Overall, there is support for the scheme to be constructed in this way from consumer advocates, retailers and EWOV …

The commission then goes on to make some comments. It believes this scheme has particularly strong support from all groups including users. The point asked by Mr Tee in particular is whether total compensation for a wrongful connection is limited in its entirety to $3500. On page 13 of the report it says very clearly:

> Any compensation for economic loss experienced beyond 10 business days would be subject to the industry's existing dispute resolution mechanisms.

This is not an absolute. If a person continues to suffer economic loss beyond the period of 10 days, through the dispute resolution mechanisms of the industry itself there are opportunities for people to claim for additional economic loss. In respect of this particular provision about striking the right balance between what is deemed to be the responsibilities of both the supplier and the consumer, the government has accepted the recommendations of the ESC that the change here provides an appropriate balance.

Another point I want to make is that the cost of any scheme is borne by the totality of customers. I think Mr Tee asked a question about bushfire mitigation plans and who bears the cost in respect of those. Again, this is trying to strike a balance so that it is an appropriate cost shared by all customers giving consideration to the personal situations of those who might be wrongfully disconnected.

Finally, I make this point. In respect of this particular scheme, the ESC report also has some statistical information about wrongful disconnections, which is useful in supporting the fact that the scheme and the level of compensation payment that has been set at $250 seems to be having an impact in terms of making suppliers of electricity more accountable for the actions they take in regard to disconnections.

Mr TEE (Eastern Metropolitan) — I suppose the opposition is somewhat concerned about the phrasing of the provision. It has concerned some consumer advocates. We think it is somewhat unclear. This is an issue the shadow minister has raised with this minister. Partly in response to that, we welcome the assurance that the minister has given. It sends a clear signal to retailers in particular that the compensation will not be capped in an absolute sense and that, as the minister has indicated, the position is as advocated for by the energy and water ombudsman, which is to say that there is an option for consumers to pursue further compensation for loss after the 14-day time frame through other dispute resolution procedures. That being the opposition's position, it will be supporting the clause in its current form. As I said, that is with the reservation that we think it could have been more clearly drafted to reflect the position that the minister has now articulated.

Mr BARBER (Northern Metropolitan) — A number of claims have been made about who supports what, and part of these differences relate to those who support what the ESC originally said versus those who support what is in this bill and the positions that various groups have had on that. In our view, it is quite clear that your legal rights are not being preserved beyond the period within which you must register a complaint. You then fall back on a dispute resolution process through the energy and water ombudsman, but in our view your legal rights needed to be preserved for you to go through that process. Perhaps some members think that is a fine distinction, but in our view you cannot be too cautious in this area. It would have been the appropriate halfway house, but we have heard everybody's position.

Hon. P. R. HALL (Minister for Higher Education and Skills) — I thank Mr Barber for his suggestion and the constructive way in which he has put that suggestion. I can see some merit in what he is advancing to us. At this point in time I can only respond to him by saying that in relation to that sort of scheme and the advice and suggestion he has put forward, I will make sure that is brought to the attention of the minister for energy for any further consideration of this matter. However, as I said before in my remarks about this particular clause, these were the considered deliberations of the Essential Services Commission. We believe they are fair and appropriate, and that is why the government has put them forward as part of this amendment bill this afternoon.

Mr BARBER (Northern Metropolitan) — Perhaps the relevant statistics to answer this question will come in the energy and water ombudsman's report in a year or a bit more than a year from now, when we will see the same statistics and actually see what the outcome has been for individuals.

Committee divided on clause:

Ayes, 33

Broad, Ms
Coote, Mrs
Crozier, Ms
Dalla-Riva, Mr
Darveniza, Ms
Davis, Mr D.
Davis, Mr P.
Drum, Mr
Eideh, Mr
Elasmar, Mr
Elsbury, Mr
Finn, Mr
Guy, Mr
Hall, Mr
Koch, Mr (*Teller*)
Leane, Mr (*Teller*)
Lovell, Ms
Mikakos, Ms
O'Brien, Mr
O'Donohue, Mr
Ondarchie, Mr
Pakula, Mr
Petrovich, Mrs
Peulich, Mrs
Pulford, Ms
Ramsay, Mr
Rich-Phillips, Mr
Scheffer, Mr
Somyurek, Mr
Tarlamis, Mr
Tee, Mr
Tierney, Ms
Viney, Mr

Noes, 3

Barber, Mr (*Teller*)
Hartland, Ms
Pennicuik, Ms (*Teller*)

Clause agreed to.

Committee interrupted.

DISTINGUISHED VISITORS

The DEPUTY PRESIDENT — Order! Before continuing with the committee stage I would like to acknowledge in the gallery a former Deputy President of this house, the Honourable Barry Bishop. I welcome him to the chamber.

ENERGY LEGISLATION AMENDMENT (BUSHFIRE MITIGATION AND OTHER MATTERS) BILL 2011

Committee

Committee resumed.

Clauses 35 to 43 agreed to.

Hon. P. R. HALL (Minister for Higher Education and Skills) — I thank members for their positive contributions to the committee debate.

Reported to house without amendment.

Report adopted.

Third reading

Motion agreed to.

Read third time.

GAMBLING REGULATION AMENDMENT (LICENSING) BILL 2011

Second reading

Debate resumed from 13 October; motion of Hon. G. K. RICH-PHILLIPS (Assistant Treasurer).

Hon. M. P. PAKULA (Western Metropolitan) — It gives me pleasure to rise and indicate that the opposition will not be opposing the Gambling Regulation Amendment (Licensing) Bill 2011, although we will be making some commentary about the bill and expressing our concern about various aspects of it. We will be seeking to move a couple of minor amendments in the committee stage that I expect the government to support wholeheartedly, given that the amendments accord with the minister's public comments on the bill.

The bill puts in place some additional regulatory arrangements for gaming machine entitlements, for the monitoring licence, for the wagering licence and for the keno licence. As members are no doubt aware, over the last couple of years a raft of gambling licences have been awarded, and it is necessary from time to time to update some of the regulatory arrangements that relate to them.

The bill purports to implement the government's commitment to ban lobbying activities when it comes to the awarding and amendment of gaming licences. The opposition will be putting forward during debate that that commitment has been honoured in only the most peripheral way and that if the government was serious about doing that, it would have been legislated for some months ago.

The bill provides extra powers for monitoring systems that are used by gaming operators. The bill empowers the VCGR (Victorian Commission for Gambling Regulation) — or, as it now will be, the Victorian Commission for Gambling and Liquor Regulation — to suspend the registration of a bookmaker or a bookmaker's key employee if either have been charged with offences under the Racing Act 1958, indictable offences or other offences involving fraud or dishonesty. It is also a bill that ensures that the conduct of lotteries determined by random-number generation will no longer need to be supervised by the VCGLR. I will come back to that in a little while.

I was in the other place during question time today, and I had the misfortune of having to listen to the Minister for Gaming's answer to a Dorothy Dixer. He made an impassioned, theatrical display about the way the previous government had let down problem gamblers and the way the previous government had insulted problem gamblers by its inaction. I thought it was a particularly unedifying and brittle response from the minister, and nothing could be further from the truth.

As a government, Labor recognised that gaming is a legitimate pastime indulged in by thousands of Victorians and that for the overwhelming majority of gamblers it does not cause any major problems in their lifetime. However, we also had a strong record of taking action to foster responsible gambling practices, whether that was done through the elimination of regional caps, the elimination of 24-hour venues or the banning of gaming machine advertising. We also made the commitment of $132.5 million over five years to the Taking Action on Problem Gambling initiative. All of that was nation-leading stuff in terms of dealing with problem gambling. I think Victoria has been considered for some years now to be the national leader on responsible gaming.

As a government we introduced a whole raft of strategies that did not just provide services to problem

gamblers but actually had the effect of reducing the incidence of problem gambling in Victoria. Members could look at the reduction in maximum bet limits — from $10 to $5 — on gaming machines back in January 2010 and the increase in penalties for allowing minors to gamble.

There was the mandating of responsible gambling codes of conduct for gaming venues and the requirement for venues to have a self-exclusion program, which was approved by the VCGR. There was the giving of more powers to local councils regarding the placement of gaming machines along with all the media campaigns and community campaigns. There was the decision to ban ATMs from gaming venues from 2012 and the fact that Victoria was the first state to announce that we would introduce precommitment for all gaming machines in a way that means they have to be on every machine.

That is a regime that, regardless of how the byplay with the commonwealth plays out ultimately, will be a development which will ensure that people are able and have the capacity to make informed decisions about their gambling and rate of play. Whether or not it helps current problem gamblers, there is no question that it will help to avoid the next generation of problem gamblers from being created.

Despite the histrionics of the minister in the other place today, the Labor Party has a very proud record on tackling problem gambling, although having said that we would never be the ones to suggest that the job is finished and that there is not more that can be done and not more that the new government should do. To that extent, we have indicated our support for the merger of the VCGR and Liquor Licensing Victoria, and we have also indicated our support for the Victorian Responsible Gambling Foundation.

I turn to the bill and to some of the key points that we would like to bring to the attention of the Parliament. The power of the VCGR to suspend the registration of a bookmaker or a bookmaker's employee if they have been charged with offences under the Racing Act 1958 is an appropriate one. We had a good briefing from the department which indicated that this was a loophole, if you like, in the current legislation that needed to be resolved to make it easier for the VCGR to ensure that bookmakers could be appropriately dealt with if there were dishonesty and fraud offences or indictable offences. As I understand it, at the moment the only penalty that is available is the cancellation of a bookmaking licence. This amendment provides a broader suite of measures for the VCGR to be able to deal with offences that might warrant the suspension of a bookie's licence but are not of such significance that they warrant the cancellation of the licence. That is a sensible approach and one that the opposition supports.

I turn to the question of raffle prizes. Again, opposition members think it is appropriate for the VCGLR to be able to refuse an application for a minor gaming permit on public interest grounds or on the grounds that the raffle prize is offensive. Examples have been thrown up of where, in the last 12 months, inappropriate raffle prizes have been provided. I think there was a series of media reports in the not-too-distant past about in-vitro fertilisation treatment being offered as a prize in a raffle. Quite appropriately a view has been taken that the authorities ought to have a clear power to reject the ability of an organisation to offer a prize of that nature as part of a raffle. For that reason we would again say that that is a sensible measure.

I want to deal with the question of the supervision of lottery draws. At the moment there is a requirement on the Victorian Commission for Gambling Regulation not only to supervise lottery draws conducted by a random-number generator but also to supervise lotteries that involve the drawing of balls. The effect of this change is that whilst the lotteries involving the drawing of balls would continue to be supervised, those which involve the pushing of a button to initiate a random-number sequence will no longer be supervised. We had a dialogue with the department about this and about the reason for discontinuing the supervision of those lotteries. I could appropriately characterise the response as being one about cost and convenience.

Apparently a number of random-number-generated lotteries are conducted each week, and it was deemed unnecessary for a VCGR inspector to go down and supervise the pressing of a button. The point the opposition raised during the briefing is that 999 times out of 1000 there will be no tampering or improper conduct in the pushing of a button, but what about the 1 in 1000 times when there is a problem? Is it really worth the penny pinching to stop the supervision of those lotteries? The response we had from the department is that it can all be electronically tracked, so if anyone is playing up or is doing the wrong thing, the VCGLR will be able to track that.

We are probably in a position where we have no choice but to accept the assurances we have been provided with by the department and by the government; however, I want to place on record our concern that we are not entirely convinced that it is a sensible way of saving a bit of time, money and convenience to stop supervising the draws of random-number-generated lotteries. It will all seem fine until something goes

wrong, then everyone will be wondering why on earth these lotteries were allowed to continue without any supervision. I want to make it clear that opposition members have been assured by the government that nothing can go wrong with this. We have been assured that if there is any foul play, it can be detected and that it is not possible for this to be rorted in any way. We do not have much choice but to accept those assurances, but I have to say that I hope those assurances are accurate.

In regard to the lobbying ban, this is one of the more extraordinary pieces of legislative sophistry I have seen in the time I have been in the Parliament. When Mr Rich-Phillips and I both had the indisputable pleasure of serving on the Select Committee on Gaming Licensing, the Minister for Gaming, who was then the shadow minister, started his song and dance about lobbying in the gaming industry, making all kinds of accusations and suggestions about who had done what to whom and making the commitment that a coalition government would ban lobbying for gaming licences. Now we have a provision that purports to do just that.

There are a few problems, though. The first is that all the gaming licences this lobbying ban would apply to have been awarded. The next one does not come up for re-tendering until 2018. In 2018 it will be the public lotteries licence, which was last awarded in 2008. I accept that the government could not have done much about that. That licence has not been awarded since this government came to office, but others have been awarded since this government came to office. The keno licence was recently awarded to Tabcorp, and that starts in April 2012. The next licence does not commence until 2022. It may have been nice if the lobbying ban were in place before Minister O'Brien awarded the keno licence. The wagering and betting licence was awarded even more recently than the keno licence, and it was awarded to Tabcorp. The next time that comes up for re-tendering is 2024.

Then we have the monitoring licence, which unbelievably the minister awarded to Intralot. I say 'unbelievably' because those of us who were here in the last Parliament recall very well what Minister O'Brien had to say about Intralot, about its systems, about its technology and about the fact that it received the scratchies licence only because it was chock-full of Labor mates. What is his excuse? A company that he derided so continually and so loudly for so long — —

Hon. G. K. Rich-Phillips interjected.

Hon. M. P. PAKULA — Mr Rich-Phillips says, 'It can't be political'. I am just holding the minister to account for what he said about the company he has just awarded the monitoring license to. The real point, though, is that the next time that will come up for tender is 2027. We have a ban on lobbying for gambling licences that will not have any effect until 2018, 2022, 2024 and 2027.

The question the opposition has is: if this lobbying ban is so important, why was this part of the legislation not introduced before the minister awarded the monitoring licence, the keno licence and the wagering and betting licence? Was it okay for lobbying activities to occur while all of those licences were being awarded and to have this legislation conveniently introduced just after the last one was awarded? It shines a light on the extraordinary level of spin that was contained in and continues to be contained in the minister's commitment to ban lobbying on the awarding of gaming licences.

The other problem is that the ban is not a ban at all. The only ban in the legislation is that on a gaming company from employing an external lobbyist to lobby the minister, the minister's staff or relevant bureaucrats. Under current probity guidelines for all of these tender awards, all of that is already banned. You cannot lobby the minister, the minister's staff or the relevant bureaucrats for the awarding of a tender unless you want to fall foul of all the probity guidelines that are in place. During the briefing, the department made perfectly clear that it will still be acceptable for any lobbyist to lobby as many backbenchers as the lobbyist wants to lobby and for those backbenchers to then lobby the minister or the minister's staff, and it applies only to externally engaged lobbyists. If a gaming company wants to hire a corporate affairs or government relations person, that person can lobby to their heart's content. Meanwhile — and I am glad the Minister for Planning has walked in — —

Hon. M. J. Guy interjected.

Hon. M. P. PAKULA — I do not require the attendance of my colleagues to give me confidence, if that is what Mr Guy is suggesting. The point I want to make, and the reason I am glad he is here, is that it is important to draw the distinction between this Clayton's non-existent ban on lobbying for a bunch of licences that have already been awarded — it is easy to be tough after the event — and the absolute absence of any such lobbying ban when it comes to development. In the development regime lobbying is fine. It can go on, people can get success fees and they can make a motza out of it — no problem. However, when it comes to gambling we will ban lobbying, even though for the

next seven years there is absolutely nothing left to lobby about. It is important for that to be placed on the record. We will not oppose the ban — the ban is fine — but it would have been much better if it had been in a piece of legislation that was brought to the Parliament in February or March, before these licences were awarded.

The other point worth making about the lobbying ban is about the consequences. If a company is silly enough to muck up all the get-outs it already has — if in 2017 or 2018 a company engages an external lobbyist and the external lobbyist is silly enough to try to lobby the minister directly — what are the consequences? Is the company excluded from the tender as of right? No, it is not. All this bill provides is a right of the minister to exclude the company from the tender if the minister, at the minister's discretion, believes the lobbying activity to have been sufficiently serious.

Let us unpack this lobbying ban. It is not a ban. The licences have already been awarded. The next time it will have any relevance is seven years from now. Backbenchers can lobby to their hearts' content. Lobbyists can lobby backbenchers to their hearts' content. Even if all of that is fouled up and a company engages a lobbyist who then talks to a minister, all it creates is a right of the minister to perhaps exclude the company from the tender if the minister feels it is appropriate. What a devastating ban that is!

The last matter I want to deal with is the question of the amendments that the opposition wants to move. As members would by now be well aware, the matter of whether or not it becomes an offence to insult the Minister for Gaming was brought to the attention of the Parliament by the excellent work of the government-controlled Scrutiny of Acts and Regulations Committee (SARC). Despite some of the contemptuous and hysterical reactions we have had to this issue in the past week, it should be remembered that it was not the opposition that brought this up. This matter was brought to the attention of the Parliament by SARC, which is chaired by Mr O'Donohue and has a government majority.

Hon. M. J. Guy interjected.

Hon. M. P. PAKULA — Mr Guy, I would have thought you had something better to do than sit here and heckle me. I thought you and Minister O'Brien were rivals, but clearly you are giving him a chop out, and good on you. It is a good display of loyalty.

This matter was brought to our attention by the Scrutiny of Acts and Regulations Committee:

> The committee refers to Parliament for its consideration the question of whether or not new section 3.8.11, which creates an offence of insulting the Minister for Gaming or an authorised person while they exercise due diligence powers relating to legacy monitoring systems, is reasonably necessary to respect those people's rights and reputation.

As members are aware, this created a little bit of media attention, and the minister has done a couple of things since. He has made a public statement to the effect of, 'Of course, this does not apply to me. It's not about me; it's about staff and their rights being respected. The opposition and media are being scurrilous', apparently ignoring the fact that this was not brought to the attention of the Parliament by the opposition but by the Scrutiny of Acts and Regulations Committee. He has also written back to the Scrutiny of Acts and Regulations Committee, saying in part:

> As the minister will not be personally exercising these powers, the protections created by the proposed offence will not apply to the minister —

He then takes a swipe at the *Sunday Herald Sun* saying:

> (notwithstanding misinformed and erroneous media commentary to the contrary).

The fact is that the media commentary was simply a reflection of what is in the bill and what is in the SARC report. The minister does not need to be quite so precious about this. I would have thought the media is quite entitled to take on face value what is in the bill and the report of the parliamentary committee that has examined the bill, which is all that the media did and, frankly, all that I did.

We propose to move amendments to take the minister at his word and remove reference to the minister. I am happy for the amendments to be circulated.

