**PARLIAMENT OF VICTORIA**

# PARLIAMENTARY DEBATES (HANSARD)

## LEGISLATIVE COUNCIL

## FIFTY-SEVENTH PARLIAMENT

## FIRST SESSION

**Tuesday, 25 October 2011**

**(Extract from book 15)**

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## The Governor

The Honourable ALEX CHERNOV, AO, QC

## The Lieutenant-Governor

The Honourable Justice MARILYN WARREN, AC

## The ministry

| | |
|---|---|
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| 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 |

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## TUESDAY, 25 OCTOBER 2011

# Tuesday, 25 October 2011

**The PRESIDENT (Hon. B. N. Atkinson) took the chair at 2.03 p.m. and read the prayer.**

## ROYAL ASSENT

**Message read advising royal assent on 18 October to:**

**Commercial Arbitration Act 2011**
**Drugs, Poisons and Controlled Substances Amendment (Prohibition of Display and Sale of Cannabis Water Pipes) Act 2011**
**Electronic Transactions (Victoria) Amendment Act 2011**
**Resources Legislation Amendment Act 2011.**

## QUESTIONS WITHOUT NOTICE

### Police: enterprise bargaining

**Mr LENDERS** (Southern Metropolitan) — My question without notice is directed to Mr Rich-Phillips in his capacity as minister representing the Minister for Finance. I refer the minister to the agreement with the Police Association reached yesterday, and I ask: does it comply with government wages policy as we knew it last Friday?

**Hon. G. K. RICH-PHILLIPS** (Assistant Treasurer) — Yes.

*Supplementary question*

**Mr LENDERS** (Southern Metropolitan) — I thank the minister for his succinct answer; perhaps his colleagues could learn from him. My supplementary question to Mr Rich-Phillips is: can he outline to the house what is the real bankable productivity that brought the agreement up well north of 2.5 per cent?

**Hon. G. K. RICH-PHILLIPS** (Assistant Treasurer) — I thank Mr Lenders for his question. Mr Lenders asked about the package that has been agreed with the Police Association (TPA) around its enterprise bargaining agreement. That matter is still to be put to TPA members for their consideration, so I am not in a position to go into the details of the individual initiatives. But I can assure Mr Lenders that the package as agreed is consistent with the government wages policy of a 2.5 per cent base, with any increases above that to be delivered through productivity achievements. That is the government's position; that has been achieved in this package; and that is the position the government maintains with other public sector negotiations.

### Vocational education and training: funding

**Mr RAMSAY** (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: can the minister advise the house of changes to the fees and funding arrangements for Victoria's vocational education sector?

**Hon. P. R. HALL** (Minister for Higher Education and Skills) — I thank Mr Ramsay for his question and interest in training in Victoria. Let me say at the very start that in this financial year the Baillieu government will spend around $1.2 billion on funding training in the state of Victoria. That compares to the 2008 level of $800 million. It was $800 million in 2008, it will be $1.2 billion in 2011 and we expect to fund $1.3 billion worth of training in 2012. This government is committed to supporting equitable and fair access to training across the state, and that is why it is prepared to meet the financial commitment which I will outline.

To suggest, as did the shadow minister for higher education, Mr Herbert, who is the member for Eltham in the Assembly, in response to some announcements I made last week, that this represents a cut of $250 million to the training budget absolutely bemuses, confuses and perplexes me. I challenge somebody from the opposite benches to explain to me how going from a commitment of $800 million to $1.2 billion, and then to $1.3 billion next year, represents a cut of $250 million. I suggest the shadow minister might want to visit one of the fine local learning institutions in his electorate, the Diamond Valley Learning Centre, which I looked up in the TAFE and training course directory. It offers some good programs that might teach some basic arithmetic to help Mr Herbert in his calculations.

That being said, I announced some important changes last week because there has been significant growth in the training sector. A demand-driven market program put in place by the previous government on skills reform — Securing Jobs for Your Future — set in place a new system for the funding of training in this state without any checks and balances and overall consideration of the growth in the training market. It was an open-ended chequebook in respect of training. In the long term, while we will meet demand and provide fair and equitable access, we need to ensure that any training system is sustainable.

**Mr Lenders** — So it was an open chequebook, but it was less than yours?

**Hon. P. R. HALL** — An open chequebook — some on my side call it an open debt book. That is what you guys had — an open debt book — that is what you were prepared to run up bills and accounts for.

Some changes were needed to manage that growth in funding, in particular in some areas that have experienced substantial growth in the last few years — for example, business and clerical studies have increased by 94 per cent since the launch of the Securing Jobs for Your Future package. Finance has increased by 50 per cent, hospitality by 54 per cent, tourism by 66 per cent, and in recreation there has been a 440 per cent increase in training activity. While all of those programs are good in their own right, the explosion in terms of the growth in those areas tells you something.

The government put in place a report by the Essential Services Commission (ESC). It asked the commission to undertake that report, and the report was tabled in this house during the course of the last sitting week. It gave us some important guidelines as to the appropriate mechanisms by which a demand-driven training market should be considered and administered. There are some 43 recommendations in the report. The government has responded to that by undertaking some further community consultation, but some of the recommendations have been put in place immediately to ensure that the full benefit of the recommendations is experienced for 2012 rather than waiting for a further 12 months. Some important recommendations were announced last week.

*Supplementary question*

**Mr RAMSAY** (Western Victoria) — In his answer the minister mentioned an announcement he made last week. I am wondering if he could provide further specific details contained within that announcement.

**Mr Viney** — On a point of order, President, given that these are questions without notice, I wonder if when the minister answers the question he could explain why he instructed the member to ask the supplementary by signalling to him to get up. If the question is without notice, how on earth could the minister know that the member had a supplementary question to ask him?

**Hon. D. M. Davis** — On the point of order, President, clearly Mr Viney is not a mind-reader, and you cannot be asked to adjudicate on the requirement for mind-reading.

**Hon. P. R. Hall** — On the point of order, President, sometimes during the course of my answer to somebody who asks me a question I will make direct eye contact with them to ensure that this is the question they have been asking. That is exactly what I was doing on this particular occasion.

**The PRESIDENT** — Order! In my view there is no point of order. I did not see any communication between the minister and the member, but if there was communication, I do not see that as anything untoward in that in the context of the proceedings of the house in any event. The member is entitled to ask a supplementary question, as indeed is any member of the house, and the supplementary question appeared to me to be apposite to the answer that was given in that it sought some further clarification on the matters the minister covered in his substantive answer. I do not believe a point of order has been established by Mr Viney.

**Hon. P. R. HALL** (Minister for Higher Education and Skills) — In response to the question, the specific measures contained in the announcement I made last week went to four areas. First of all we announced there would be a 25 per cent reduction in the differential paid to large public TAFE providers over that provided to non-TAFE providers. This differential has existed for many, many years now. The ESC recommended that there should be a staged reduction of that differential. This applies to TAFE institutes that have a revenue in excess of $100 million, and there is a 25 per cent reduction in that differential.

There are also some very modest industry weighting adjustments to sectors experiencing rapid growth, the largest one of those being in the recreation industry, where there is an industry weighting reduction from 1.1 to 0.8. There is also an uncapping of maximum and minimum student fees. There is no opening of the ceiling on student fees, but there is an uncapping of the maximum and minimum. Finally, there is an equalisation of apprenticeship fees, bringing them into line with traineeships and other certificate III and IV level training.

## Police: enterprise bargaining

**Hon. M. P. PAKULA** (Western Metropolitan) — My question is to the Minister for Employment and Industrial Relations in his capacity as the minister representing the Minister for Police and Emergency Services. I refer to the agreement reached yesterday with the Police Association, and I ask the minister: does the agreement and the wage increase contained within it apply to protective services officers (PSOs), including

those who will be engaged to deliver on your policy of two PSOs on every station?