Opposition amendments circulated by Hon. M. P. PAKULA (Western Metropolitan) pursuant to standing orders.

Hon. M. P. PAKULA — In his letter the minister claims:

> … as the authority to exercise the powers formally rests with the minister, in order for a delegate of the minister to receive the protections conferred by the bill, it is technically necessary for the legislation to refer to the source of the authority (that is, the minister).

It is quite acceptable for legislation to refer to persons authorised by the minister rather than the minister or persons authorised by the minister. That still refers back to the source of the authority without including the minister in the protection. I would understand if it simply referred to an indeterminate class of person and

you could not identify who those persons were, but the effect of our amendment would be to indicate that this protection ought to apply not to the minister but to persons authorised by the minister. That is appropriate and would reflect within the bill what the minister claims the intent of the bill is. I think we do need to be very careful. Those of us who enjoy the full privilege of this Parliament and can effectively say anything we like about anyone in this chamber ought not to be introducing pieces of legislation that provide us with protection against being insulted.

The minister has said, 'It's not the intent. It's not about me. It's about the staff'. This amendment makes that clear. The other thing that the second amendment does is effectively remove the reference to an insult. The section in question talks about it being inappropriate or unlawful to assault, obstruct, hinder, threaten, abuse, insult or intimidate, and it provides a penalty of up to 100 penalty units. Even if this provision only applies to staff — if the first amendment is accepted, it will apply to officers of the VCGR — it is not our view that it is appropriate for someone to be subject to a 100-penalty-unit sanction for insulting someone. Penalties for assaulting, obstructing, hindering, threatening, abusing and intimidating — fine. We have no issue with those.

In his most recent response to SARC the minister says the term 'insult' has been introduced before, that the term relates to an offence against inspectors or members of the police force and that that is the section which established the precedent for the use of the term 'insult'. The point I would make is that this provision is one which provides a very hefty penalty: a 100-penalty-unit penalty. We are not proposing that that penalty ought to be reduced. We think there are offences in there, as they relate to VCGR inspectors, where the conduct, if it were at the harsh end of some of those possible offences, would warrant a significant penalty.

However, there are some circumstances in which there has been a wind-back in recent years of legislation which contains references to insult. To give an example, in the Equal Opportunity Amendment (Governance) Act 2009 the offence of using insulting language to address a member or member of staff of the Equal Opportunity and Human Rights Commission was removed. There is in the Racing Legislation Amendment (Racing Integrity Assurance) Act 2009 an offence of insulting a member of the Harness Racing Victoria or Greyhound Racing Victoria appeals and disciplinary boards at proceedings, but it is punishable by a fine of only 10 penalty units. This is a descriptor which has been moderated and confined in recent times, and to have a provision in a piece of legislation which, even on its face, suggests that anyone could be fined 100 penalty units for insulting the minister or persons authorised by the minister is not a precedent we should be setting in legislation.

We will be moving those amendments in the committee stage. I do not propose to say any more about them other than that the effect of the amendments will be quite simple: to take out the reference to the insult and take out the reference to the minister. Then what we will have is a bill which will reflect what the minister has said in his public utterances and in his letters to the Scrutiny of Acts and Regulations Committee. We will have a bill that reflects that accurately and appropriately.

I will pretty much leave it there, but I will restate on the record that we have no difficulty with the legislation as it relates to raffle prizes and to the changes in the ability of the VCGR to regulate bookmakers; however, we think that the change to the supervision of lottery draws is ill advised and that the lobbying ban is a complete mirage. If the government were serious about it, it would have introduced it earlier this year. The ban is unlikely to do anything for at least the next seven years.

In relation to the matters that have been examined by the Scrutiny of Acts and Regulations Committee, the government's acceptance of two minor amendments would be supported by all Victorians. Victorians would also be pleased to know that the government supports an amendment that makes it crystal clear that there is no such thing as an offence of insulting a minister of the Crown.

Ms HARTLAND (Western Metropolitan) — I will start much as I started my contribution on the previous gambling bill, the Victorian Commission for Gambling and Liquor Regulation Bill 2011. I repeat: the legislation does not deal with the problems I see in the western suburbs. During the second-reading debate on the last bill someone interjected that that was coming. It has taken a long time to do so. Neither side of Victorian politics has done anything to address the issue of problem gambling. I repeat: in the Brimbank council area $71 million was lost by residents in the period June–December 2010 — that is only six months. Is that an acceptable figure? I do not think so. These are people who cannot afford it. The west is clearly targeted, and the current and previous governments allowed this targeting. The western suburbs have the highest rate of losses to poker machines and the highest number of machines. In addition, residents have no say

in where these venues are located. Yet again, none of these issues will be addressed in this legislation.

There has been a flurry of activity in this place over the last few years in relation to gambling. The bill before the house is another part of the gradual transition to a new regime in which poker machine venues will be the operators of these machines. This restructure of the pokie industry should have provided a wonderful opportunity to reduce the harm caused by poker machines while keeping revenue for government services and venues about the same as before. Unfortunately this opportunity was lost because of the wild overestimate of the windfall, to the tune of $3.2 billion, that was supposed to flow into consolidated revenue. To compensate the hotels that are having to purchase entitlements, they were granted a higher take because Tattersall's and Tabcorp were taken out of the picture.

The opportunity was there, but it was missed, to inform clubs and pubs that serious harm reduction measures could be built into poker machines through slower spin rates, maximum bets and mandatory precommitments. This would have deflated the entitlement option price, which is probably why the government has done no such thing. Instead we get a terrible outcome whereby, without any harm reduction, the state has lost a sum of anticipated revenue that would have covered all the health and safety costs that must be borne over the next 10 years. Because of the bigger revenue stream now available, pubs and clubs will become addicted to poker machines to keep their balance sheets growing.

Following on from this assessment of what is to become Victoria's new gaming regime, I turn to some of the more technical details of the bill. Unlike Mr Pakula, I have a major concern around the issue of lobbying.

An honourable member interjected.

Ms HARTLAND — That is exactly right — why was this bill not introduced in February, when it would have had an effect on the sets of licences that have been negotiated?

None of this will matter for the next 10 to 12 years in terms of lobbying. However, we are not looking at those other lobby groups that will attempt to influence the government, such as Clubs Victoria and the Australian Hotels Association. Will these organisations no longer have any access to the minister? This is one of the questions I will be asking during the committee stage.

The second flaw in the legislation is that it reaches only so far as to give the minister powers to refuse whatever licence is requested; it does not give the minister the power to revoke licenses entirely for seriously reprehensible behaviour.

The third flaw is that the enforcer of these provisions is the minister, so the applicant only need employ a lobbyist who is either a friend of the minister or politically aligned with the minister. The negative news coverage that would be created if the minister took action against a politically aligned lobbyist would be an incentive for the minister to go quiet if he is lobbied. There are no checks on the minister's powers; if the issue is raised at all, the minister can go as gently as he wants. The amendment is a good one for lobbyists aligned with the government of the day, because it will give them continuing access.

Last night I did a bit of a hunt on the Australian Electoral Commission (AEC) website. I am happy for members to look at the information I have printed out; members should all have a look. The donations made to political parties by organisations such as Crown Casino, Clubs Victoria and others that obviously have a direct link to pokies and gambling venues are all there on the AEC website. If members think those organisations are not lobbyists, they should note that they donate to political parties for political influence.

Under the legislation the Victorian Commission for Gambling and Liquor Regulation (VCGLR) will be able to refuse a minor gambling permit for a raffle on the grounds of public interest. In his second-reading speech the minister cited as the reason for this amendment — and Mr Pakula also spoke about this — the example of a recent raffle in the United Kingdom that had in-vitro fertilisation services as a prize. According to the minister, such a prize would encourage vulnerable people to gamble beyond their means, but apparently that does not also apply to pokie machines.

While we do not necessarily condone the prize, it is a bit of a double standard. Linked jackpots and pokies are structured to encourage vulnerable people to gamble beyond their means. In fact the amount of research invested in by poker machine companies seeks to do that very thing, yet no hammer falls on their business model.

Following other amendments the Victorian Commission for Gambling and Liquor Regulation will have the power to inspect and approve the use of linked jackpots. The bill also prohibits a person from interfering with the electronic monitoring system. The

VCGLR will be able to assess whether an applicant for a venue operator's licence is of a stable financial background. These measures are worthy of support.

The VCGLR will no longer have to physically supervise lotteries conducted through random-number operators, but it will retain a supervisory role in relation to the software of the machines. This is important, but we would not want the software to be tampered with so that only 87 cents for every dollar bet on random-number generators gets paid out to the punters, as happens with pokie machines. That would be theft, and we would be glad if that supervisory responsibility were retained.

The minister will be given the power to obtain information about the legacy system, which essentially contains commercially sensitive models used to gather information about pokie machine use. The data collected will be owned by the state. In committee I would like to ask how this information will be made available. The methodologies and software behind the collection of this data is a commercial secret of Intralot. I take up the comments Mr Pakula made before. I went back and read all the comments Mr O'Brien made about Intralot, and I find it a bit astounding that a company he thought a year ago was the worst thing that had ever happened to Victoria is suddenly the monitor of this system.

The bill provides that the minister can seek any information relevant to the legacy system of Tabcorp and Tattersall's. The government is obviously anticipating a bit of a fight-back from these two operators, because it will be an explicit offence if public servants delegated by the minister are assaulted, harassed, obstructed, intimidated or insulted. Obviously these are important workplace protections for public servants seeking that information. However, there are inherent problems in having the word 'insult' included in an offence. I would like to hear from the government as to why there was ever the thought that this offence needed to be in the bill, and what 'insult' means. I understand it perfectly in terms of inspectors and people who work on the ground, but I would like to know how often it is expected that the minister would be going on inspection into these venues with inspectors, and why he would need this coverage.

The offence of insulting also encounters problems when — as we have seen this week — people in authority such as police officers are able to charge someone on the basis of their being insulted or where there is an inference of hindering. There is a quite clear and wide discretion given to the person in authority, and it can cause serious problems.

Finally, the monitoring licensees currently avoid liability for any act or omission in the provision of monitoring services. The scope of this immunity will be narrowed to relate only to acts or omissions that result in gaming machines not operating.

They are the basic comments I want to make. I would be interested to hear from the government about its attitude to Mr Pakula's foreshadowed amendments. They should be considered, and I would like to hear the government's opinion on them. Because this is about gambling and because it has such terrible effects in the western suburbs, I repeat: $71 million has been lost by residents in Brimbank, and this government is not doing anything about it. Mr Elsbury can roll his eyes; he is a member representing the western suburbs, and he should be standing up for residents.

Mr ELSBURY (Western Metropolitan) — It is my pleasure to hear that the opposition will be supporting this bill. However, I must say that the government will not be supporting the proposed amendments. I am pleased to be speaking in support of the Gambling Regulation Amendment (Licensing) Bill 2011. This bill takes action to deal with issues relating to lobbyists in the gaming licence process, ensure that raffles are conducted in the public interest, provide the Victorian Commission for Gambling Regulation and the subsequent Victorian Commission for Gambling and Liquor Regulation with the power to suspend the registration of bookmakers and their key employees if they are charged with serious offences, remove the supervision of computerised random-number-generator lottery draws and position the government's regulation of the industry in preparation for the transition to the post-2012 gambling licence environment.

The bill makes a number of changes that will affect the operation and restore the probity of gaming licence matters in Victoria. It prohibits the involvement of professional third-party lobbyists in the gaming licence process. Lobbyists engaged by a licence applicant will be banned from contacting government representatives for the purpose of influencing a decision. The practice will be banned for awarding licences and the process of amending licences, which Mr Pakula seems to have missed.

Millions of dollars are at stake — and I do not mean the dividends which I continue to pursue and find elusive. The industry itself generates massive revenue, and the need to protect the probity and integrity of these lucrative gaming licences is paramount. Participants in the industry must know that the process is legitimate, and the public must know that under-the-table deals

which would provide great wealth for the successful tender operator are not being done.

Mr Leane — Acting President, I draw your attention to the state of the house.

Quorum formed.

Mr ELSBURY — I thank the member for bringing more people into the chamber to hear my fantastic contribution.

On occasion those opposite may dredge up their criticisms of the Kennett government, and it is their prerogative to raise events that occurred 11 years ago. Therefore I am sure that I walk on safe ground when I criticise the actions of the Bracks government in its interaction with the Labor-aligned lobby firm Hawker Britton and, more specifically, David White. An article in the *Age* newspaper of 7 March 2007 quotes then gaming minister Daniel Andrews as having said:

> There's no ban on contacting David White. What I'm saying to you is that I have no need, and my office has no need … to speak to David.

The article goes on to state:

> The parliamentary gaming inquiry last week resolved to make the controversial lotteries licence its first area of investigation, a move Mr Andrews said showed the opposition parties' lack of respect for the tender process.

Here the current leader of the Labor Party in Victoria, while he was a minister, was slagging off the parliamentary process and seeking to sweep under the carpet concern about the role of David White as a lobbyist.

Hon. M. P. Pakula interjected.

Mr ELSBURY — This concern was backed up by the independent Gambling and Lotteries Licence Review Panel chaired by Ron Merkel, QC.

Hon. M. P. Pakula — Answer me.

Mr ELSBURY — I am getting there. The panel stated in its report:

> … it is now clear that, at an early stage of the licensing process, Hawker Britton was given preferred access to a licensing process document by someone in the minister's office.

There you go, Mr Pakula.

The independent Gambling and Lotteries Licence Review Panel also recommended in 2007 — that is, four years ago — that lobbyists be banned from the licensing process.

Hon. M. P. Pakula — Why didn't you do it?

Mr ELSBURY — We have been in for 11 months. In contrast to the old ways of Labor, the coalition has awarded three gaming licences with no probity issues whatsoever. The Minister for Gaming and his office staff did not meet with any third-party lobbyists or licence applicants to discuss gaming licence matters.

Hon. M. P. Pakula — How do you know that?

Mr ELSBURY — Mr Pakula's criticism of this legislation comes too late and is nonsense. As the bill covers amendments to the licence agreement, these proposed amendments could come out at any time. Benign contact like acknowledging each other in the street is not covered, of course. However, if someone were to try to influence the process, that would be a serious breach. Mr Pakula sniped that the government has not acted. I say again that it has been almost four years since that advice was received — four years!

Hon. M. P. Pakula — How did you get this all typed up before I even asked — —

Mr ELSBURY — I did not; I have written it in pen. I am very good at amending my own speeches. We in the Liberal-Nationals government believe that gambling licences should be awarded to the applicant that best meets the criteria and provides the best deal for Victoria. If only a similar ethos for securing value had been around the electronic gaming machine licences, which did not realise their full value and which left the state bereft of some $3 billion of revenue! The banning of lobbyists from the gaming licence process is long overdue, and it is the Baillieu coalition government which promised action. With this bill we will see delivery.

The bill goes on to introduce a new public interest test to be established for minor gaming permit regulations. Minor gaming permits are required where a declared community or charity wishes to conduct a raffle or minor gaming activity with a total prize pool of $5000 or more. The current authority, the Victorian Commission for Gaming Regulation (VCGR), has no power to refuse, in the public interest, applications which involve offensive prizes. This matter came to light when a raffle with a prize of fertility treatment was conducted in the UK. Given the sensitivity of fertility issues, for such treatments to be reduced from a commitment to have a child to a mere prize is insensitive. In my personal opinion you cannot raffle off a human life, as this sets a very low value on

something so precious. An offer of sexual services or cosmetic surgery would also be offensive. Where does it stop — kidney surgery? This sort of prize is not in keeping with community standards. Through this bill the government will empower the commission to take matters of public interest into account when processing minor gaming permits.

The Spring Racing Carnival is in full swing. Division 4 of the bill also seeks to improve the security of wagering through a bookmaker. I am not suggesting that if you place a dud bet, you will not lose your money but more that the money being held by the bookie is being cared for in a professional manner. The bill will bring the regulation of bookmakers and their key employees into line with other gambling licences when serious criminal activity is alleged. All other gambling licences are subject to licence suspension, pending the outcome, when serious criminal activity is alleged.

These provisions have been included because a high-profile bookmaker charged with offences relating to money laundering is able to continue to trade as a bookmaker because the law does not subject bookmakers or their key employees to suspension while being investigated for criminal activity. All wagering activity in this state must occur at the highest of standards, free of influence from criminal activity and with the integrity of the industry held in highest regard.

Oscar Wilde once said, 'Bureaucracy expands to meet the needs of the expanding bureaucracy'. As a believer in small government, I feel a very strong need to resist such a maxim. Regulation of gambling and wagering is important — but not for its own sake. Computerised random-number-generator draws currently require a supervisor from the Victorian Commission for Gaming Regulation to observe such draws. Twenty-eight such draws are conducted each week, and they are covered by category 2 lottery licences. The supervisors at these events observe a button being pressed — nothing else. The supervisor can observe moves, but they cannot see the microprocessor switching, the program calculating or the electronic pulses in the wires travelling their course.

The VCGR advises that in all respects from an integrity perspective there is no reason to supervise each of these draws. Ball draws are physical. Items can be seen moving, weights need to be verified and surfaces can be observed to see if they have been tampered with. Audits and official approval of random-number-generator programs would result in a much better and more realistic outcome in assessing the probity of such draws. By removing this pointless exercise, the regulatory burden is lifted and the commission can redirect resources. This does not restrict spot checks by the commission of lotteries using random-number-generating computer programs. Further, the amendments made by this bill allow for the timely release of independent review panel reports to be tabled at any time during non-sitting weeks, which will ensure maximum openness and transparency.

The significant changes the gambling industry is facing post-2012 need to be prepared for adequately. Converting electronic gaming machine operations from a duopoly to a venue operator model requires a series of legislative changes. This bill puts in place the work needed for the industry to be ready for the 16 August 2012 transition. This bill provides the VCGR and its successor commission with the power to approve linked jackpot arrangements. Venue operators can sell gaming machines during the period of preparatory action to assist in the orderly movement of machines in preparation for the venue-based operator model. The role of manufacturers, suppliers and testers is defined and split into each of those categories, and the liability of the monitoring licensee is clarified.

Some media outlets have chosen to run with stories claiming the legislation would make it an offence to criticise the minister. I heard that on Nova 100 with Hughesy and Kate while I was driving around the western suburbs. This is wrong.

Hon. M. P. Pakula — No, it is not.

Mr ELSBURY — So are those who choose to permeate such misinformation, Mr Pakula.