**Hon. R. A. DALLA-RIVA** (Minister for Employment and Industrial Relations) — I thank the member for his question, because this is an important outcome which is the result of negotiations that have been ongoing. In terms of the police enterprise bargaining agreement (EBA), this will deliver an average annual salary increase of 3.9 per cent.

**Mr Lenders** interjected.

**Hon. R. A. DALLA-RIVA** — Mr Lenders will get the gold watch very soon — he should just hang on. This will deliver a 3.9 per cent salary increase over the period from July 2011 to December 2015, with a sign-on bonus of $1000. The agreement will run over four years but will cover a four-and-a-half-year period. In respect of the other matter that was raised regarding the PSOs — —

**Hon. M. P. Pakula** interjected.

**Hon. R. A. DALLA-RIVA** — The member referenced the EBAs. I am responding to the first part of the question; the second part was in relation to the PSOs. In relation to the PSOs, obviously that will be a matter that will be dealt with by the Minister for Police and Emergency Services. I will take that on notice and get back to the member with the relevant response.

*Supplementary question*

**Hon. M. P. PAKULA** (Western Metropolitan) — I find it staggering that the minister, as the minister who represents the Minister for Police and Emergency Services in this place, who is also the Minister for Employment and Industrial Relations and the minister who has had carriage of the PSO legislation in this place, would not know something as basic as whether PSOs are covered by the agreement. My supplementary question is: will the minister undertake to provide an answer to my question about whether PSOs are covered by it by no later than tomorrow?

**Hon. R. A. DALLA-RIVA** (Minister for Employment and Industrial Relations) — I thank the member for his question again. I did respond that I will take this matter on notice. I will forward it on to the relevant minister, and I am sure he will get back to the member in due course.

## Planning: reform agenda

**Mr ELSBURY** (Western Metropolitan) — My question is for the Minister for Planning, the Honourable Matthew Guy. Can the minister inform the house about feedback received by the Baillieu government's planning system advisory committee and what action the government has taken to ensure that a wholesale review of the system is done through inclusion and cooperation?

**Hon. M. J. GUY** (Minister for Planning) — I would like to thank my colleague Mr Elsbury for his interest in the reform of the planning system that the Baillieu government has engaged in. Earlier this year, as this chamber would be aware, I announced that the ministerial review committee would review the planning system to thoroughly examine the way the planning system operates in this state. That announcement was received with a great deal of enthusiasm by those in the industry and local government. We are looking through the planning system to see whether, since the last wholesale review of the system was undertaken in 1993, the 55 000 applications that come through the system are actually going through one that is contemporary and one that will manage the planning system well for the future ahead.

As I said, we launched the planning system advisory committee and gave the general public the ability to provide submissions to the committee. We wanted to see feedback from councils, from individuals and from political parties, if they wanted, on the way we should reform the planning system. This was a chance that was not be missed to reform the system and to ensure that the system we leave to the next generations is better than what we inherited.

I thank all those who made submissions. Submissions closed some weeks ago, and in fact there were over 500 of them. It is rare to get such a large amount of correspondence. A huge amount of time and effort has been put in by individuals and by local government, including the Mitchell Shire Council, the City of Greater Geelong, the Ballarat Residents and Ratepayers Association, the Land Owners Rights Association, the Australian Environment Foundation, the Eltham Gateway Action Group, the Nillumbik Greens — Northern Branch, the Save Bastion Point campaign and the Bayside City Council. A whole range of people provided meaningful submissions to this planning review committee, which will report back to the Parliament and to me at the end of November.

As I said, I have looked at a number of the issues which have been canvassed and submitted. I can inform the house that we have launched all the submissions online, so people can see the feedback and information the government is receiving and the suggestions people are

making for reforming our planning system and ensuring that this government gets on with the job of providing a better planning system than the mess we inherited and so the mess can be cleaned up.

Heritage issues, urban renewal, streamlining the planning scheme amendment process and open space and urban growth management are just some of the issues that I have noted from looking through a range of the submissions that have been put online. Certainty through new zoning, faster, clearer application processes and examining whether the structure of the system is right are all issues which have been submitted.

An examination of all those issues will mean there will be a thorough report back from the advisory committee to me. I inform the house again that the advisory committee will report back to the government on 30 November. I expect that report to be broad and challenging, and I hope the committee will look at the submissions that have been provided. There are some outstanding submissions and suggestions as to ways to reform the broken planning system that this government inherited and is determined to fix up. We are determined to take real and meaningful advice from the community to ensure that we reform the planning system together.

## Police: enterprise bargaining

**Mr LENDERS** (Southern Metropolitan) — My question is to the Assistant Treasurer in his capacity as minister representing the Treasurer. Page 56 of budget paper 3, in discussing the government's commitment to 1700 new front-line police, describes the government's total investment for this initiative over the period 2010–11 to 2014–15 as $602 million. Does this figure contemplate the wage agreement announced with the Police Association yesterday?

**Hon. G. K. RICH-PHILLIPS** (Assistant Treasurer) — I thank Mr Lenders for his question. The issue of the funding for the agreement announced yesterday is incorporated in the budget. Allowances are always made for wage and salary adjustments in the normal way.

*Supplementary question*

**Mr LENDERS** (Southern Metropolitan) — I thank Mr Rich-Phillips for his non-answer. He says the figure is in the budget papers. Presumably he is referring to the advance to the Treasurer. Could he tell me exactly how much of the advance to the Treasurer will be required to meet this commitment for 1700 police: the difference between the $602 million and how much will finally be paid — an exact figure?

**Hon. G. K. RICH-PHILLIPS** (Assistant Treasurer) — I thank Mr Lenders for his question. I am sure he does not expect me to give him a dollar figure; I am sure he would not expect the Treasurer to give him a dollar figure. The enterprise bargaining agreement announced yesterday is within the parameters funded in the budget in May and is accommodated within the figures allowed for as contingencies in the budget.

## Royal Children's Hospital: facilities

**Ms CROZIER** (Southern Metropolitan) — My question is for the Minister for Health, who is also the Minister for Ageing, Mr David Davis, and I ask: can the minister inform the house of how the Baillieu government is making the new Royal Children's Hospital a better place?

**Hon. D. M. DAVIS** (Minister for Health) — I thank the member for her question and for her interest in children's health. As a former nurse — in fact I think she is currently a registered nurse — she understands the importance of good hospital infrastructure. The Royal Children's Hospital will be a remarkable piece of infrastructure for Victoria's children into the future.

*Honourable members interjecting.*

**Hon. D. M. DAVIS** — If members will wait patiently, I will give generous credit to all sections of the Victorian community. I want to indicate that this is a project supported by all Victorians across the last period. It was initiated under the previous government and delivered under this government. It is a project that will come in — —

**Hon. M. P. Pakula** — Initiated by our government!

**Hon. D. M. DAVIS** — I am giving credit, Mr Pakula. I am indicating that this is a Victorian project that is supported by the whole Victorian community.