Clause 32 will not provide the minister with protection but rather allow protection to be delegated to authorised persons as a legacy of monitoring systems. The minister is mentioned as the source from which such power is derived in accordance with advice from the chief parliamentary counsel. This bill also makes technical amendments to improve the operation of the act. The passage of the Gambling Regulation Amendment (Licensing) Bill 2011 will prepare for the reforms of gaming management in 2012 and ensure that Victoria can boast the nation's best gaming integrity framework.

Mr ONDARCHIE (Northern Metropolitan) — I rise today to speak on the Gambling Regulation Amendment (Licensing) Bill 2011.

Hon. M. P. Pakula — Come on, parl sec!

Mr ONDARCHIE — If I were Mr Pakula, I would not be interrupting, because the Labor Party has a track record for interrupting, and it is going to cost its leader

in the other place a fine as the first person under the new rules to be kicked out of the chamber for interrupting. Maybe Mr Pakula follows his leader, no matter what.

This bill is an essential component of the new gaming industry arrangements in the lead-up to 2012.

Hon. M. P. Pakula — We all have to behave or else we will get fined. That is what we said you were going to do.

Mr ONDARCHIE — I am pleased Mr Pakula thinks this is frivolous, because this is a model that stands up, as opposed to what we saw from the previous government over its 11 years in power.

It is good that we are talking about gaming. Like Mr Elsbury, I could spend some time talking about the issue of electronic gaming licences. Those licences cost this state $3 billion in lost revenue. Some 27 300, 10-year gaming licences were issued for $980 million — that is $3 billion below the rack rate. Were they serious? They should have hedged the banana crop instead, because they do not get it; they do not get that they short-changed Victorians by $3 billion.

This bill will enhance and strengthen the legislative framework needed to support the transition of the Victorian gaming industry. It makes technical amendments to provide for a more efficient and effective framework for regulation under the Gambling Regulation Act 2003 and will allow a venue operator to sell or dispose of gaming equipment during the industry's period of preparatory action in the lead-up to August 2012. It also gives flexibility to venue operators who have a business need to possess or dispose of their gaming equipment during that transition period.

The bill contains procedures by which venue operators apply for the commission's approval of linked jackpot arrangements or variations to arrangements, which is necessary as the linked jackpots involve a pool of player funds. This bill enables the commission to test the electronic monitoring system to determine whether or not to approve its use. I congratulate Mr Elsbury on his contribution to the chamber today, which succinctly wrapped up what this bill is about.

Hon. M. P. Pakula interjected.

Mr ONDARCHIE — Mr Pakula should do us a favour and listen. To quote his learned colleague from yesterday, he might just learn something.

Hon. M. P. Pakula — I am telling you that right now he is in front; you have to lift your game.

Mr ONDARCHIE — It is interesting to note that Mr Pakula is running a book on political outcomes, because he ran a book on Victoria's finances over the last 11 years and, quite frankly, Labor lost. I would not want to be standing in the ring with Mr Pakula next Tuesday morning at Flemington, because it would be a bad bet.

Let us talk about the gambling of the Labor government and the former Treasurer, Mr Lenders, when they played with Victoria's finances around electronic gaming machines. They had an extremely low reserve price on electronic gaming machine licences. You would be interested to know, Acting President, that 61 per cent of bidders wanted to pay more for their electronic gaming licences, and the former Labor government said, 'No, that's okay; we'll take less'. They said, 'But, hang on, I want to pay more', and the former Labor government members said, 'No, we will take less; we are happy to short-change Victorians by $3 billion'. Who was responsible for that? The gaming minister at the time was — let me think! — Daniel Andrews. He of the first fine was the gaming minister.

The chair of the committee was former Premier, John Brumby. Who else was on the committee? The Treasurer of the day, John Lenders, was on the committee as well, as were the then Attorney-General, Rob Hulls, the former Minister for Energy and Resources, Peter Batchelor, and the member for Mill Park in the other place, Lily D'Ambrosio. If you were trying to pick the straight six in the Melbourne Cup, that would not be it.

This bill assists in providing more certainty to venue operators as they prepare for the new model after August 2012. This government gave a commitment to legislate to expressly prohibit lobbying. What did the Gambling and Lotteries Licence Review Panel find? It found that the former government provided certain lobbyists with inappropriate access to sensitive licensing arrangements. What is interesting is that the conduct of the former government seriously compromised the integrity and probity of the process and damaged confidence in the state to handle these matters appropriately. But it is okay, there is a new broom in town. This government will fix it up, and that is what this bill is about to do.

It is essential that these arrangements are put in place as soon as possible so the venues can consolidate their plans and processes for the new industry structure. It delivers on an election commitment — add that to the list: another election commitment delivered by the Brumby coalition government.

An honourable member — The Brumby coalition government!

Mr ONDARCHIE — I stand corrected, the Baillieu coalition government; I am still in shock at Brumby's stewardship of the finances of the state over the last 11 years. This is consistent with the findings of the Gambling and Lotteries Review Panel, chaired by Ron Merkel, QC. Its report of October 2007 to the Minister for Gaming talked about the public lottery licensing process, and that is why it needs to be fixed. There were significant consequences of not complying with the prohibition, so the minister can refuse to grant the applicant a licence or refuse to consider an application to amend a licence if satisfied a lobbyist has been engaged. Mr Elsbury went to great lengths to talk about the history of some lobbyists in this state, and in fact I think he even named some of them. What is interesting is that those in denial over on the other side are not willing to put their hands on their hearts to say, 'Yes, yes, we stuffed it up'. But it is okay; the Baillieu coalition government is here and it is going to fix it.

Those licences that were negotiated by the former Labor government had a shortfall of — wait for it, Mr Finn — $3 billion. Imagine what Victoria could do with $3 billion. Those who moan and whinge across the other side about the failure of roads, of public transport and of schools should remember that over the last 11 years those things could have been fixed. Imagine what we could do with $3 billion.

My colleague in the north of Melbourne, Ms Mikakos, said to me 11 weeks into this job that I should hang my head in shame because schools, public transport and roads in this place had been neglected for so long — after 11 weeks! Imagine what we could do with $3 billion. I tell you what we would not do with it, Mr Finn: we would not give it to the Victorian Funds Management Corporation. I will tell you that now. We would not give $3 billion to it, because it has an interesting track record on how it dealt with things under the Brumby government.

This bill gives clarity and certainty to provisions related to the monitoring licence. The act currently provides that the monitoring licence does not incur any liability for an act or omission in the provision of monitoring services, except as set out in the commercial agreement with the state and the licensee.

Honourable members interjecting.

Mr ONDARCHIE — I am hopeful you can hear me, Mr Acting President.

The ACTING PRESIDENT (**Mr O'Brien**) — Order! Conversations across the chamber should be kept to a minimum.

Mr ONDARCHIE — The gambling licences in this state are a lucrative asset to this state if they are managed properly. Tragically, those opposite did not do it. They did not manage the opportunity for Victoria — the opportunity to grow Victoria and to enhance Victoria — and they blew $3 billion.

Hon. M. P. Pakula — What a lot of nonsense!

Mr ONDARCHIE — You can be in denial all you like, Mr Pakula, but the facts stand up for themselves. You closed the deal too early. You were like an 18-year-old boy in the back seat of a car: you closed the deal far too early.

This bill implements the Racing Integrity Commissioner's recommendation that there be a power to suspend the registration of a bookmaker or bookmaker's key employee where they have been charged with a relevant criminal offence.

Hon. M. P. Pakula interjected.

Mr ONDARCHIE — I am surprised you are in denial, Mr Pakula — I really am. If subsequently found guilty of a relevant offence, the bookmaker or the bookmaker's key employee will be subject to disciplinary action by the commissioner, which can include cancellation of their registration. The commissioner will be able to consider whether an applicant for a venue operator' s licence is of a sound and stable financial background before making a decision whether to grant a licence. The regulatory burden on the public lottery licences will be reduced while integrity will be maintained.

Mr Elsbury pointed out that the requirement for the commissioner to supervise draws conducted by a random-number generator will be removed and that lotteries conducted by the drawing of balls will continue to be supervised. I thank Mr Elsbury for telling us that. The commission can require lottery draws conducted by a random-number generator to be conducted in accordance with the procedures approved by the commission. This bill enables the commission to refuse an application for a minor gambling permit on public interest grounds.

Mr Leane — I think it's time you closed the deal!

Mr ONDARCHIE — What is interesting with Mr Leane's interjection — which surprisingly was quite humorous, and I thank him for that — is that

whilst those opposite talked about abuse and criticism of the minister, they well know what it means. They well know that this applies to delegates of the minister. It is not the minister who will be going out and inspecting these facilities. There is a need to ensure that these officers, these workers, the staff involved — —

Hon. M. P. Pakula interjected.

Mr ONDARCHIE — I would have thought that Mr Pakula of all people would be concerned about the staff involved. There is a need to ensure that these officers are protected and can do their job without being verbally abused.

Those opposite say they are not going to oppose the bill. I am hopeful they will support it. This bill should go through without any hassle, and I am hopeful that those opposite will see that. It is a no-nonsense bill, it is a responsible bill and it is good for its time.

Motion agreed to.

Read second time.

Committed.

Committee

Clauses 1 to 31 agreed to.

Clause 32

Hon. M. P. PAKULA (Western Metropolitan) — I move:

1. Clause 32, page 34, line 2, omit "**Minister or**".

On the advice of the Clerk, I think it would be appropriate to also move amendments 2 and 3 standing in my name.

The DEPUTY PRESIDENT — Order! That is correct.

Hon. M. P. PAKULA — They are contingent on one another: the failure of one would mean the failure of the others. I move:

2. Clause 32, page 34, lines 4 and 5 omit ", insult or intimidate the Minister or" and insert "or intimidate".

3. Clause 32, page 34, line 6, omit "Minister or".

On reflection, there are two separate issues so I will take your advice, Deputy President, and that of the Clerk. One is about effectively removing reference to the minister — that is in amendments 1 and 3. Amendment 2 is about removing the reference to insulting the minister. I think on reflection that they are probably separate issues. I think I can move amendments 1 and 3 as one amendment and amendment 2 as a separate amendment.

The DEPUTY PRESIDENT — Order! I am going to rule that Mr Pakula can move the proposed amendments separately if he wishes. I think that there is a clear link and that you could regard amendment 2 as being tested by amendment 1, but in making this determination I believe the point the member is making is that he wishes to specifically deal with aspects of the subsequent part of the clause in addition to the title, if you like, of that clause. In order to allow the member to have the detail of that considered, we will deal with them as separate amendments.

Hon. M. P. PAKULA (Western Metropolitan) — I will speak to them collectively if you like. The substance of the two amendments relates to the following. We had Mr Ondarchie and Mr Elsbury indicate that of course it was not the intention of the provision to provide indemnity to the minister, to make it an offence for the minister to be insulted or to try to suggest that this was mischief making by the opposition. This is despite the fact that, as I indicated, this was actually brought to the attention of the Parliament by the Scrutiny of Acts and Regulations Committee — which is chaired by a member of the government — no doubt by the advisers to that committee and that both the opposition and subsequent media reporting relied upon the words that were contained within the bill.

The matter that is dealt with by amendments 1 and 3 is simply an attempt by the opposition to have the bill reflect what the minister says its intent is — that is, to provide a protection for persons authorised by the minister but not for the minister. I made the point in my contribution to the substantive debate on this bill that as members of Parliament we are the beneficiaries of privileges, including the privilege of the Parliament, which allows us to make all kinds of comments — not just about one another but about any other person — provided that we make them within the confines of the chamber. It is not appropriate for any of us to have a statutory protection from insults.

I am happy to have the minister at the table, Mr Guy, provide me with an explanation, but given that all the amendment does is change the bill to allow it to reflect what the minister says its intent is, I struggle to understand why that amendment cannot be supported. I invite the minister to respond to this if he wishes, otherwise I allow my comments to stand as they are.

Hon. M. J. GUY (Minister for Planning) — As I think has been explained by a number of people on the government side, indeed previously by Mr O'Brien, the Minister for Gaming, we need to be very clear about what is actually being done here.

The provision in the bill does not make it a general offence to insult the Minister for Gaming, which is suggested by the proposition that has been put forward. It applies to persons exercising powers as delegates on behalf of the minister. The bill was drafted on the advice of chief parliamentary counsel. We accepted the advice that the provision needed to be worded as it appears. It is not something that was dreamt up without any kind of independent thought. It was provided as a recommendation to us which we then accepted.

The offences would apply in strict and limited circumstances, such as in the course of exercising due diligence powers under clause 32 of the bill in the inspection of legacy monitoring systems on business premises, for example. The minister would not be personally exercising those powers, although people would be exercising them on behalf of him, and thus protections created by the proposed offence would not apply to the minister.

It is important that public servants who act on behalf of the minister have that protection. We believe they should be protected. That is why we believe that the wording, as it has been put forward, is correct.

Hon. M. P. PAKULA (Western Metropolitan) — I suggest to the minister that persons exercising those powers on behalf of the minister will have all of those same protections if the proposed amendment is supported. Amendment 1 would remove, once and for all, any doubt about whether or not there are any protections that personally apply to the minister. It is not in any way going to derogate from the protections provided to those individuals. It would help us to avoid the setting of an unfortunate precedent whereby an offence of offending or insulting a minister of the Crown is on the statute book even if the offence is never involved in a prosecution.

I take this opportunity to talk about amendment 2, which is effectively the removal of reference to an insult. Using obscene, indecent or threatening language or engaging in that kind of behaviour while in public is already an offence under the Summary Offences Act 1966. It seems to me that it is not necessary, in some respects, to have new offences created for these specific instances.

I note that one of the differences between the Summary Offences Act 1966 and this bill is that the penalty regime in this bill is much harsher than the Summary Offences Act 1966 which has penalties involving 10, 15 and 25 units depending on whether first, second and subsequent offences are involved. In this bill, the Gambling Regulation Amendment (Licensing) Bill 2011, the penalty is 100 penalty units. That is why, particularly given the recent precedent outlined by SARC that where the offence has been retained in areas of the statute book the offence is subject to a much lower penalty than 100 penalty units.

Given all of those considerations we suggest it is not appropriate for the offence to be retained in this piece of legislation before the house. Someone could find themselves subject to 100 penalty units, or in real terms a $12 000 fine, for insulting someone, whether they be the minister or a delegate of the minister.

Hon. M. J. GUY (Minister for Planning) — I want to make one comment in relation to Mr Pakula's comments about precedents. It is worth noting that section 10.5.15(a) of the Gambling Regulation Act 2003, which was introduced by the previous government, uses the term 'insult' in relation to an offence against inspectors or members of the police force. That section established a precedent for the use of the term 'insult', which features in the bill we are looking at today.

In relation to Mr Pakula's earlier comments about creating precedents, the precedents for the offences in the bill were taken from the Gambling Regulation Act 2003 that already exists and was put forward by the previous government.

Hon. M. P. PAKULA (Western Metropolitan) — Could the minister tell me what the penalty unit provision is for the section he has just referred to.

Hon. M. J. GUY (Minister for Planning) — Up to 60 penalty units.

Hon. M. P. PAKULA (Western Metropolitan) — I know Mr Guy knows exactly what I am about to say. Part of the reason that we are proposing this amendment to remove the reference to 'insult' in these circumstances is that this is an offence that has a penalty unit which is much higher than that. It is much higher than other penalties for insults in the existing act or in other acts. The opposition does not want to tamper with the 100-penalty-unit maximum, because we think it could be appropriate for a range of the other offences that are contained within that provision, but we do not believe it to be appropriate for the offence of an insult,

and that is why we are seeking its removal, given the size of the penalty that an offender might be subject to.

Hon. M. J. GUY (Minister for Planning) — I would just point out to Mr Pakula that it is up to that amount. It is not a set amount.

Ms HARTLAND (Western Metropolitan) — It has been interesting listening to this, because obviously in the original provisions of the bill these issues are limited to specific circumstances such as raids. Authorised people would be going into a licensed gambling workplace, doing things like searching the premises, inspecting the monitoring system, inspecting documents and taking photographs. Obviously these situations are going to be quite confronting.

It is quite clear that the provisions would prevent workers, inspectors et cetera from being bullied or intimidated while they go about their work. I understand completely why these provisions are required. I do not understand why it is that the minister also needs that protection. Will the minister now be doing inspections in gaming venues?

Hon. M. J. GUY (Minister for Planning) — I do not believe he will. However, where it might legally be a responsibility of the minister, it is obviously a delegated power. If those delegated powers exist, then people who are acting on behalf of the minister under the strict interpretation of the law would be subject to that protection. That is what we are seeking to do — protect those people who are there on the minister's behalf.

Ms HARTLAND (Western Metropolitan) — I understand that perfectly around the inspectors, the delegated powers et cetera, but I do not understand the sense in which the minister would be insulted if he is not actually doing this work. Could the minister give me a scenario where he believes this fine will actually be instigated for insulting the minister?

Hon. M. J. GUY (Minister for Planning) — With respect, I do not want to get into hypothetical scenarios. Suffice it to say that the government is very clear that this bill will provide protection for those who are exercising powers as delegates on behalf of the minister. I know Ms Hartland is saying she understands that, and I accept that. On a strict legal interpretation, we believe the advice given to us by parliamentary counsel is clear and that the wording of the legislation will provide absolute coverage to those who are working on behalf of the minister.

It is the intention of the government to provide absolute coverage to those who are acting as delegates on behalf of the minister, and we believe that the wording is right. I do not want to get into specific examples, because there could be what-ifs, and I do not think that would be worthwhile for the committee stage. Suffice it to say that we believe this bill will provide the greatest amount of protection possible to those people who are doing that work legally on behalf of the minister, as delegates of the minister.

Ms HARTLAND (Western Metropolitan) — I absolutely agree with the minister about delegates doing the job. That is quite clear, and they absolutely must be protected. What I am asking is what kind of insult does the minister envision that someone could make to him to be fined in this way? Would it be me saying that the minister was not doing his job? Would it be a lobbyist saying that he was not doing his job? Would it be Tabcorp saying that he was not doing his job? What would be an insult?

Hon. M. J. GUY (Minister for Planning) — I will just say again that the reason the minister is mentioned is because these are his statutory powers. It is not about someone personally insulting the minister, it is that legally these are his statutory powers and the government believes, on the advice of parliamentary counsel, that this is the correct wording to appropriately and properly cover all of those staff.

Hon. M. P. PAKULA (Western Metropolitan) — I heard what the minister said, and I do not invite him to say it again. I just ask him whether he can perhaps seek advice on whether there are similar provisions in other acts where there is a protection for delegates of a minister which are expressed in this way or whether it is more common to have it expressed as 'delegates of the minister or persons authorised by the minister' rather than, 'the minister and persons authorised by the minister'. I am not aware of other examples of this protection of persons whose authority flows from the minister being expressed in this way.