I want to put on record some facts and figures that are not necessarily coalesced in one place: 357 beds, an increase from 307 in the existing hospital; the capacity to treat an additional 35 000 patients a year; 85 per cent of all rooms are single-bed rooms, which provides greater privacy for patients while not compromising safety; 80 per cent of all rooms have parkland views; and at the end of stage 2 there will be over 2000 car parking spaces, double the existing number at the Royal Children's Hospital. It will be a child-friendly hospital, with a number of engaging and entertaining features

including a reef aquarium, a beanbag theatre, a meerkat enclosure — which I was fortunate enough to open with the chair of the hospital board the other day — and an entertainment system that each patient — —

*Honourable members interjecting.*

**Hon. D. M. DAVIS** — It is also family centred, with couches in patients' rooms that convert into beds to enable families to remain there to support their children. It is an environmentally friendly hospital. There is theming to make it easy to navigate, and this is an important point. Each level has a particular theme — for example, level 3, the cardiac and surgical ward, will be known as the Koala ward. The use of animal names is one of the child-friendly, child-centric ways of identifying parts of the hospital.

The features in the so-called Main Street area, which is the atrium, include the creature that was designed by Melbourne artist Alexander Knox along with a set of mobiles. The intraoperative magnetic resonance imaging system, the IMRIS, recently installed in the new children's hospital operating suite, will be the first of its type in the world. The $12 million machine has been funded by the Royal Children's Hospital Foundation through the Good Friday appeal. This machine is a significant first for Victoria and a significant addition to the diagnostic and treatment capacity of the hospital. A hotel will be part of stage 2.

This new hospital, which I think all Victorians will be proud of, has been completed on time and on budget. It will be a hospital that future generations of Victorian children and their families will be very proud of.

## Royal visit: itinerary

**Mr LENDERS** (Southern Metropolitan) — My question is to the Minister for Health in his capacity as the minister representing the Premier. I note the minister's reference to the Queen opening the Royal Children's Hospital tomorrow, and I ask: is it correct that the Queen's itinerary for tomorrow concludes when she leaves Melbourne Airport at 3.15 p.m?

**Hon. D. M. DAVIS** (Minister for Health) — The Queen's itinerary is obviously a matter for protocol and for negotiation between the Palace and the relevant authorities. I understand that that is around the time the Queen departs; I am not familiar with the precise time.

*Supplementary question*

**Mr LENDERS** (Southern Metropolitan) — To help Mr Davis, I suggest that he look at the *Herald Sun*, the newspaper with the largest circulation rates in Australia, and he will find that the Queen's business in Melbourne concludes at 3.15 p.m. tomorrow. I therefore ask: given that the Queen will have left Tullamarine airport at 3.15 p.m., will Mr Davis support my motion to be moved later today that the house resume at 4.00 p.m. tomorrow, free of the royal visit, so that we can get on with general business?

**The PRESIDENT** — Order! I am concerned about anticipation, but on the other hand Mr Lenders's motion actually has not been put to the house yet. It is not on the notice paper yet, therefore I suppose he is anticipating in anticipation. I now anticipate the minister's answer.

**Hon. D. M. DAVIS** (Minister for Health) — I thank the member for his question, and I indicate that the house will resume as planned at 7.00 p.m. Many members have booked a range of different activities, including meetings throughout the day. The best endeavours of the government in both chambers were undertaken to establish the itinerary, and I understand that the house will resume at 7.00 p.m. tomorrow.

## Exports: Governor of Victoria awards

**Mr O'BRIEN** (Western Victoria) — My question is to the Minister for Manufacturing, Exports and Trade, the Honourable Richard Dalla-Riva. I ask: can the minister update the house on how the Victorian government is recognising the outstanding contributions of those who are making this great state world renowned for high-quality exports?

**Hon. R. A. DALLA-RIVA** (Minister for Manufacturing, Exports and Trade) — I thank the member for his question without notice, because it just happens that on 19 October I had the pleasure of joining the Governor of Victoria, Alex Chernov, to present the 32nd yearly Victorian export awards. As members would be aware, this is a recognition of Victorian businesses and companies that have been involved in export markets. I was pleased to be present with the Governor to present awards in 14 different categories for a diversity of sectors, including agriculture, business and manufacturing. I say that because it was a fantastic night.