Hon. M. J. GUY (Minister for Planning) — I am sorry I cannot answer that for Mr Pakula at this point in time, and I will not go through it because obviously Mr Pakula knows what it is. I do not have anything to hand about the exact wording that features in any other similar pieces of legislation.

The DEPUTY PRESIDENT — Order! I have been giving careful consideration to the means by which we should deal with these proposed amendments. It does not seem logical to me that we should regard the principal amendment as a change to the title of the clause when in fact the substantive issue being considered by the committee is the substance of the clause, which is the second proposed amendment.

Unless there is an objection from the committee, what I propose to do is to rule that on this occasion, and perhaps on future occasions, we will put the substantive amendment first and regard any changes to the title of a clause or subsequent lines in the clause as being tested by the substantive amendment. In my view, the substantive amendment is amendment 2, which seeks to omit the words 'insult or intimidate the Minister or' in lines 4 and 5. That will be tested first, and I will regard changes to the removal of the words 'Minister or' in the title and the removal of the words 'Minister or' in line 6 as being tested by that proposed amendment. I am looking at the minister in particular to see if he is comfortable with that. I advise the committee that my vote is with the ayes.

Committee divided on amendment 2:

Ayes, 19

Barber, Mr	Pakula, Mr
Broad, Ms	Pennicuik, Ms
Darveniza, Ms	Pulford, Ms
Eideh, Mr	Scheffer, Mr (*Teller*)
Elasmar, Mr	Somyurek, Mr
Hartland, Ms (*Teller*)	Tarlamis, Mr
Jennings, Mr	Tee, Mr
Leane, Mr	Tierney, Ms
Lenders, Mr	Viney, Mr
Mikakos, Ms	

Noes, 21

Atkinson, Mr	Koch, Mr
Coote, Mrs	Kronberg, Mrs
Crozier, Ms	Lovell, Ms
Dalla-Riva, Mr	O'Brien, Mr (*Teller*)
Davis, Mr D.	O'Donohue, Mr
Davis, Mr P.	Ondarchie, Mr
Drum, Mr	Petrovich, Mrs
Elsbury, Mr (*Teller*)	Peulich, Mrs
Finn, Mr	Ramsay, Mr
Guy, Mr	Rich-Phillips, Mr
Hall, Mr	

Amendment negatived.

Clause agreed to.

Clauses 33 to 43 agreed to.

Clause 44

Hon. M. P. PAKULA (Western Metropolitan) — I would like to ask the minister some questions in relation to the way 'lobbyist' is defined in the bill. Do I read it correctly that under that definition the only persons or organisations that are prohibited from conducting lobbying activities are those who work for a third-party client — in other words, if you are employed in-house as a lobbyist, there are no restrictions imposed by this bill beyond those which apply generally?

Hon. M. J. GUY (Minister for Planning) — That is correct.

Hon. M. P. PAKULA (Western Metropolitan) — I wonder if the minister could give the house some insight into that thinking. It would appear to me that the intent of the bill is around the activity rather than the person carrying out the activity. If the activity offends concepts of probity, then how can the activity be appropriate if it is carried out by someone employed by a gaming company but inappropriate if it is carried out by someone from another organisation employed or engaged by a gaming company?

Hon. M. J. GUY (Minister for Planning) — I am advised that in the existing act there are already provisions that prevent undue influence by in-house lobbyists and that the purpose of this provision is to take the recommendation of the Gambling and Lotteries Licence Review Panel and expand it to those third parties.

Hon. M. P. PAKULA (Western Metropolitan) — I thank the minister. I have to say that that was not put to the opposition during the briefing. Is the minister saying that the prohibition, for want of a better term, that is created by this bill on lobbying activity by a third-party lobbyist already applies to an in-house lobbyist? Is that what the minister is saying?

Hon. M. J. GUY (Minister for Planning) — 'Improper interference' is the term that is used, so potentially that is the case.

Hon. M. P. PAKULA (Western Metropolitan) — All right. Just so I understand, once this bill is passed there will be a generic ban on lobbying by a third-party lobbyist, and in addition to that there will be a ban on lobbying by in-house lobbyists but only if the interference is improper. Is the minister effectively saying that there are different standards: one that applies to third-party lobbyists and a higher threshold, if you like, for in-house employees of gaming companies?

Hon. M. J. GUY (Minister for Planning) — If conduct is deemed to be improper, that is the case.

Hon. M. P. PAKULA (Western Metropolitan) — Deemed to be improper by whom?

Hon. M. J. GUY (Minister for Planning) — Deemed to be improper under the licensing process.

Hon. M. P. PAKULA (Western Metropolitan) — All right. I am glad the minister talks about the licensing process. I am still on clause 44 but under

another definition, the definition of 'government representative'. This definition is important because it creates the class of persons who cannot be lobbied. Those persons are the Premier or another minister; a parliamentary secretary; a person employed under part 3, et cetera; a ministerial officer employed under division 1, et cetera; the secretary; and nominees of the secretary. Under the licensing processes that have just occurred for all those gaming licences, would it not already have been an offence to have lobbied those individuals given the probity guidelines that attach to those processes?

Hon. M. J. GUY (Minister for Planning) — I am advised that at that stage it was not an offence.

Hon. M. P. PAKULA (Western Metropolitan) — I accept what the minister says about it not being an offence, but would lobbying any of those individuals have been outside the probity guidelines for the awarding of those tenders?

Hon. M. J. GUY (Minister for Planning) — Yes, it would have.

Hon. M. P. PAKULA (Western Metropolitan) — I just want to understand this. In effect there is a situation where all the probity guidelines that were in place for all the licences that were awarded last year by the government already made it not an offence under statute but an offence against the guidelines of a tender to have lobbied any of those individuals, so the changes being made by this bill move it from being an improper act under the guidelines of a tender to an offence under the law. Is that the effective difference that this makes?

Hon. M. J. GUY (Minister for Planning) — Yes, that is correct.

Hon. M. P. PAKULA (Western Metropolitan) — I am right, am I not, in my contention that under the provisions of clause 44 there is nothing to stop a lobbyist from lobbying any government member of Parliament who happens not to be a minister or a parliamentary secretary?

Hon. M. J. GUY (Minister for Planning) — Yes, that is the case.

Hon. M. P. PAKULA (Western Metropolitan) — And in turn, there is nothing to stop a backbencher who has been so lobbied from then lobbying the minister?

Hon. M. J. GUY (Minister for Planning) — I am advised that could potentially be improper influence, so that would be caught.

Ms HARTLAND (Western Metropolitan) — I have just one question. I know it is somewhat outside the scope of lobbyists. My concern is organisations such as Clubs Victoria and Crown Casino, which give large donations to various political parties except for the Greens.

Hon. M. P. Pakula — Crown doesn't. It's not allowed to.

Ms HARTLAND — I have the Australian Electoral Commission returns here, and it appears that Crown does. Sorry about that interjection. I am wondering about organisations that represent those kinds of large venues; they refer to themselves as industry representatives, but in reality they are still lobbying governments.

Honourable members interjecting.

The DEPUTY PRESIDENT — Order! I am happy to let the committee know that I do not mind a little bit of informality, but there will be a point at which I draw the line.

Hon. M. J. GUY (Minister for Planning) — I do not want to comment on the first part of the point except to say that the bill covers improper influence, and anyone seeking to engage in improper influence would be caught under the provisions of the bill.

Clause agreed to; clauses 45 and 46 agreed to.

Clause 47

Hon. M. P. PAKULA (Western Metropolitan) — I note that the provisions of clause 47 are in large part replicated in clause 49, so I will only ask the question about clause 47. It appears to me that clause 47 suggests that the minister may refuse to consider or grant an application — in the case of clause 47 for the monitoring licence, and there are similar provisions elsewhere — if the minister was satisfied the lobbyist had, to paraphrase, carried out a lobbying activity. I am wondering if the minister could enlighten me as to why, given that it is now so clear what cannot be done, the lobbying of the minister or other government representatives is not an activity which brings about a ban. Why are you not out if you conduct that kind of activity?

Hon. M. J. GUY (Minister for Planning) — I am advised that circumstances here are such that if a minister or a member were to pass someone on the street and simply say, 'Hello' to them, as a hypothetical — not that I want to engage in hypotheticals — that would not be enough to trigger the

termination of the process in that sense. We are obviously looking at what is going to be an offence as opposed to an encounter that may be somewhat harmless — if you are walking past someone on the street and you acknowledge them, for instance — and of course the improper interference provisions would counter anything that went beyond that.

Hon. M. P. PAKULA (Western Metropolitan) — I thank the minister but I find that response curious, because the kind of interaction he just described would not offend the act. The act is quite clear about what is defined as lobbying activity. Clearly, passing somebody in the street and saying hello to them would not qualify as lobbying activity under this bill, so I am not sure that example really deals with the concerns that I have raised.

Hon. M. J. GUY (Minister for Planning) — Does the member want me to answer anything on that?

Hon. M. P. PAKULA (Western Metropolitan) — The minister is right. It appears that I did not phrase that as a question. The minister gives the example of walking past someone in the street. That is clearly not lobbying activity within the meaning of clause 44. Are there other examples where someone might lobby within the meaning of clause 44 but where the minister might use his discretion not to exclude them from the tender?

Hon. M. J. GUY (Minister for Planning) — The government cannot legislate for every circumstance. I am advised that section 3.4.45 of the Gambling Regulation Act 2003 does cover some of these issues which the government is forming its view around. I mentioned that issue of walking along the street as a hypothetical, and I did say I do not want to get into hypotheticals. I mentioned it as an example of a light-hearted contact, if you like, to emphasise a point. I do not necessarily want to go through every single circumstance, because we could conceivably be here until Tuesday week. Thus, as I have said, I stand by section 3.4.45 of the principal act.

Hon. M. P. PAKULA (Western Metropolitan) — This is the last question, provided the minister's answer does not make me think of another one. Is there any way in which the discretion exercised by the minister can be tested? In other words, if the minister uses his discretion to either exclude or not exclude a lobbyist from a tender for lobbying, what is the filter on that? How can the exercise of that discretion be tested?

The DEPUTY PRESIDENT — Order! Given Mr Pakula's qualified commitment and the fact that it is already 6 o'clock, I invite the minister to respond very carefully.

Hon. M. J. GUY (Minister for Planning) — Thank you, Deputy President. I do worry about a lawyer questioning me in these circumstances and what may come of it. I am advised that if someone were knocked out by the minister, that is a ministerial decision and there is not an ability to go beyond that.

Hon. M. P. PAKULA (Western Metropolitan) — We are halfway there. Let me give the minister this scenario. If someone has lobbied the minister but the minister determines it to be not sufficiently serious to knock them out of the tender, would another tenderer — perhaps a defeated tenderer — have a right to challenge the decision of the minister not to exclude the tenderer who so lobbied?

Hon. M. J. GUY (Minister for Planning) — I am worried again, Deputy President. Potentially under the administrative appeals act you could appeal against not getting the tender, but it would not be an appeal against not having another party kicked out of the process.

Hon. M. P. PAKULA (Western Metropolitan) — This is not a question, and I am not going to seek to have the minister respond, but it therefore appears to me that a minister could form a view that lobbying activity by a tenderer is not sufficiently serious for the tenderer to be excluded from the tender and there would be nothing that anybody could do about that. The minister's silence speaks volumes. I have nothing further to say.

Clause agreed to; clauses 48 to 75 agreed to.

Reported to house without amendment.

Report adopted.

Third reading

Motion agreed to.

Read third time.

VICTORIAN RESPONSIBLE GAMBLING FOUNDATION BILL 2011

Introduction and first reading

Received from Assembly.

Read first time for Hon. M. J. GUY (Minister for Planning) on motion of Hon. G. K. Rich-Phillips; by leave, ordered to be read second time forthwith.

Statement of compatibility

For Hon. M. J. GUY (Minister for Planning), Hon. G. K. Rich-Phillips tabled following statement in accordance with Charter of Human Rights and Responsibilities Act 2006:

In accordance with section 28 of the Charter of Human Rights and Responsibilities Act 2006 (charter act), I make this statement of compatibility with respect to the Victorian Responsible Gambling Foundation Bill 2011.

In my opinion, the Victorian Responsible Gambling Foundation Bill 2011, as introduced to the Legislative Council, is compatible with the human rights protected by the charter act. I base my opinion on the reasons outlined in this statement.

Overview of bill

The Victorian Responsible Gambling Foundation Bill 2011 establishes an independent body, the Victorian Responsible Gambling Foundation, with a mandate to reduce the prevalence of problem gambling, the severity of harm related to gambling and to foster responsible gambling in Victoria.

The creation of the foundation by the Victorian Responsible Gambling Foundation Bill 2011 will ensure that there is a suitably qualified and resourced independent body with responsibility for providing an integrated approach to the delivery of problem gambling counselling and treatment services, communication and education strategies, and research.

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

The Victorian Responsible Gambling Foundation Bill 2011 does not engage the charter act.

Consideration of reasonable limitations — section 7(2)

As the bill does not engage any of the rights under the charter act, it is not necessary to consider section 7(2) of the charter act.

Conclusion

I consider that the bill is compatible with the charter because it does not raise any human rights issues.

Hon. Matthew Guy, MLC
Minister for Planning

Second reading

Ordered that second-reading speech be incorporated into *Hansard* on motion of Hon. G. K. RICH-PHILLIPS (Assistant Treasurer).

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — I move:

That the bill be now read a second time.

Incorporated speech as follows:

The Victorian Responsible Gambling Foundation Bill 2011 establishes the Victorian Responsible Gambling Foundation, a new organisation with a mandate to reduce the prevalence and severity of problem gambling and to encourage responsible gambling in this state.

The creation of the Victorian Responsible Gambling Foundation is the flagship of the coalition government's responsible gambling policy, and signals the start of a new era in the prevention and treatment of problem gambling in Victoria.

The first of its kind in Australia, the foundation will be encouraged to take a new and innovative approach to tackling problem gambling in Victoria. Its creation will make Victoria a national leader in harm minimisation and prevention programs. No other Australian state or territory has such a body and no other jurisdiction has made anything like the $150 million investment we have committed to the foundation over the next four years.

In a tight budgetary environment, the government's record funding commitment signals our clear and unequivocal commitment to addressing problem gambling with the seriousness it warrants.

The creation of the foundation acknowledges concern in the community that there is a tension between the role of government as a regulator of gambling activities, a beneficiary of gambling taxation revenue and a body responsible for delivering problem gambling programs and services.

The bill addresses this tension by establishing an independent entity focused solely on the treatment, research and education activities necessary to address the complex issue of problem gambling.

It is not usual practice for governments to hand over control of sensitive functions to independent bodies, much less to a body on which the opposition is represented. However, the Baillieu government recognises that if our state is to do better in addressing problem gambling, we need to be innovative and seek to engage people of goodwill from across the community, including both sides of Parliament.

For the first time, Victoria will enable a bipartisan approach to the design and delivery of prevention programs, advertising campaigns, treatment services and problem-gambling-related research. Day-to-day decisions about these programs will be made at arms length from the government of the day.

The bill, which draws heavily upon the successful VicHealth model, will create a service delivery body focused on an important public health issue that the government expects will attract both bipartisan and community support for its work.

In line with establishing an independent entity, the bill provides the foundation with day-to-day decision-making powers regarding the delivery of its objectives and functions.

The bill provides the foundation with the responsibility to develop and implement prevention, communication and education strategies, to work with established organisations such as Gambler's Help to deliver counselling and treatment services, and to commission problem gambling research relating to the foundation's objectives and functions.

The bill also empowers the foundation, within the context of its objectives, to provide information and advice to individuals and organisations on processes relating to the provision of gambling. This is an important educative function that will enable individuals and organisations to effectively engage in the processes regarding the provision of gambling.

While not specified in the bill, it is intended that the foundation will undertake its information and advice function through the establishment of a separate office within its organisation to be known as the Gambling Information Resource Office.

The new integrated regulator, the Victorian Commission for Gambling and Liquor Regulation, another of the Baillieu government's election commitments, will be empowered to perform a complementary education function that will focus on increasing public and industry knowledge of the regulatory practices and requirements of the regulator.

The foundation will not be an advocacy body. It will not be a policy-making or policy advisory body. Its role will be to deliver services, conduct community education and commission research related to its objectives and functions. While it may provide advice to government on matters related to those functions, its role does not include taking a position in community debates about gambling or lobbying government for policy or regulatory reform.

At the heart of the foundation's operation will be the establishment of a board that will guide and provide good governance to the foundation.

As is the case with VicHealth, the foundation's board will include three members of Parliament elected by a joint sitting of both houses. Like VicHealth, it is intended that one board member will be drawn from each of the parliamentary Liberal, National and Labor parties. This bipartisan approach has often been cited as a critical element of VicHealth's success and longevity, and it is for this reason that this approach has been adopted for the foundation.

The board will also have up to eight additional members, which will include a chair and deputy chair, who will be appointed for their ability to ensure the foundation achieves its objectives and carries out its functions.

The bill establishes the position of chief executive officer, who will be appointed by the Governor in Council on the recommendation of the Minister for Gaming. Similar to the VicHealth model, the minister will be required to consult with the board about this appointment.

The bill empowers the chief executive officer to manage the day-to-day operations of the foundation, with the chief executive officer being accountable to the board for his or her performance.

The bill provides for the chair of the foundation to employ staff, as a public service body head. The foundation's staff will be employed as public servants and subject to the Victorian public sector code of conduct, yet will be accountable to the chair and not a departmental secretary.

To ensure that the foundation has a clearly identified funding source, the bill establishes a new fund, to be known as the Responsible Gambling Fund, which will provide the foundation with its annual funding from the Community Support Fund. Funding for the foundation will come from the CSF as a first call.

Given the significant funding the government will provide to the foundation, the bill establishes a robust accountability framework, which is designed to ensure that the foundation delivers on its objectives and functions and provides value for money to Victorian taxpayers.

The foundation will be required to develop an annual business plan, in consultation with the minister, setting out its objectives and priorities for the future. This plan will be publicly available and the foundation will be required to consult with the minister before departing significantly from the business plan.

In addition, the foundation will be required to report to Parliament each year on its operations, in accordance with the Financial Management Act 1994.

Like VicHealth, the bill also enables the Minister for Gaming to issue directions to the foundation in relation to its objectives and functions. Such directions must be published to ensure that both the minister and the foundation will be accountable for the issuing of, and compliance with, any issued direction.

The accountability provisions in the bill will provide for effective and appropriate oversight of the foundation, while not impinging on the foundation's independence and day-to-day operations.

The bill before the house establishes a new entity that can dedicate its effort to addressing problem gambling, minimising gambling-related harm and fostering responsible gambling behaviours.