It is at a time when we know the Australian dollar is at a record high, when we know there are challenges internationally and when we know that in recent years being in the export industry has been pretty tough. We saw some of the emerging companies being recognised. We-Do-IT Pty Ltd was the winner of an emerging exporter award.

**Hon. P. R. Hall** interjected.

**Hon. R. A. DALLA-RIVA** — And they did do it, Mr Hall! The company won one of the awards. Small and medium enterprises were represented. Ronstan International Pty Ltd won the small to medium manufacturer award and Grande Exhibitions won the small to medium services award. As I said, there are winners from all around. Polyglot Theatre won the arts and entertainment award; CPT Global Ltd won the information and communications technology award; and in terms of the education and training award, Mr Hall, it went to IDP Education, and Haileybury College won a commendation as well.

What fascinated me and what was demonstrated throughout the presentation was that the enterprises were in the overseas markets. They were there selling either ideas or products, and they were commercialising their concepts and delivering high-quality, innovative outcomes.

I think it is important to recognise that there were two major winners on the night. I put on record my appreciation for the Victorian export award for innovation excellence, which went to Ecotech Pty Ltd of Knoxfield, and the Victorian exporter of the year award, which went to Longwarry Food Park of Gippsland. Ecotech received two awards; it fills a niche market focusing on the gaps in high-profit sectors in global markets. Ecotech reported that it has had record sales in exports, exceeding $10 million for the first time ever.

The main award winner — it won the Victorian exporter of the year award — was Longwarry Food Park. It also won the agribusiness award, and was commended in the large advanced manufacturer category of the Governor of Victoria Export Awards.

**Hon. P. R. Hall** interjected.

**Hon. R. A. DALLA-RIVA** — It is also important to recognise, as Minister Hall would note, that this is a Gippsland-based company. Mr Viney would recognise it; Mr Philip Davis would recognise it; and Mr O'Donohue would recognise this important company. I hope when Mr Scheffer gets out of St Kilda and travels to his electorate he will visit that exporter of the year award recipient as well, because it is an important organisation. It is a company that produces ultra-high temperature milk and milk powders for export. Its exports have almost doubled in the last financial year. The award is a recognition of the fantastic development and innovation of this wonderful company here in Victoria.

## Coastal Climate Change Advisory Committee: report

**Mr BARBER** (Northern Metropolitan) — My question is for the Minister for Planning, Mr Guy. As Mr Guy knows, the previous government set up the Coastal Climate Change Advisory Committee under section 151. It has been determined that the committee gave the minister a 216-page final report in his Christmas stocking on 24 December last year. I have been refused access to this document under FOI. The reason given is as follows:

> The minister is considering the recommendations of the report and has sought further advice …
>
> …
>
> … its release at this stage may provide a misleading view of policy in an area of sensitive public concern —

and that it also —

> … contains the potential to misrepresent the minister's views and future courses of action on these matters.

Is the minister considering some major changes to the planning scheme as it relates to sea-level rise, and if so, when will we hear about it?

**Hon. M. J. GUY** (Minister for Planning) — I thank Mr Barber for his question. As he would be aware, there were a few planning reports that arrived in my Christmas stocking. Some are quite substantial in their nature — —

**Mr Lenders** interjected.

**Hon. M. J. GUY** — Some are quite substantial in their nature, Mr Lenders, and the report Mr Barber refers to was one of them. I am seeking a whole-of-government approach to that draft report, and when that process is concluded I will act on the findings of it.

*Supplementary question*

**Mr BARBER** (Northern Metropolitan) — Would it not be better for the minister to simply release the report, which was the outcome of a previous government's process, allow the public to consider the same material that he is considering and then, when he gets around to it — because it has been 11 months, and I reckon it will be another 11 — he can make his changes to the planning scheme? In the meantime there is a lot of speculation created about what the government is considering or planning in the area of planning controls for sea-level rise.