This is the beginning of an exciting new era that will firmly establish Victoria as a national and international leader in tackling problem gambling.

I commend the bill to the house.

Debate adjourned on motion of Hon. M. P. PAKULA (Western Metropolitan).

Debate adjourned until Thursday, 3 November.

WATER LEGISLATION AMENDMENT (WATER INFRASTRUCTURE CHARGES) BILL 2011

Introduction and first reading

Received from Assembly.

Read first time for Hon. P. R. HALL (Minister for Higher Education and Skills) on motion of Hon. G. K. Rich-Phillips; by leave, ordered to be read second time forthwith.

Statement of compatibility

For Hon. P. R. HALL (Minister for Higher Education and Skills), Hon. G. K. Rich-Phillips tabled following statement in accordance with Charter of Human Rights and Responsibilities Act 2006:

In accordance with section 28 of the Charter of Human Rights and Responsibilities Act 2006, I make this statement of compatibility with respect to the Water Legislation Amendment (Water Infrastructure Charges) Bill 2011.

In my opinion, the Water Legislation Amendment (Water Infrastructure Charges) Bill 2011, as introduced to the Legislative Council, is compatible with the human rights protected by the charter act. I base my opinion on the reasons outlined in this statement.

Overview of bill

Under the Water Act 2007 (cth) and the subordinate Water Charge (Infrastructure) Rules 2010 (WCI rules) (collectively the commonwealth scheme), the commonwealth has established its own system for the making of price determinations for specific infrastructure services (basin water charges) within the Murray-Darling Basin (MDB) region of Victoria (northern Victoria). Under the commonwealth scheme by 1 July 2013, two Victorian water corporations (the Lower Murray Water Corporation and Goulburn-Murray Water Corporation) will be required to calculate and impose basin water charges on its customers in accordance with the determinations of the Australian Competition and Consumer Commission (ACCC) made under the WCI rules.

The bill will apply certain parts of the WCI rules, referred to as the applied provisions, as state law to enable the Essential Services Commission (ESC) to approve or determine basin water charges for the provision of certain water services in northern Victoria.

To achieve this, the bill will enable the ESC to apply to the ACCC for accreditation of arrangements to approve or determine these state basin water charges. If the ESC is successful in its application for accreditation, the ESC will replace the ACCC as regulator and be required to approve or determine these basin water charges in accordance with the WCI rules, which will operate through the applied Victorian provisions as state law. If the ESC is not successful in applying for accreditation, the applied provisions of the WCI rules will not operate as state law, and the ACCC will remain the regulator with the power to approve or determine basin water charges in northern Victoria.

In addition, the bill will make a number of other amendments to ensure it does not affect the ESC's powers and functions as the economic regulator of the water industry in relation to matters outside the commonwealth scheme and/or the state-applied law scheme. Lastly, the bill amends the Water Act 1989 (state water act) to make clear that the levying of water charges approved or determined for the purposes of the WCI rules (either by the ESC or the ACCC) is not subject to review by the Victorian Civil and Administrative Tribunal (VCAT).

Human rights issues

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

Right to a fair hearing

Section 24 of the charter act provides that a person charged with a criminal offence or a party to a civil proceeding have the right to a fair hearing. The right to a fair hearing applies to both courts and tribunals, such as VCAT. Generally the right to a fair hearing is concerned with procedural fairness and access to a court or tribunal, rather than the substantive fairness of a decision of a court or tribunal determined on the merits of a case.

The bill engages this right because clauses 8, 10 and 11 of the bill operate to confirm that the levying of basin water charges approved or determined for the purposes of the WCI rules will not be subject to merits review by VCAT.

The state water act, in sections 266 and 271, provides for a specific ground on which a person may seek merits review in VCAT. The grounds include a right of review for persons aggrieved by the setting of a tariff or imposition of a payment in relation to water charges that are not set in accordance with a water industry regulatory order (WIRO) made under the Water Industry Act 1994. The result of the commonwealth scheme is that water charges for the MDB will always be made outside the scope of the WIRO regardless of whether the ESC, under the applied Victorian provisions, or the ACCC, as regulator, approve or determine the basin water charges.

To avoid an inconsistency between the legislative scheme proposed in the bill and the commonwealth scheme, the bill will carve out the statutory review rights within sections 266 and 271 of the state water act as not being applicable to basin water charges determined for the purposes of the WCI rules. This is because the existing ground of consistency with the WIRO is not relevant to the approval or determination of water charges in relation to the MDB. If the amendment was not made, then every water charge levied in relation to the MDB could potentially be challenged as the ESC or ACCC would not, and in fact could not, consider the WIRO in making its decision.

Any rights to judicial review in state courts in relation to the setting of a tariff or fee or imposition of a payment will not be impacted by the bill.

Additionally, under sections 55 and 62 of the Essential Services Commission Act 2001 (ESC act), a person aggrieved by a determination of the ESC has a limited ground to appeal such a decision to a three-person ESC panel. The ground for appeal under section 55 is limited to determinations based on bias or material factual error. In addition, the ability to bring a proceeding on the ground for appeal under section 55 is further limited by section 62, which requires that a proceeding may only be brought if there was no power to make the determination or the procedural requirements in relation to the determination were not met.

Under the applied Victorian provisions, ESC's approval or determination of a basin water charge for the purposes of the WCI rules would not be a determination within the scope of determinations under the ESC act. This is because an approval or determination of a basin water charge for the purposes of the WCI rules does not involve ESC's functions

in relation to a regulated industry as required by the ESC act. Therefore, the bill disapplies this review ground for determinations related to basin water charges made by the ESC for the purposes of the WCI rules. Likewise, this appeal ground would not be available if ESC was not successful in accreditation and the ACCC, under the commonwealth scheme, made the determination related to a basin water change. This disapplication of the appeal ground under the ESC act is similarly disapplied in the Victorian Renewable Energy Act 2006 and the Victorian Energy Efficiency Target Act 2007.

A person's right to judicial review through the state courts of an approval or determination of a basin water charge made by the ESC as regulator will not be impacted. In fact access to the state judicial system will be greater in that the limitations on the jurisdiction of the Supreme Court in sections 62 and 63 of the ESC act will not apply in relation to the approval or determination of basin water charges.

In summary, although the bill engages section 24 of the charter act as outlined above, it does not limit, restrict, or interfere with the scope of that right because persons impacted by this bill will have access to a fair hearing through the state or commonwealth judicial systems.

Conclusion

I consider that this bill is compatible with the charter act.

Peter Hall, MLC
Minister for Higher Education and Skills

Second reading

Ordered that second-reading speech be incorporated into *Hansard* on motion of Hon. G. K. RICH-PHILLIPS (Assistant Treasurer).

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — I move:

That the bill be now read a second time.

Incorporated speech as follows:

Until earlier this year, Victoria's economic regulator, the Essential Services Commission, has been the regulator of all water prices charged by our state water corporations.

However, as a result of the Commonwealth Water Act 2007 and the Commonwealth Water Charge (Infrastructure) Rules 2010, the Australian Competition and Consumer Commission can now approve or determine the charges imposed by infrastructure operators in northern Victoria that manage more than 250 gigalitres of water per year.

The prices that can be approved or determined under the commonwealth rules are water infrastructure charges for irrigation and drainage services, disconnection from such services and for bulk water services. This currently applies to these types of services provided by two of Victoria's water corporations, Lower Murray Water Corporation and Goulburn-Murray Water Corporation in relation to their charges after 1 July 2013.

The arrangements for determining charges under the Commonwealth Water Act and the commonwealth rules represents the new status quo in northern Victoria for basin water charges from the start of the next pricing cycle on 1 July 2013. This is so, irrespective of which economic regulator makes the pricing decisions.

The Victorian government accepts the commonwealth government's objective of having a consistent set of rules for water infrastructure charges apply to rural water services across the Murray-Darling Basin. But the Victorian government considers that is it not necessary to have more than one regulator approve or determine prices and charges for water services across Victoria. Victoria can avoid unnecessary duplication by enabling the ESC to apply to the ACCC for accreditation of the provisions to be applied by the bill as state law and enable the ESC to regulate basin water charges.

The ESC will be able to regulate basin water charges, instead of the ACCC, if Victoria applies the commonwealth legislative arrangements as state law and the state arrangements receive accreditation by the ACCC.

This bill will enable the ESC to take back its role of regulating basin water charges in northern Victoria.

The objective of this bill is to enable the ESC to apply to the ACCC for accreditation of the arrangements to be enacted by the bill, under which the ESC may then approve or determine basin water charges, instead of the ACCC.

The bill will achieve this by incorporating relevant parts of the commonwealth rules, the 'applied provisions', as state law. The ESC may then apply to the ACCC for accreditation of these state-applied provisions after the bill has come into effect in Victoria. If the arrangements are accredited by the ACCC, and we anticipate they will be, the bill enables the ESC to approve or determine basin water charges.

The bill has been drafted to satisfy the criteria for accreditation set out in the commonwealth rules.

Under the bill, the ESC will be required to determine basin water charges in accordance with the applied provisions.

The bill does not change the criteria that already apply to basin water charges, as that criteria changed when the commonwealth rules came into effect on 12 January this year.

To avoid a potential conflict between the proposed state and existing commonwealth legislative schemes, the bill excludes the application of a number of the ESC's existing powers and functions to its role of approving or determining basin water charges. Similar provisions under, or consistent with, the commonwealth rules or the Commonwealth Water Act will be effective instead.

There are many benefits in regaining the ESC as Victoria's regulator of basin water charges.

The bill will reduce the administrative burden for the relevant water corporations by avoiding their having to submit and negotiate their basin and non-basin pricing plans with two regulators.

Further, from its years of experience in regulating Victoria's water industry, the ESC holds long-term and detailed

corporate knowledge of Victoria's water infrastructure and water service requirements.

The ESC's familiarity with the key challenges facing northern Victoria means that it is in a good position to ensure a smooth transition to the new regulatory arrangements including the integration of these arrangements with Victoria's broader strategic priorities associated with the basin plan and the northern Victorian irrigation renewal program.

The ESC also holds in-depth understanding of the interdependencies between our water corporations, whether in northern or southern Victoria, or across this boundary, for the management of water resources and the shared provision of infrastructure and other services wherever possible, to make our water corporations as efficient as possible.

The bill will capture the benefits of the ESC's expertise and experience and these synergies to ensure they continue to benefit our farmers in northern Victoria.

I commend the bill to the house.

Debate adjourned for Mr LENDERS (Southern Metropolitan) on motion of Hon. M. P. Pakula.

Debate adjourned until Thursday, 3 November.

TRANSPORT LEGISLATION AMENDMENT (PUBLIC TRANSPORT DEVELOPMENT AUTHORITY) BILL 2011

Introduction and first reading

Received from Assembly.

Read first time for Hon. M. J. GUY (Minister for Planning) on motion of Hon. G. K. Rich-Phillips; by leave, ordered to be read second time forthwith.

Statement of compatibility

For Hon. M. J. GUY (Minister for Planning), Hon. G. K. Rich-Phillips tabled following statement in accordance with Charter of Human Rights and Responsibilities Act 2006:

In accordance with section 28 of the Charter of Human Rights and Responsibilities Act 2006 (charter act), I make this statement of compatibility with respect to the Transport Legislation Amendment (Public Transport Development Authority) Bill 2011.

In my opinion, the Transport Legislation Amendment (Public Transport Development Authority) Bill 2011, as introduced to the Legislative Council, is compatible with the human rights protected by the charter act. I base my opinion on the reasons outlined in this statement.

Overview of bill

The main objective of the bill is to establish the Public Transport Development Authority (PTDA) to provide a new, independent, statutory authority to plan, coordinate and manage the Victorian public transport system. The bill does this by amending the Transport Integration Act 2010, the Transport (Compliance and Miscellaneous) Act 1983 and various other statutes.

Human rights issues

Powers in relation to transport infrastructure — clause 21

Division 2 of part 4 of the bill inserts provisions into the rail management act conferring limited powers on the secretary and the PTDA to operate certain transport infrastructure and facilities, and to manage road traffic (including to break up, divert or stop traffic). To the extent that the exercise of these powers may limit the right of persons' freedom of movement, I consider any such limits to be reasonable and justified by the purpose of ensuring the safe and efficient provision of rail or tram infrastructure, facilities or services.

Land access and acquisition — clauses 3 and 21

Clause 3 inserts a provision into the transport integration act that confers on the PTDA the power to compulsorily acquire any land required by it in connection with the performance of its functions or the exercise of its powers. Clause 3 inserts provisions into the transport integration act that confer on the PTDA the power to enter land for investigative, building inspection, construction and maintenance purposes. Clause 21 inserts section 67A into the rail management act, which confers on the secretary and the PTDA the power to enter land to clear or remove any trees or wood on that land in the vicinity of a railway track that poses a safety risk, and to enforce any notice issued ordering the removal of such objects.

None of these clauses limits the right of a person not to have his or her privacy, family, home or correspondence unlawfully or arbitrarily interfered with, or the right of a person not to be unlawfully deprived of property. Any interference with, or deprivation of, a person's land, home or other property authorised by any of these clauses is 'lawful' by virtue of being authorised by an accessible, sufficiently precise law, which is reasonable and proportionate to the purpose of the provision of public transport infrastructure and the safe and efficient operation of the public transport system.

The powers to be conferred under section 67A of the rail management act (inserted by clause 21) potentially affect Aboriginal traditional owners who have a connection to natural resources such as trees located on land that they have traditionally owned or otherwise occupied or used. Accordingly, the provision engages the distinct cultural rights of Aboriginal persons provided for in section 19(2) of the charter act. However, I consider that, to the extent any such rights are limited by powers exercised under section 67A, those limits are reasonable and justifiable for the purposes of protecting the safety of anyone on, or using, the railway track.

Conclusion

For the reasons given in this statement, I consider that the bill is compatible with the Charter of Human Rights and Responsibilities Act 2006.

Matthew Guy, MLC
Minister for Planning

Second reading

Ordered that second-reading speech be incorporated into *Hansard* on motion of Hon. G. K. RICH-PHILLIPS (Assistant Treasurer).

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — I move:

That the bill be now read a second time.

Incorporated speech as follows:

This bill is an essential step to fix the problems in Victoria's public transport system.

The bill establishes a new statutory authority, the Public Transport Development Authority (the PTDA), to plan, coordinate and manage all metropolitan and regional train, tram and bus services.

The PTDA will focus on the basics of a good public transport system.

It will be responsible and accountable for achieving significant improvement in the reliability, efficiency and integration of public transport services across the state.

In a key change of focus, the new authority will put passengers first.

It will operate as the face of public transport, providing a single shopfront for passengers and stakeholders.

No longer will Victorians have to endure the confusion, the blame shifting and the frustration that characterised the state's troubled public transport system over the previous decade.

The problem

Victoria has too many transport bodies.

Compared with better performing public transport systems in Australia and overseas, the Victorian system is fragmented and lacking in accountability.

An assortment of authorities, agencies and quangos evolved under the previous government to create a tangled web of bureaucracies that did not always talk to one another.

As the stresses and strains on the public transport system worsened, nobody seemed to be in charge, nobody wanted to accept responsibility, nobody was prepared to be accountable. It was always somebody else's fault.

A single coordinating authority

The government came to office with a clear plan to fix the problems in public transport.

The centrepiece was our proposal to consolidate the functions of various public transport bodies in a single coordinating authority.

Since taking office, the government has been advised that this model is consistent with international best practice.

The PTDA will be created — alongside VicRoads — as a transport system agency under the Transport Integration Act 2010.

It will replace and subsume the roles and responsibilities of three existing transport bodies: the director of public transport, Metlink Victoria Pty Ltd and the Transport Ticketing Authority.

Taxi and hire car services will continue to be regulated by the Victorian Taxi Directorate until this role is taken over by the new Taxi Services Commission at the end of the current taxi industry inquiry headed by Professor Allan Fels.

The office of the director of public transport is abolished by the bill and the majority of the director's functions, assets and staff are transferred from the Department of Transport to the PTDA.

The PTDA is also empowered to take over the role and many of the responsibilities of Metlink, which is owned by the public transport operators.

In addition, the Transport Ticketing Authority will be abolished once it has completed the implementation of the new ticketing system, with ongoing ticketing functions transferred to the PTDA.

The Department of Transport will remain responsible for strategic policy across the transport system and to its ministers for advice and support.

The department's object, functions and powers will be amended to clarify its role in coordinating the transport system as a whole, including roads, freight, cycling and ports. The department will have a new function to provide a system-wide framework to enable greater integration between modes.

The PTDA will be governed by an independent board appointed by the minister.

Board members will include:

a chairperson;

a deputy chairperson;

a community representative; and

up to four more directors.

The PTDA will be required to report to Parliament on the performance of the public transport system — twice a year for the first two years and then annually thereafter. In contrast to the confused 'spaghetti jungle' structure for managing public transport in the recent past, the PTDA will be the central liaison point for franchisees and other agencies in the public transport sector.

It will work collaboratively with the train and tram franchisees, with V/Line and with the bus contractors to improve the performance of public transport services.

As the face of public transport in Victoria, the new authority will act to reduce bureaucracy in the public transport system and improve the quality and consistency of public transport information.

It will provide greater clarity of roles in the transport portfolio and create substantial administrative efficiencies.

The roles of Transport Safety Victoria, the public transport ombudsman, the Regional Rail Link Authority, VicTrack and V/Line are unchanged under the bill.

Object, functions and powers

The PTDA will be primarily responsible for ensuring that Victorians have access to safe, clean, punctual and reliable public transport services.

The object, functions and powers of the PTDA go beyond those currently applying to the director of public transport. They are strengthened to reflect key priorities including:

coordinating and integrating transport modes;

auditing all Victorian public transport assets and reporting publicly on the value and condition of those assets along with the cost of renewing them to bring them up to modern standards;

advocating extensions to the public transport network; and

promoting public transport as an alternative to the car.

The primary object of the PTDA is 'to plan, coordinate, provide, operate and maintain a customer-focused public transport system consistent with the vision statement and the transport system objectives' in the Transport Integration Act.

In other words, the government is putting the customer first.

The primary object of the PTDA encompasses:

ensuring that the public transport system operates as part of an integrated transport system which seeks to meet the customer service needs of all users;

managing the public transport system in a manner which supports a sustainable Victoria;

contributing to social wellbeing by providing access to opportunities and supporting livable communities;

promoting economic prosperity through efficient and reliable movement of public transport users while also supporting rail freight services; and

improving the safety of public transport for passengers and staff.