**Hon. M. J. GUY** (Minister for Planning) — I thank Mr Barber for his supplementary question. As he would be aware, we announced $9.7 million in the budget to do some more work in relation to sea-level rise, storm surges and some mapping issues, and we provided the money to assist councils to do that. As I said, this matter is going through a whole-of-government process. I think that is the right approach, and when we have concluded that process we will make the report public.

### WorkSafe Victoria: awards

**Mrs KRONBERG** (Eastern Metropolitan) — I direct my question to the Assistant Treasurer. I ask the minister whether he can inform the house of recent notable achievements with respect to health and safety in Victorian workplaces.

**Hon. G. K. RICH-PHILLIPS** (Assistant Treasurer) — I thank Mrs Kronberg for her question and for her interest in workplace safety. The year 2010–11 has been a fantastic year in Victoria for workplace safety achievements.

**Mr Lenders** — Not for this house.

**Hon. G. K. RICH-PHILLIPS** — I think in the spectrum of workplace safety, Mr Lenders, the Legislative Council is a relatively safe place to work. Overall in 2010–11 Victoria was a relatively safe place to work, with a record low claims rate of 10.3 claims per 1000 workers, which is the lowest on record in the state and the best result for any jurisdiction in Australia. It has been a great result for Victoria, but of course it is important that Victorian workplaces are not complacent about workplace safety. There were a significant number of fatalities — 19 — in 2010–11, which, while lower than the previous financial year, is still 19 too many.

It is important that we are cognisant of the issue of workplace safety. Last week I had the pleasure of attending the 2011 WorkSafe Victoria Awards, which was a great opportunity to celebrate excellence and innovation in workplace safety. The awards are important in recognising the contribution of not only employers but also individual workers and health and safety representatives undertaking health and safety duties in their workplaces. They also recognise service providers, particularly rehabilitation service providers, in various workplaces.

Eleven awards were given out recognising a range of innovations and demonstrated excellence in workplace safety across those categories as well as directly with employers. The awards were a great opportunity to recognise what is being achieved in workplace safety here in Victoria. We have the best record in the nation, and this year we have the best result in Victoria, which recognises the significant role that the current Victorian occupational health and safety framework plays. It is recognised as national best practice, it has been in place for some seven years and it has delivered very well for Victoria. The awards last week were a great opportunity to celebrate achievements under that legislative framework. I commend the recipients of those awards for their contribution to workplace safety in Victoria and look forward to continued strong performance in workplace safety.

## QUESTIONS ON NOTICE

### Answers

**Hon. D. M. DAVIS** (Minister for Health) — I have answers to the following questions on notice: 356, 403, 425, 642, 684, 685, 1018, 1034, 2422, 2743–76, 2778–838, 2943–6, 3468–563, 3580, 4015, 4017, 4069–165, 4726–821 and 5208–303.

**The PRESIDENT** — Order! Ms Pennicuik has written to me in respect of question 703, which she had placed on notice for the Minister for Agriculture and Food Security. Ms Pennicuik points out that the question was in five parts, and in her view only part 4 was answered by the minister. She has asked if I could direct that the question be reinstated in respect of the other four parts of the question. I share Ms Pennicuik's view that the other four parts of the question were not addressed by the minister in his response to the question, and I therefore direct that question 703 from Ms Pennicuik to the Minister for Agriculture and Food Security be reinstated on the notice paper.

## BUSINESS NAMES (COMMONWEALTH POWERS) BILL 2011

*Introduction and first reading*

**Hon. M. J. GUY (Minister for Planning), by leave, introduced a bill for an act to adopt the Business Names Registration Act 2011 of the commonwealth and the Business Names Registration (Transitional and Consequential Provisions) Act 2011 of the commonwealth 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, to repeal the Business Names Act 1962 and to provide for related transitional and consequential matters.**