The PTDA's functions include:

acting as the face of the public transport system;

assisting with the construction and maintenance of public transport infrastructure;

managing operational public transport infrastructure;

planning for the public transport system as part of an integrated transport system;

managing the coordination of trams, trains and buses;

developing and implementing policies and strategies to improve the safety and security of the public transport system; and

providing and operating ticketing systems.

Structure of the bill

Part 1 of the bill sets out the purpose and the commencement provisions.

Part 2 provides for the establishment of the Public Transport Development Authority as a body corporate representing the Crown under the Transport Integration Act. This part sets out that the PTDA is governed by a board of directors and includes its object, functions, powers, duties and related matters.

Part 3 of the bill sets out provisions to facilitate the transfer of staff, assets, liabilities, rights and other interests from the director of public transport, Metlink, the Transport Ticketing Authority and others to the Public Transport Development Authority and others.

Part 4 sets out related and consequential amendments to the Transport Integration Act and other acts.

Part 5 provides for the abolition of the director of public transport and the dissolution of the Transport Ticketing Authority.

Key priorities

The Public Transport Development Authority will focus on the core business of a good public transport system: trains, trams and buses that run on time; buses that meet trains and trains that meet buses; simple and reliable timetables; passenger comfort; timely and accurate communications.

While the train, tram and bus operators will continue to be responsible and accountable for running their day-to-day services, the PTDA will be clearly responsible and accountable for improving the overall integration and performance of the public transport system as a whole.

The new authority will also focus on the stronger maintenance effort and on-the-ground improvements needed to support a public transport system that is reliable and dependable: replacing and modernising the failing signals, the buckling tracks, the ageing points and crossings, the faulty and unreliable rolling stock, the inadequate power substations and fragile overhead power supplies.

This task will be greatly assisted by the $100 million Maintaining Our Rail Network Fund promised by the coalition at the election and established in the government's first budget.

A good public transport system not only delivers integrated and coordinated services between different modes and operators; it also embraces an open and accountable customer service culture.

The Public Transport Development Authority will be a customer-friendly organisation.

Importantly, the authority will have a strong focus on the right of every Victorian to a safe and secure public transport network.

And it will listen to its customers.

If someone wishes to raise an issue or make a complaint, they will know where to go. The PTDA will establish and promote high-quality systems to receive and respond to passenger feedback and complaints.

Further, the PTDA will be a passionate advocate for public transport.

It will focus on growing and extending the public transport system to meet the current and future needs of all Victorians.

Conclusion

In developing this legislation, the government has consulted with key stakeholders and looked in detail at the governance structures of relevant public transport systems in Australia and overseas.

We found broad support for the concept of the PTDA, and the governance model we have developed combines the best elements of other public transport systems to address the specific needs and circumstances in Victoria.

The work done on the PTDA complements other initiatives already being implemented by the government to fix the problems in public transport, especially on the rail network.

This includes the recruitment and training of 940 Victoria Police protective services officers to protect passengers and staff on railway stations after dark, the new trains and trams, and the heavy investment in infrastructure and service expansion commenced in the government's first budget.

Since the introduction of the metropolitan train timetable changes in May, we are already seeing the first signs of improvement in punctuality. The PTDA will be charged with consolidating this trend and delivering further improvements in all aspects of public transport over the years ahead.

This bill deserves to enjoy the support of all members as the government acts to get the basics right in public transport and deliver more reliable, efficient and customer-focused public transport services.

I commend the bill to the house.

Debate adjourned on motion of Hon. M. P. PAKULA (Western Metropolitan).

Debate adjourned until Thursday, 3 November.

SENTENCING AMENDMENT (COMMUNITY CORRECTION REFORM) BILL 2011

Introduction and first reading

Received from Assembly.

Read first time for Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) on motion of Hon. G. K. Rich-Phillips; by leave, ordered to be read second time forthwith.

Statement of compatibility

For Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations), Hon. G. K. Rich-Phillips tabled following statement in accordance with Charter of Human Rights and Responsibilities Act 2006:

In accordance with section 28 of the Charter of Human Rights and Responsibilities Act 2006 (charter act), I make this statement of compatibility with respect to the Sentencing Amendment (Community Correction Reform) Bill 2011.

In my opinion, the Sentencing Amendment (Community Correction Reform) Bill 2011, as introduced to the Legislative Council, is compatible with the human rights protected by the charter act. I base my opinion on the reasons outlined in this statement.

Overview of bill

The bill will amend the Sentencing Act 1991 (Sentencing Act) to:

simplify the sentencing hierarchy by abolishing the community-based order (CBO), the intensive correction order (ICO), combined custody and treatment order (CCTO) and the intensive correction management order (ICMO) (yet to commence);

create a single community correction order (CCO) to sit in the sentencing hierarchy between imprisonment and a fine, with a broad range of optional conditions;

create new offences to deal with contravention of CCOs and existing orders.

The Sentencing Act, by its nature, engages rights as it contains strong powers that are primarily directed at depriving or restricting the liberty of people who break the law and allow the court to denounce the type of conduct in which the offender engaged.

The strong powers in the Sentencing Act are balanced by a range of appropriate safeguards designed to protect the rights of individuals subject to Victoria's sentencing scheme. Safeguards include the proportionate exercise of sentencing discretion and rights to appeal. Judicial discretion is expanded by the new flexible CCO and the increased optional conditions available to the sentencing judge. The Sentencing Act also provides fair procedures for the imposition of sentences and for dealing with offenders who breach the terms or conditions of their sentence.

Human rights considerations

The bill provides sentencing courts with the new CCO, a non-custodial order, which does not constitute a term of imprisonment. The CCO is a single flexible order placed in the sentencing hierarchy between a fine and imprisonment. At the lowest end of offence seriousness where a sentence above a fine is appropriate, the CCO may be imposed with minimal conditions that reflect the core conditions of the existing CBO.

At the highest end, the CCO may be an offender's last chance to serve a sentence in the community before being subject to a term of imprisonment. Accordingly, the CCO may include

curfews, place or area exclusions, non-association conditions and a requirement to perform up to 600 hours of unpaid community work.

Despite the strict and far-reaching conditions provided by the bill, the sentencing framework within which these conditions are imposed ensures they are compatible with an offender's rights under the charter act. Conditions are made at the discretion of the court and to ensure the proportionate exercise of discretion, offenders may lodge an appeal against their sentence. The secretary (and delegates within Corrections Victoria) are bound to comply with the charter act in the enforcement of orders and the exercise of contravention provisions.

1. *Right to privacy, freedom of association and freedom of movement*

Section 13(a) of the charter act 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 right to freedom of association in section 16 of the charter act protects the freedom of persons to join together in groups to pursue common interests and goals.

Section 12 of the charter act provides that 'every person lawfully within Victoria has the right to move freely within Victoria and to enter and leave it and has the freedom to choose where to live'. Freedom of movement recognises that persons are entitled to move from one place to another and to establish themselves in a place of their choice.

These protections in the charter act may be engaged by the conditions that can be imposed as part of a CCO. A CCO may only be imposed if the offender consents to the order. Clause 21 of the bill provides that strict conditions of a CCO may be imposed on an offender by a sentencing judge including (but not limited to):

> that the offender reports to, and receives visits from, a community corrections officer;
>
> that the offender reports to the community corrections centre specified in the order within two clear working days after the coming into force of the order;
>
> that the offender notifies an officer at the community corrections centre specified in the order of any change of address or employment within two clear working days after the change;
>
> that the offender does not leave Victoria except with the permission, either generally or in relation to the particular case, of an officer at the specified community corrections centre;
>
> that the offender obeys all directions of the secretary (and delegate).

New section 47 in new part 3A enables courts to include optional conditions including that:

> the offender attend at one, or more than one, treatment and rehabilitation program during the period of the order or a shorter period specified in the order for this purpose (new 48D);
>
> that the offender must not associate with or contact a person specified in the order or a class of person specified in the order for the period specified in the order (section 48F) (non-association condition);
>
> the offender must not reside at a place specified in the order or must reside at the place specified in the order for the period specified in the order (section 48G) (residence restriction or exclusion condition);
>
> the offender must not enter or remain at a place or area specified in the order for the period specified in the order (section 48H) (place or area exclusion condition);
>
> the offender must remain at the place specified in the order between specified hours of each day as specified in the order, or as extended by the secretary pursuant to an administrative sanction (section 48I) (curfew condition);
>
> the offender must not enter licensed premises for the period specified in the order (section 48J) (alcohol exclusion condition).

Under section 5(3) of the Sentencing Act, a sentencing judge must not impose a sentence that is more severe than that which is necessary to achieve the purpose or purposes for which the sentence is imposed. This fundamental principle of Victoria's sentencing scheme applies broadly, in deciding the appropriate type of order, and specifically, in regard to the appropriate conditions to be imposed in the circumstances. These principles are not displaced by the bill.

The purpose of the CCO conditions is to allow a court greater flexibility to impose a less restrictive order than imprisonment where appropriate, potentially leading to a reduction in sentences of imprisonment with advantages such as the promotion of the offender's rehabilitation and the preservation of family and community ties.

This supports the broader purposes of the Sentencing Act to prevent crime and promote respect for the law by providing sentences that deter reoffending and allow the court to denounce the criminal conduct (including the harm caused to the community by the crime), and to provide sentences that facilitate the rehabilitation of offenders and ensure that offenders are punished to the extent justified by the offence.

The CCO conditions might, for example, ban an offender from associating with members of a gang or a club that serves as a front for criminal activities. A non-association condition may prevent the offender from making contact with the victim or consorting with people that the court believes are a bad influence. The evidence available on non-association conditions under existing drug treatment orders indicates that these conditions usually work where the offender volunteers this information to improve his or her prospects for rehabilitation. The requirement that the offender consent to the CCO is particularly relevant to these conditions.

Optional conditions that restrict the movement of persons who have committed offences punishable by imprisonment allow their activities to be monitored to ensure their good behaviour and compliance with the order. This also affords appropriate offenders an opportunity to serve their sentence in the community preserving family and community ties and employment. For CCO conditions that restrict the right to privacy or freedom of movement and/or association, the restrictions are both directly linked to the objectives of the

community-based sanction and are an important optional feature of the sentencing order.

The optional conditions available to courts when imposing a CCO are clearly prescribed in the bill and are proportionate to the objectives of ensuring an offender's compliance with the sentencing order, to protect the community from the offender, to facilitate the rehabilitation of the offender and to deter the offender from similar reoffending. As such, the provisions engaging the right to privacy are neither unlawful nor arbitrary. Restrictions on privacy imposed by other conditions are closely connected to the purpose of the proper administration of the sentence. These restrictions to the right to privacy are necessary for, and proportionate to, that purpose.

The bill appropriately balances the punitive, deterrent and rehabilitative aims of the sentence. In my view, the ability to impose CCO conditions is a reasonable interference with rights to privacy (section 13) and a justified limitation of freedom of movement (section 12) and freedom of association (section 16) with effective safeguards to protect against the unreasonable limitation of a person's right.

First, the bill requires that the offender consent to the order. Second, the conditions are imposed by the sentencing judge at the discretion of the court. To the extent that the secretary (or delegates in Community Correctional Services (CCS)) may direct an offender who is subject to CCO conditions, extend curfews or direct additional unpaid community work as a sanction for non-compliance with terms or conditions of the order, the court may contemplate the direction power when including these conditions on a CCO. The secretary is bound to act in accordance with section 38 of the charter and all offenders have the right to appeal against their sentence.

Finally, Victoria's sentencing scheme already includes robust safeguards that ensure proportionate exercise of discretion, constituting the minimum interference with the offender's privacy. For example, section 5(3) of the Sentencing Act provides that the court must not impose a sentence that is more severe than that which is necessary to achieve the purpose or purposes for which the sentence is imposed. In addition to the general right to appeal a sentence, new section 48L enables courts to order judicial monitoring of conditions and division 5 provides for reviews of conditions which may lead to conditions being cancelled or varied. Judicial oversight is a critical safeguard in ensuring that the interferences with privacy will not be arbitrary and will be no more than is necessary to achieve the legislative purpose.

2. Medical treatment

Section 10(c) of the charter act protects a person from being subject to medical treatment without his or her full, free and informed consent.

The new section 48D in clause 21 of the bill provides a new treatment and rehabilitation condition for offenders to address the causes of their criminal behaviour.

The CCO treatment and rehabilitation condition not only addresses such behaviour but also promotes safer communities through reduced rates of reoffending. The court's discretion to impose a treatment and rehabilitation condition will be exercised in accordance with the purposes of section 5 of the Sentencing Act. This ensures the treatment and rehabilitation is not more severe than necessary to achieve the purpose or purposes for which the sentence is imposed.

Importantly, the offender must consent to the treatment and rehabilitation. The offender may subsequently refuse to undergo a treatment program and as a result may be resentenced by the court.

The procedures for imposing a treatment and rehabilitation condition reflect the objective of supporting offender rehabilitation by addressing the causes of their criminal behaviour.

In conclusion, the treatment and rehabilitation condition in clause 21 of the bill engages but does not limit the rights under section 10(c) of the charter act.

3. Rights in criminal proceedings

Clause 54 of the bill inserts a schedule of transitional provisions that provides, among other things, that the new CCO is available in the sentencing of a person on or after the commencement of the amendments, irrespective of when the offence was committed or the finding of guilt was made. From commencement, the CCO will replace the existing CBO, ICO and CCTO as the single order in the sentencing hierarchy between a fine and imprisonment.

It may be said that these reforms contain an element of retrospectivity that engages with section 27(2) of the charter act. The words 'penalty that applied' in section 27(2) of the charter act have been interpreted by comparative jurisdictions as referring to the maximum penalty which a court was authorised to impose at the time an offence was committed. The right has been read as requiring that no penalty be imposed on a person that is greater than the maximum penalty that could have been imposed on that person at the time that the offence was committed. It is a protection against changes in the law which increase a penalty above the maximum prescription that existed at the time of the offence.

Accordingly, although the amendments prevent an eligible offender from receiving a CBO, ICO or CCTO on or after the commencement of the bill, the amendments do not limit s 27(2) of the charter act because they do not alter the maximum penalty prescribed by law for any offence.

I take this opportunity to note that clause 43 of the bill permits a court to cancel a sentencing order and resentence an offender where an offender has contravened that sentencing order. The bill provides that the new offences for contravention of a sentencing order apply to contraventions committed on or after the commencement of the amendments. It will not apply retrospectively to contraventions committed before the bill commenced.

Conclusion

For the reasons given in this statement, I consider that the bill is compatible with the Charter of Human Rights and Responsibilities Act 2006.

Richard Dalla-Riva, MLC
Minister for Employment and Industrial Relations
Minister for Manufacturing, Exports and Trade

Second reading

Ordered that second-reading speech be incorporated into *Hansard* on motion of Hon. G. K. RICH-PHILLIPS (Assistant Treasurer).

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — I move:

That the bill be now read a second time.

Incorporated speech as follows:

Introduction

This bill represents the most significant reform to community-based sentences that Victoria has seen in 20 years. It provides our courts with a broad range of effective new powers that give real teeth to community-based sentences.

The current range of community-based sentences will be replaced with a single, flexible community correction order (CCO) that will strengthen community sentencing. The new order will deliver common-sense sentences targeted directly at both the offender and the offence. The CCO will allow courts to impose core conditions and optional conditions including curfews and no-go zones. There will be new sanctions for non-compliance. In addition, courts will be given an expanded power to suspend or cancel the driver licence or disqualify an offender found guilty of any offence.

The government recognises that the community is looking for responsive and effective community sentencing options as part of a range of measures to tackle crime.

We understand the critical need for a responsive sentencing framework that builds public confidence in the justice system. We have acted expeditiously and the first stages of our reforms have already been successfully implemented. We have abolished the legal fiction of suspended sentences for a wide range of serious crimes. We also have legislation currently before Parliament that seeks to abolish home detention so that jail will mean jail.

We will be proceeding with the complete abolition of suspended sentences, the introduction of statutory minimum sentences for gross violence offences, and baseline sentencing for serious crimes. These significant reforms will further restore truth and transparency to sentencing.

The government recognises that jailing an offender is the most serious punishment available. There must be a flexible and practical approach to community-based sentencing that can be tailored to suit the very wide range of offending which, while serious, does not warrant a sentence of imprisonment. This approach is embodied in the reforms introduced in this bill, to which I will now turn.

New approach to community-based sentencing in Victoria

Community-based sentences are an important part of the sentencing spectrum. They provide courts with a way to intervene in the lives of offenders who deserve more than a fine, but should not be sent to prison. A community-based sentence allows an offender to remain in the community. Offenders are able to maintain their employment, live at home and draw on the support of their family and friends. At the same time, offenders are subject to certain obligations — for example, they may have to report to Corrections Victoria, undertake unpaid community work or complete programs that address the reasons for their criminal conduct.

The existing range of community-based sentences does not provide courts with sufficient flexibility to directly target the offender and the offence. The combined custody treatment order (CCTO), for example, is rarely used by the courts and intensive correction orders are generally considered an inflexible option.

The Sentencing Advisory Council, in the *Suspended Sentences — Final Report — Part 2*, noted that the overuse of suspended sentences in Victoria is at least partly due to the failings of intermediate sentencing orders.

The new CCO introduced in this bill will replace these orders with a single comprehensive and highly flexible order. The bill draws on several recommendations made by the council in its final report to create a new intermediate order.

Specifically, the CCO will replace the combined custody treatment order, intensive correction order (ICO), the intensive correction management order (which has not come into effect) and the community-based order (CBO). From the commencement of this bill, these orders will no longer be available to courts in sentencing offenders. Existing orders will continue until their end date. After that time, if an offender is convicted of breaching one of the abolished orders, the court will resentence the offender under the new sentencing framework.

A CCO sits between imprisonment and fines in the sentencing hierarchy. The CCO will be available for any offence punishable by more than five penalty units. The CCO will also provide an alternative sentencing option for offenders who are at risk of being sent to jail. These offenders may not yet deserve a jail sentence but should be subject to significant restrictions and supervision if they are going to live with the rest of the community. The broad range of new powers under the CCO will allow courts wide flexibility to tailor their response to address the needs of offenders and set appropriate punishments.

Instead of using the legal fictions of imposing a term of imprisonment that is suspended or served at home, the courts will now openly sentence offenders to jail or, where appropriate, use the CCO to openly sentence the offender to a community-based sentence. Unlike the CCTO and ICO, which are technically sentences of imprisonment, the CCO is a community-based sentence. There is no legal fiction involved. The CCO can be combined with a jail sentence, but it will not pretend to be one. The CCO is a transparent sentence that can be understood by everyone in the community.

Structure of the CCO

Under the old regime, the longest a community-based sentence could last for was two years. In addition, offenders given the more serious community-based sentences, such as the CCTO and ICO, are only subject to obligations for a maximum of one year. These limited sentencing orders simply do not allow the courts sufficient flexibility.

A key feature of the new order is that it will allow the courts to tailor the length of an order rather than limiting the order to

a fixed time period. A CCO can last for up to two years in the Magistrates Court. In the higher courts, the bill does not set a uniform maximum duration. Instead, the maximum duration will be determined by the maximum term of imprisonment for the relevant offence. Importantly, a CCO may be combined with a fine and/or jail for up to three months.

All offenders placed on a CCO will be required to comply with basic requirements such as not reoffending, not leaving Victoria without permission, and reporting to and complying with directions given by community corrections officers.

Optional conditions

Under the CCO, courts will be able to draw on a broad range of new and existing powers to get offenders to re-establish their lives on a stable basis, develop responsibility for their conduct and avoid reoffending. Offenders on a CCO will be required to comply with strict conditions and put in real work to repay the community for the harm they have done. Courts will be required to attach at least one optional condition to each CCO, and will be able to tailor the order to the crime committed and the circumstances of the offender.

Using new powers under the CCO, courts may require offenders to pay a bond that will be forfeited if the offender fails to comply with their order. Courts may also impose up to 600 hours of community work, curfews and no-go zones, conditions on where an offender may live, prohibitions on contact with specified persons such as associates of the offender, victims, witnesses or their families, and exclusions from licensed premises. Courts will be able to apply these conditions in a way that addresses the circumstances of the offence and the offender, in order to reduce the likelihood of further offending or protect those affected by the crime.

Courts will be able to use the new CCO to ensure that those who have committed serious crimes will no longer walk out of court free to continue their criminal behaviour with no restrictions or penalties. Courts may use the place or area exclusion to prevent offenders from going to a particular site or an area such as the CBD. Courts may also use the curfew condition to require that an offender stay at home for up to 12 hours a day to stop them going out at night or other times and engaging in further criminal behaviour.

Under the alcohol exclusion condition, courts will have the power to ban offenders from entering or consuming alcohol in licensed premises. Offenders will be completely banned from going to nightclubs, pubs, bars, restaurants, cafes and function centres. Offenders will be able to access other types of licensed premises. However, they will not be allowed to enter the bar area and will not be allowed to drink alcohol anywhere in the premises. If they do, they will be in contravention of their order.

Judges and magistrates will also be empowered to actively monitor an offender's compliance with their order through a judicial monitoring condition. Courts will have a broad discretion to manage offenders as they see fit — for example, by requiring offenders to return to court for monitoring at regular intervals or just once. The judicial monitoring condition will allow courts to keep close watch over offenders' progress in completing the requirements of their order. Courts will be able to request progress updates from the offender, Corrections Victoria, prosecuting agencies, and other appropriate persons.

Courts will retain their existing powers to order supervision of the offender by Corrections Victoria, order treatment and rehabilitation such as drug or alcohol treatment, or programs that target particular offending behaviour and reduce the risk of reoffending.

In the next phase of reforms to community-based sentences, courts will be given the power to impose electronic monitoring conditions on offenders who are subject to a curfew, place or area exclusion or non-association condition.

The government is also introducing GPS technology to boost the electronic monitoring available in Victoria. Corrections Victoria recently completed a trial of various available GPS technologies. The results of the trial will help determine the type of GPS technology to be deployed in Victoria.

Compliance and enforcement

This government takes the enforcement of community-based sentences seriously. Offenders who fail to comply with the terms of their order will face tougher responses including a new contravention offence that will carry a maximum penalty of 30 penalty units or three months imprisonment. The new offence will not just apply to contraventions of the CCO, it will also apply to contraventions of existing suspended sentences, home detention orders and other sentencing orders abolished by the bill.

The new compliance framework introduced in the bill will streamline the enforcement process and provide appropriate powers to enforce community sentences. Less serious compliance issues will be dealt with quickly by senior corrections staff, whilst recurrent and serious compliance issues will result in the offender being returned to court for resentencing. The courts will have power to confirm or vary the order, or resentence the offender including sending them to jail.

These powers will significantly enhance the ability of authorities to deal with offenders who deliberately fail to comply with the conditions of the order, and think they can avoid any consequence because of the effort and paperwork required to haul them back before the court.

The bill will enable Corrections Victoria to impose sanctions including an additional 16 hours of unpaid community work and extend curfews for up to 2 hours a day, within the maximum levels set out in the legislation. Offenders can either accept the punishment for their wrongful behaviour or contest the sanction in court. The court may confirm, vary or revoke the sanction depending on the circumstances.

The bill will also provide Corrections Victoria with the power to impose on-the-spot fines that target conduct that warrants a response above a warning, but does not itself warrant returning the offender to court.

There will be two new offences. The first will cover failure to comply with specific directions by the secretary to comply with terms of the CCO. The second will cover failure to obey written directions that contain a specific request, such as that the offender attend a specified location at a specified date and time.

Corrections Victoria may charge offenders with these offences, which attract a penalty of up to 5 penalty units, or issue an immediate on-the-spot fine of 1 penalty unit, which

will be enforced in accordance with the Infringements Act 2006.

Changes to pre-sentence reporting by Corrections Victoria

To support the new sentencing system the government has invested in building the capacity of CCS to provide an improved service delivery model. This will incorporate an intensive case management model for high-risk offenders and more detailed pre-sentence assessment reports where required to ensure that courts are effectively supported in making an appropriate sentence. The court must have regard to any pre-sentence report when imposing conditions under the CCO.

New expanded driver licence penalties

A significant reform in this bill is the expansion of the existing power in the Sentencing Act to suspend or cancel a driver licence of an offender and disqualify them from obtaining a driver licence.

Currently, section 89 of the Sentencing Act provides for mandatory cancellation and disqualification of the driver licence of offenders who commit serious criminal offences involving driving. This power will remain. However, courts will be given a broader discretion to impose driver licence penalties on any offender for any offence where the court considers it appropriate to the circumstances. This means an offender who gets into a brawl after a road rage incident may have their licence suspended or cancelled and be disqualified from driving.

Failure to comply with the disqualification or suspension will be an offence under the Road Safety Act 1986. If a CCO is also ordered as part of the sentence, a conviction for driving while disqualified or suspended will contravene that CCO because of the basic requirement that the person not reoffend.

If the offender was under the influence of alcohol which contributed to the offence, they may be required to have an alcohol interlock fitted on their vehicle as a condition of getting their licence back. An alcohol interlock ensures that an offender cannot drink drive. Offenders will only be able to start their vehicle if they have a zero alcohol reading. Offenders must pay for alcohol interlocks and a concession regime will apply for those who cannot afford to pay.

The courts will have discretion to impose an alcohol interlock for any period of time. Consistent with the Road Safety Act 1986, offenders who do not comply with their alcohol interlock condition will face a fine of up to 30 penalty units or four months jail, and may have their car immobilised.

If a CCO is in force, this offence will also be a contravention of the CCO.

Timing of reforms

The principal reforms are intended to commence early next year, with the CCO bond condition, driving restrictions and new powers for Corrections Victoria to commence mid-2012.

Changes to previous legislation

This bill will repeal most aspects of the Sentencing Amendment Act 2010 and the Justice Legislation Amendment Act 2010. We have retained a few provisions of these acts such as the provisions of the Sentencing Amendment Act 2010 dealing with the abolition of suspended sentences and the introduction of deferred sentencing.

However, most of the provisions will be repealed including the ICMO introduced by the previous government, which is yet to commence. Critically, we will not be keeping the previous government's repeal of all breaching offences under the Justice Legislation Amendment Act 2010. Failure to comply with a court order should have serious consequences and under the provisions of this bill, failure to comply with any sentencing order will constitute an offence.

Conclusion

The government is committed to restoring respect for the law and responsibility for criminal behaviour. We recognise that it is time for us, as a community, to get serious about intervening in the lives of offenders before they graduate to more serious crime. To do this we are introducing balanced, common-sense sentences targeted at the offender and the offence.

Our reforms will give Victoria's courts the tools, discretion and flexibility they need to deal with offenders that do not deserve jail, but who need to address the behaviours leading to their offending and help repay the community for their crime.

I commend the bill to the house.

Debate adjourned on motion of Hon. M. P. PAKULA (Western Metropolitan).

Debate adjourned until Thursday, 3 November.

ELECTRICITY INDUSTRY AMENDMENT (TRANSITIONAL FEED-IN TARIFF SCHEME) BILL 2011

Introduction and first reading

Received from Assembly.

Read first time for Hon. P. R. HALL (Minister for Higher Education and Skills) on motion of Hon. G. K. Rich-Phillips; by leave, ordered to be read second time forthwith.

Statement of compatibility

For Hon. P. R. HALL (Minister for Higher Education and Skills), Hon. G. K. Rich-Phillips tabled following statement in accordance with Charter of Human Rights and Responsibilities Act 2006:

In accordance with section 28 of the Charter of Human Rights and Responsibilities Act 2006 (charter act), I make this statement of compatibility with respect to the Electricity Industry Amendment (Transitional Feed-In Tariff Scheme) Bill 2011.

In my opinion, the Electricity Industry Amendment (Transitional Feed-In Tariff Scheme) Bill 2011 as introduced into the Legislative Council is compatible with the human rights protected by the charter act. I base my opinion on the reasons outlined in this statement.

Overview of bill

This bill amends the Electricity Industry Act 2000 (Electricity Act) and the National Electricity (Victoria) Act 2005 to establish a new system to replace the current premium solar feed-in tariff scheme once it reaches its capacity. The bill sets out the criteria for eligibility for the new transitional feed-in tariff scheme, the tariff rate and the reporting obligations for retailers and distributors under the scheme.

Human rights issues

This bill does not engage any rights under the charter act.

Conclusion

I consider that the bill is compatible with the charter act because it does not raise a human rights issue.

Peter Hall, MLC
Minister for Higher Education and Skills

Second reading

Ordered that second-reading speech be incorporated into *Hansard* on motion of Hon. G. K. RICH-PHILLIPS (Assistant Treasurer).

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — I move:

That the bill be now read a second time.

Incorporated speech as follows:

The main purpose of the bill is to amend division 5A of part 2 of the Electricity Industry Act 2000 to establish a transitional feed-in tariff scheme which is expected to commence operation on 1 January 2012, after the closure of the current premium solar feed-in tariff scheme.

This closure will not be retrospective. Existing customers already receiving the premium rate will continue to receive that rate for the remainder of the 15-year legislated period, until 2024.

Currently there are two feed-in tariff schemes established by the Electricity Industry Act 2000:

the general feed-in tariff scheme established in 2004; and

the premium solar feed-in tariff scheme introduced in 2009.

These schemes allow small customers to enter into a contract with their electricity retailer to receive payments for the excess electricity generated by small-scale renewable generators at their premises.

The costs of these schemes are not funded by the state government. The premium solar feed-in tariff scheme is funded via the electricity bills of all customers within a given distribution area, whether or not they participate in the scheme. The general feed-in tariff scheme is funded by electricity retailers who generally pass on the costs to all retail customers through higher electricity bills.

The general feed-in tariff scheme commenced in 2004 offering a similar rate of payment for electricity exported to the grid as customers pay for electricity consumed from the grid, typically in the range of 20 to 24 cents per kilowatt hour.

The majority of customers who install solar photovoltaic rooftop panels now apply for the premium solar feed-in tariff scheme which has a feed-in tariff rate of 60 cents per kilowatt hour. The premium solar feed-in tariff scheme is open to customers who install solar panel systems of 5 kilowatts or less.

Division 5A of part 2 of the Electricity Industry Act 2000 provides for the premium solar feed-in tariff scheme to be closed to new qualifying customers if the scheme has reached its statutory capacity. The capacity condition specified in the act, of qualifying solar energy-generating facilities of 100 megawatts, is likely to be reached by the end of this year. This is well ahead of what was anticipated in 2009, when the premium solar feed-in tariff scheme was established.

The premium solar feed-in tariff scheme will be closed to new applicants as soon as practicable after it reaches its 100-megawatt cap under the act. If the scheme is not closed, there is a significant risk of a material increase in costs for Victorian electricity customers, and that increase is expected to escalate over time.

Given that the cost of funding feed-in tariffs is borne by all electricity users, including those on concessions and others who may not be able to install rooftop photovoltaic panel systems, the government is acting to ensure that the level of subsidy is equitable.

Due to the 'pipeline' of customers currently in the process of installing solar panels, the closure of the scheme is being carefully managed to provide consumers with clear time frames in which to conclude outstanding premium solar feed-in tariff applications to final connection, and to prevent rogue installers from misleading new customers.

The government announced that customers who have already paid a deposit or are already having solar systems installed must make sure all the required paperwork has been submitted to their electricity suppliers before 30 September 2011, in order to be considered for the premium solar feed-in tariff scheme. This arrangement facilitates the upgrading of customer metering and completion of the premium solar feed-in tariff application process before the final scheme closure date, expected to occur on 30 November 2011.

Amendments to the Electricity Industry Act 2000 are necessary to establish a transitional feed-in tariff scheme. The main features of the amendments in the bill to establish the new transitional feed-in tariff scheme are:

the scheme will be open to the same category of new customers as the soon-to-be-closed premium solar feed-in tariff scheme — those installing solar photovoltaic solar panels of 5 kilowatts or less;

the scheme will be funded by the same method as the premium solar feed-in tariff scheme — the cost will be

passed onto all customers in the relevant distribution area;

a fixed feed-in tariff rate of 25 cents per kilowatt hour and a scheme duration of five years will be offered to eligible customers;

the scheme may be closed in the future to new applicants when either a capacity cap of 75 megawatts or an annual consumer cost cap of $5 is reached, or at the discretion of the minister;

customers installing solar photovoltaic panels of 5 kilowatts or less who are eligible for the transitional feed-in tariff scheme will be excluded from applying for the general feed-in tariff scheme in the Electricity Industry Act 2000;

the bill will not have any retrospective effect on any existing feed-in tariff scheme customer.

The government continues to support renewable energy's important role as Victoria makes the transition to a lower emissions future. The new transitional feed-in tariff scheme will provide a fair price to households feeding solar power back into the grid.

Since the introduction of the premium solar feed-in tariff scheme, the cost of small-scale solar systems has dropped by around 50 per cent and is predicted to continue to fall, removing the need for excessive government solar incentives.

Unlike many other states, which have closed down their feed-in tariff schemes to new customers, Victoria's new transitional feed-in tariff scheme will provide a fairer, more sustainable approach which reduces the boom and bust cycle for the solar panel industry and provides one of the most generous rates on offer. The new scheme will still mean people investing in rooftop solar systems will have an average payback period of less than 10 years, about the same as forecast when the premium solar feed-in tariff scheme was first introduced in 2009.

The bill will also amend the Electricity Industry Act 2000 to improve reporting obligations imposed on distributors and retailers with respect to the feed-in tariffs.

In addition, the bill repeals the requirement to review the premium solar feed-in tariff scheme by 30 June 2012, given that scheme will already be closed by that date. In accordance with the Baillieu government's election commitment, the Victorian Competition and Efficiency Commission will be completing a review of feed-in tariff schemes in 2012. This review will inform longer term policy with respect to feed-in tariffs, particularly in light of the federal government's proposed carbon tax and associated energy policies.

I commend the bill to the house.

Debate adjourned on motion of Mr LENDERS (Southern Metropolitan).

Debate adjourned until Thursday, 3 November.

ADJOURNMENT

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — I move:

That the house do now adjourn.

Desalination plant: costs

Mr LENDERS (Southern Metropolitan) — The matter I raise on the adjournment tonight is for the attention of the Minister for Water, Peter Walsh. In Victoria we had a report today that Leighton Holdings was in some trouble over how it was funding the desalination plant. The Minister for Water got up in the Legislative Assembly and thundered on about the costs of this project, but in the end he said there would be no further cost to consumers.

We have had 11 months of Mr Walsh thundering on about the desalination plant. Mr Walsh had ideological issues with the desalination plant when he was in opposition, and he milked it for all it was worth as a political issue. He was assisted by the fact that it rained on election day. The action I am seeking from Mr Walsh is some transparency and truthfulness with the community, and in particular that he desist from frightening citizens about cost.

The cost of the desalination plant is on the record. Premier Bracks went out in 2007 and said that water bills would go up to fund infrastructure. The contract for the desalination plant is one that puts the risk firmly and squarely on Leightons and its consortia, and Mr Walsh admits to that when he is asked about it. The action I am seeking from the Minister for Water is that he actually tell Melbourne water users the truth and show them that the contract puts the risk on Leightons.

It is no coincidence that Leightons has a new CEO. It is no coincidence that Leightons has had a number of robust and unfriendly shareholder meetings because of the contract it entered into with the Victorian government, which gave it full industrial relations risk, full inclement weather risk and all the risks which go with a good public-private partnership contract. The action I seek from the minister is that he fess up to what the real costs are, that he acknowledge they have not gone up since the election and, most of all, that he stop frightening Melbourne water users as part of a cheap political stunt.

Geelong–Greenhill roads, Mount Helen: pedestrian safety

Mr RAMSAY (Western Victoria) — My adjournment matter is for the Minister for Roads, Terry

Mulder, and it is in relation to the political opportunism of the member for Ballarat East in the Assembly, Geoff Howard, and the theatre he is conducting by standing on the side of Main Road, Ballarat, waving placards to passing motorists demanding the Baillieu government upgrade the road. Given that he has been the local member of Parliament for eight years and given that the road has been totally neglected in that time, the sheer hypocrisy of Mr Howard and his actions defies description, and he should hang his head in shame.

The PRESIDENT — Order! I ask the member to withdraw the 'hypocrisy' assertion, which is an unparliamentary term.

Mr RAMSAY — Hypocrisy? I am happy to withdraw it, President. I will remember that. Mr Howard's actions are in stark contrast to his silence on Ballarat City Council's push to borrow $30 million to build an office block despite community outcry.

As Mr Howard knows, the Baillieu government has committed $4.5 million to the three projects known collectively as Main Road, Ballarat, not to mention the $38 million for the Ballarat West link road, which will help generate 10 000 new jobs. Community planning and consultation has been ongoing, with significant planning and negotiation in regard to land acquisition for a new roundabout as part of the upgrade. Preliminary work has begun, and full construction will start next year. Mr Howard knows all this because he gets regular briefing from VicRoads.

In response to community requests, I have lobbied for the Greenhill Road intersection pedestrian refuge to be put in place, and I am pleased to see the minister support this request. I now ask him to visit the road and inspect the speed limit at that intersection with a view to reducing the speed limit for greater safety if required and also to allay the concerns that the fearmongering and nonsense of Mr Howard are generating within the community.

This is the difference between the Howard approach of all show and no punch and the government's approach of getting on with its commitments.

Hon. M. P. Pakula — On a point of order, President, I think I recall — —

Mrs Peulich interjected.

Hon. M. P. Pakula — I just think it should be one rule for all of us, Mrs Peulich, and I think I recall rulings from you, President, that the adjournment debate is not the place and it is not parliamentary for the adjournment to be used for ad hominem political attacks. You have imposed that standard on members of the opposition, President, and I think Mr Ramsay is straying outside those guidelines, but I would be interested in your ruling on that.

The PRESIDENT — Order! The adjournment debate, as I have indicated in the rulings that I have given, is certainly not a debate as such. It is a matter of raising issues that are within the jurisdiction of ministers and either seeking action from those ministers or indeed making some statement that those ministers might take into account in terms of their responsibilities.

Reference was made across the chamber about Mr Lenders's item this evening, and I think that whilst Mr Lenders referred to Mr Walsh, the minister in another place, and his position in respect of the desalination plant in opposition and his position currently as Minister for Water, particularly in the context of providing information to the public about the nature of that plant, it was valid as a query or as a proposition put to the minister.

For the most part Mr Ramsay's item is also in order. However, I have been concerned about Mr Ramsay straying into the area of debate when talking about the opportunism of a member in another place and attributing motives and so forth to a member in another place in terms of their behaviour. It is important when contrasting what that member's position might be on a particular issue that we make sure that we stick to the actual facts of the matter, rather than run into a debate situation where it is simply a matter of trying to criticise or score points on a member, particularly a member in another place who does not necessarily have the opportunity in the context of our debate to defend their position. Mr Ramsay to continue.

Mr RAMSAY — Thank you, President. I have actually finished.

Legal practitioners: retail tenancy fees

Hon. M. P. PAKULA (Western Metropolitan) — The matter I raise is for the Attorney-General, and it relates to an email I received from a constituent of mine, Mr Philip McNally. The issue Mr McNally raised was about the responsibility of legal practitioners acting for landlords to provide detailed costings of their bill when they are dealing with commercial tenants.

Mr McNally was a commercial tenant who recently sold a beauty therapy business. Under the lease agreement he was required to pay the landlord's reasonable legal costs with regard to the transfer of the

lease, which is not unusual. Mr McNally's solicitor drew up the transfer-of-lease document and sent it to the landlord's solicitor. The landlord's solicitor then issued Mr McNally with what he regarded as a very large bill — five times more than his solicitor had indicated it ought to cost.

Mr McNally has brought to my attention the fact that under the Legal Profession Act 2004 a lawyer is required to provide his or her client with a range of information, including the basis on which the legal costs will be charged, the client's right to negotiate a costs agreement, the client's right to request an itemised bill, an estimate or range of estimates and details of the intervals at which the client will be billed et cetera. However, in this circumstance it appears that because Mr McNally is not the client of the lawyer who issued him with the bill, he does not have those protections. In such circumstances a lawyer does not have the obligation to provide that information to the commercial tenant, because the lawyer's client is the landlord and not the tenant.

As Mr McNally points out, things are very tough for small business people at the moment. It seems that a commercial tenant does not have a great deal of recourse in circumstances where their landlord's solicitor might have an inflated notion of what is reasonable.

The action I seek from the Attorney-General is that he provide me with information as to whether a commercial tenant in Mr McNally's situation has some recourse and, in the event that Mr McNally is correct and he effectively has no recourse, that he consider making changes to the Legal Profession Act 2004 to provide a commercial tenant in this situation with the same protections that any client would have if presented with a bill from his or her lawyer that they believed to be over the top.

Wine industry: smoke taint

Mrs PETROVICH (Northern Victoria) — My adjournment matter is for the Minister for Environment and Climate Change, Ryan Smith. It relates to the consultation work being done across the state on prescribed burning and improved consultation and communication with stakeholders.

On 6 October I visited the Pyrenees region as Parliamentary Secretary for Sustainability and Environment. I was accompanied by Ewan Waller and Rob Price of the Department of Sustainability and Environment (DSE). We met with the mayor and the chief executive officer of the Pyrenees Shire Council, Michael O'Connor and Stephen Cornish respectively, at their request. We also met with representatives of the Pyrenees grape growers to discuss issues around prescribed burning, concerns about the effects of smoke taint on the broader wine industry and a consultation and communication strategy which could assist them.

These were productive discussions. It was acknowledged that the previous government had allowed the fuel load to build up to dangerous levels. It was understood and supported by all that prescribed burning targets were required, and the increased burning was supported by all parties at that meeting. It was also understood by the grape growers that burning had to be conducted last year. Unfortunately it was a wet year, the grape harvest was late and the burning season was early. It was agreed that the season made conditions for grapes and burning very difficult. It was stressed that the grape growers of the Pyrenees are of great economic benefit to the shire and that the wine industry is of paramount importance to Victoria, as is the issue of smoke taint.

Since the election the coalition has committed to a Department of Primary Industries study into smoke taint, as announced by the Minister for Agriculture and Food Security. The meeting was extremely productive, and all in attendance agreed that communication is the key.

The action I seek is that Minister Smith outline the actions being taken by DSE to assist the grape growers in relation to prescribed burning in the Pyrenees.

Geelong Ring Road: section 4C alignment

Ms TIERNEY (Western Victoria) — My adjournment matter is for the Minister for Planning, Matthew Guy, and it is in relation to the alignment of section 4C of the Geelong Ring Road. In saying that, I stipulate to the house that this is not just any old road; this has been a burning political issue in the Geelong region for some time, and it played a fairly strong role in the lead-up to the state election 12 months ago. At that time the then shadow Minister for Planning, Matthew Guy, promised Grovedale residents in Geelong that there would be a review of the location of the 4C alignment if the coalition was elected. That review has been conducted, and it is now the end of October. Even though the minister promised Geelong residents three months ago that he would release the report undertaken by an independent advisory panel, it has not been released and he has not made a decision on the alignment.

After months of waiting the minister must now make a decision on the alignment, as the ongoing delay is causing increasing costs for developers in Armstrong Creek, costs which will be passed on to homebuyers. That concern has been reflected in recent newspaper articles. The *Geelong Advertiser* of 20 October 2011 ran the headline 'Ring road route delay costly'. The issue was covered on the front page of the *Surf Coast Times* of 11 October 2011, and it has also been covered in the *Echo*. We have a situation in which the local member has been attending community forums and openly guessing the content and timing of the minister's decision, which is adding to greater uncertainty within the community. It also means that land developers and local businesses in the city of Greater Geelong and the Surf Coast shire are none the wiser as to what is going to happen.

The action I seek from the minister is that he ensure the uncertainty stop and for that to occur he needs to make sure that the independent report into the alignment of stage 4C is made public and a decision on the road's alignment is made as soon as possible. I urge him to do that before the end of the week, because the residents of Geelong have simply waited too long.

Respite care: city of Wyndham

Ms HARTLAND (Western Metropolitan) — My adjournment matter is for the Minister for Housing in her capacity as the representative of the Minister for Community Services in this chamber. In the Wyndham local government area respite services available to families with a young person with a disability are inadequate. A significant failing is the absence of an overnight respite facility. Despite Wyndham being the largest municipality in Victoria, it has no overnight respite care. Wyndham and neighbouring Melton are growing at a rapid rate, yet there is no overnight respite care.

A 2010 Wyndham City Council report points out that:

> The absence of overnight respite services for young people with disabilities in Wyndham has been recognised for many years by the community, and the issue has been raised to the state government on repeated occasions.

It is time the government took notice. While it is rewarding being a carer, it can also be difficult and demanding. According to Carers Victoria:

> Many carers are chronically tired and desperately need to refresh with just one night of unbroken sleep, a day off or an extended period with no caring responsibilities.

This respite makes the world of difference to the whole family, which is why respite care is needed and valued. It is an essential community service. Respite also provides a positive experience for the person with a disability as they are enabled to be in a different environment and get to know new people. Currently, in the absence of overnight respite, families either struggle on without the care or they are forced to leave the municipality to receive proper care. This is an unsustainable situation. The need for this overnight service in Wyndham can no longer be ignored. The action I ask of the minister is that she work with Wyndham City Council and other partners on a proposal for an overnight respite care service and ensure that it is built and operational as soon as possible.

Courage to Care: exhibition

Ms CROZIER (Southern Metropolitan) — My adjournment matter this evening is for the Minister for Education, Mr Martin Dixon. As members are aware, the Courage to Care exhibition is on display in Queen's Hall. I would like to congratulate my colleague David Southwick, the member for Caulfield in the Assembly, on organising the exhibition. After having a discussion with the Courage to Care chairman, Dr Tony Weldon, Mr Southwick undertook the initiative to have the exhibition displayed in Parliament. In fact this is the first time the exhibition has been held in the central business district of Melbourne, let alone in the Parliament.

As members would have seen, the Courage to Care exhibition is a travelling exhibition and educational program which is about respect and acceptance of all peoples. The program uses stories of people who, at great risk to themselves, their families and very often their communities, saved Jews during the Holocaust. The Courage to Care exhibition was first displayed in 1992 at the Jewish Museum of Australia in my electorate of Southern Metropolitan Region. It now travels regularly around regional areas in Victoria and seeks to reinforce to young people that they have a choice when confronted by situations involving prejudice, racism or bullying. The schools that have visited the Parliament this week have also had the advantage of seeing the exhibition in Queen's Hall.

The exhibition has been supported by the Department of Education and Early Childhood Development in the past, and I ask the minister that he continue to support the program as it travels to our schools throughout Victoria to give students and their teachers the many benefits of this excellent program.

Information and communications technology: national broadband network

Mr SOMYUREK (South Eastern Metropolitan) — I raise a matter for the attention of the Minister for Technology, Gordon Rich-Phillips, concerning the Baillieu government's support for the national broadband network (NBN) rollout process. Super-fast broadband is vital to Victoria's future prosperity and opportunity. Optic fibre is the answer to drive Victoria's economy and boost its productivity. Yet despite being in government for 11 months, the Baillieu government has still not decided whether it supports the NBN rollout. Instead of making Victoria's case to NBN Co. Ltd, the Premier, Mr Baillieu, and Mr Rich-Phillips sat on their hands watching opportunities for Victoria pass them by.

This inaction on the NBN rollout has been costly for Victoria, which has not only missed out on its fair share of NBN rollout sites but has also lost jobs and millions of investment dollars to other states because of the inaction of the Baillieu government. Mr Rich-Phillips and Mr Baillieu must start preparing Victoria for the future. They must come out and firmly back the NBN rollout and in doing so stand up to the federal opposition leader, Mr Abbott, who wants to demolish the NBN.

The action I seek from the minister is that he make a decision to back the NBN rollout and put a case to NBN Co. on behalf of Victoria.

Disability services: parking permit scheme

Mr P. DAVIS (Eastern Victoria) — I raise a matter for the attention of the Minister for Roads, the Honourable Terry Mulder, concerning the disability parking permit scheme process. Recently representations have been made to me which have confirmed my observation that while many people in the community have a genuine intellectual or ambulatory disability and require the use of disability parking bays, the processes around disability parking permits are grossly failing. It is apparent that disabled people in obvious need of a disability parking bay can often be observed being unable to access that facility while many others, who appear to be without any apparent mobility impairment and clearly able to park in an ordinary bay, regularly occupy designated disability parking bays. Another concern is that of a driver transporting a person who, while holding a permit, does not actually leave the vehicle, thereby nullifying the need for a disability parking bay.

Interestingly Victoria seems to be the only state where local government administers the disability parking scheme. It seems obvious that many people who are holding permits may have been issued with the permits when they did not really meet proper criteria assessments and that therefore there is an overuse of the permit system.

There has been a national review. All states participated in it and the consultations about trying to harmonise the parking permit scheme in Australia. I think there is merit in competitive tension between states but on this issue there are obviously some benefits in looking at the experience around Australia. There was a lot of support in that consultation process for a national scheme, albeit that this was a reflection of frustration with the current arrangements. More should be done to stop ineligible people using reserved parking spaces and/or permits which should not be valid. There should be greater enforcement of reserved parking spaces at shopping centres and in local government and street parking, and the administration of the scheme needs to be improved and applied more consistently.

Given the difficulties with the scheme, I ask that the Minister for Roads consider what action he can take to ensure that we enhance and improve the disability parking scheme in Victoria.

Wedge–Frankston-Dandenong roads, Carrum Downs: traffic management

Mr TARLAMIS (South Eastern Metropolitan) — The matter I raise on the adjournment tonight is for the attention of the Minister for Roads. The action I seek from the minister is the installation of traffic lights at the intersection of Wedge Road and Frankston-Dandenong Road, Carrum Downs. This intersection is in dire need of upgrading. Many residents living in Carrum Downs and its surrounds have contacted my office seeking an upgrade as soon as possible. They have advised my office that they find it very difficult to turn right from Wedge Road into Frankston-Dandenong Road, especially during peak-hour periods.

We have seen a dramatic increase in residential development around the Wedge Road area over the past years. These residents are frequent users of Wedge Road for many day-to-day activities, including travelling to the Shri Shiva Vishnu Temple on Boundary Road, which is directly across the Wedge Road and Frankston-Dandenong Road intersection; travelling to and from the Carrum Downs Cricket Club, the Carrum Downs Tennis Club and the scout hall, all of which are located along Wedge Road; travelling to

and from McCormicks Road, which is the home of the Carrum Downs Plaza shopping centre, the Oak Tree retirement village, Carrum Downs Secondary College and substantial residential development; and travelling to and from the Sandhurst and Sandarra residential estates.

I am aware that the minister has sought and received advice from VicRoads concerning the installation of traffic lights at the intersection and that VicRoads has discussed with officers from Frankston City Council options to signal the intersection. I am also aware that local residents have written to VicRoads directly requesting that traffic lights be installed at this intersection. Given that the minister has been well briefed about the importance of the issue, I ask that he match Labor's commitment of $6.6 million for traffic lights to be installed at the intersection, thus alleviating the safety concerns of local motorists who are constantly battling risky traffic conditions when using the intersection. Without traffic lights being installed at this notorious intersection, the government risks being held responsible for any incidents that occur as a result of its inaction.

I urge the minister to take action as a matter of urgency, as this would reassure locals that the safety of motorists in Carrum Downs, Skye, Cranbourne and surrounds is actually a priority for the current government.

Youth: mentoring programs

Ms DARVENIZA (Northern Victoria) — I wish to raise a matter for the attention of the Minister for Youth Affairs, Ryan Smith. The matter I raise concerns the closure of the mentoring and capacity building initiative, a program that was started in 2005 by the former Labor government and which was designed to address disadvantage and make Victoria a fairer state. It is a low-cost, high-impact program that helps hundreds of at-risk young Victorians to re-engage with study or employment by pairing them with a suitable adult. Withdrawing $3.9 million from the program will have a significant impact on young people.

We know that this program builds self-esteem and confidence and that it gives young people access to an adult who is able to give them positive affirmation, which is something that they often do not have in their lives. It is a unique program that provides support for disadvantaged young people. The withdrawal of the funding means that Victoria's most vulnerable young people will no longer have the capacity to be involved in mentoring opportunities.

In my electorate of Northern Victoria Region we have four programs covering six local government areas. The Mallee Accommodation and Support Program is a Mildura youth mentoring program which covers Mildura and Swan Hill. It is involved in assisting young people to walk the Kokoda Trail. The Jindi Woraback youth mentoring program is in the Yarra Ranges local government area. The Bridge Youth Service's young parents mentoring program is unique, as it helps young people with both postnatal and prenatal issues. There is also the Strathbogie Shire Council's Making Links mentoring program.

My specific request and the action that I am seeking from the minister is that he give urgent attention to reassessing the withdrawal of funding from the mentoring and capacity building program and that he reinstate this important program, ensuring that it does not disappear. This decision affects hundreds of young disadvantaged and vulnerable Victorians. We also know that the minister has recently stated that he has three goals he would like to pursue as Minister of Youth Affairs, which are: increasing the number of mentoring opportunities for young people, encouraging young people's volunteerism and encouraging young people to pursue alternative career paths. He says that is something that he takes a great interest in, so given that, I ask him to reinstate the funding.

Victorian certificate of applied learning: funding

Mr LEANE (Eastern Metropolitan) — My adjournment matter is for the Minister for Education, Martin Dixon, and it regards the Victorian certificate of applied learning (VCAL). Mr Hall referred me to the minister during Parliament this week when I inquired about whether secondary schools that have not currently implemented VCAL programs will be eligible for funding to establish a VCAL program if they decide to start one next year. This relates to the government's rationale for cutting funding for VCAL coordination, which was that it believed that that VCAL funding was only to be used to introduce the programs into secondary schools.

Responses

Hon. W. A. LOVELL (Minister for Housing) — Mr Lenders raised a matter for the Minister for Water regarding contracts for the desalination plant. I do not accept some of the assertions made by the member; however, I will pass his adjournment matter on to the Minister for Water.

Mr Ramsay raised an issue for the Minister for Roads, asking him to visit his electorate and inspect speed restriction signs in Main Road, Ballarat.

Mr Pakula raised a matter for the Attorney-General regarding a constituent of his, Mr Philip McNally, relating to a requirement for legal practitioners to provide detailed costings of bills and technicalities faced by commercial tenants.

Mrs Petrovich raised a matter for the Minister for Environment and Climate Change regarding consultation with stakeholders around prescribed burning.

Ms Tierney raise a matter for the Minister for Planning about the alignment of the Geelong Ring Road, particularly section 4C.

Ms Hartland raised a matter for the Minister for Community Services regarding respite care in the Wyndham and Melton area.

Ms Crozier raised a matter for the Minister for Education regarding the Courage to Care exhibition in Queen's Hall and ongoing support for that exhibition.

Mr Somyurek raise a matter of the Minister for Technology regarding the national broadband network rollout.

Mr Philip Davis raised a matter for the Minister for Roads regarding disability parking bays.

Mr Tarlamis also raised a matter for the Minister for Roads, regarding traffic lights on the corner of Wedge Road and Frankston-Dandenong Road in Carrum Downs.

Ms Darveniza raised a matter for the Minister for Youth Affairs regarding mentoring and capacity building programs.

Mr Leane raised a matter for the Minister for Education regarding schools that do not currently run the VCAL program.

I will pass each of those matters on to the ministers.

I also have one written response to a matter raised by Mrs Petrovich in the adjournment debate of 16 August.

The PRESIDENT — Order! The house stands adjourned.

House adjourned 6.45 p.m. until Tuesday, 8 November.