**Read first time.**

## LEO CUSSEN INSTITUTE (REGISTRATION AS A COMPANY) BILL 2011

*Introduction and first reading*

**Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations), by leave, introduced a bill for an act to provide for the registration of the Leo Cussen Institute as a company limited by guarantee under the Corporations Act and to repeal the Leo Cussen Institute Act 1972 and for other purposes.**

**Read first time.**

## SCRUTINY OF ACTS AND REGULATIONS COMMITTEE

### *Alert Digest* No. 12

**Mr O'DONOHUE (Eastern Victoria) presented *Alert Digest* No. 12 of 2011, including appendices.**

**Laid on table.**

**Ordered to be printed.**

## PAPERS

### Laid on table by Clerk:

Confiscation Act 1997 — Asset Confiscation Operations, Report to the Attorney-General, 2010–11.

Corangamite Catchment Management Authority — Report, 2010–11.

Crown Land (Reserves) Act 1978 —

Minister's Order of 26 September 2011 giving approval to the granting of a licence at Kings Domain Reserve and Alexandra Park.

Minister's Order of 12 October 2011 giving approval to the granting of a lease at Lynch's Bridge Historic Precinct Reserve.

Minister's Order of 14 October 2011 giving approval to the granting of a licence at Bells Beach Surfing and Recreation Reserve.

Minister's Order of 18 October 2011 giving approval to the granting of a lease at Kardinia Park Reserve.

Duties Act 2000 —

Treasurer's report of exemptions and refunds arising out of corporate consolidations for 2010–11.

Treasurer's report of exemptions and refunds arising out of corporate reconstructions for 2010–11.

East Gippsland Catchment Management Authority — Report, 2010–11.

Environment Protection Authority — Report, 2010–11.

Glenelg-Hopkins Catchment Management Authority — Report, 2010–11.

Goulburn Broken Catchment Management Authority — Report, 2010–11.

Judicial College of Victoria — Report, 2010–11.

Interpretation of Legislation Act 1984 — Notice pursuant to section 32(3) in relation to Statutory Rule No. 110.

Mallee Catchment Management Authority — Report, 2010–11.

Members of Parliament (Register of Interests) Act 1978 — Cumulative Summary of Returns, 30 September 2011.

Metropolitan Waste Management Group — Report, 2010–11.

North Central Catchment Management Authority — Report, 2010–11.

North East Catchment Management Authority — Report, 2010–11.

Ombudsman — Report on the Investigation regarding the Department of Human Services Child Protection program (Loddon Mallee Region), October 2011.

Parks Victoria — Report, 2010–11.

Planning and Environment Act 1987 — Notices of Approval of the following amendments to planning schemes:

Ballarat Planning Scheme — Amendment C128.

Greater Geelong Planning Scheme — Amendment C190.

Kingston Planning Scheme — Amendment C122.

Macedon Planning Scheme — Amendment C69 Part 2.

Melton Planning Scheme — Amendment C115.

Murrindindi Planning Scheme — Amendment C38.

Nillumbik Planning Scheme — Amendment C75.

Pyrenees Planning Scheme — Amendment C29.

Port Phillip and Westernport Catchment Management Authority — Report, 2010–11.

Subordinate Legislation Act 1994 — Documents under section 15 in respect of Statutory Rule Nos. 111 and 114.

Victorian Coastal Council — Report, 2010–11.

West Gippsland Catchment Management Authority — Report, 2010–11.

Wimmera Catchment Management Authority — Report, 2010–11.

## PRODUCTION OF DOCUMENTS

**The Clerk** — I have received a letter dated 11 October from the Treasurer headed 'Order for documents — Deloitte review of the myki ticketing system'.

*Letter at page 66.*

**Ordered that correspondence from Treasurer be considered next day on motion of Mr BARBER (Northern Metropolitan).**

## BUSINESS OF THE HOUSE

### General business

**Mr LENDERS** (Southern Metropolitan) — By leave, I move:

That precedence be given to the following general business on Wednesday, 26 October 2011:

(1) notice of motion 213 standing in the name of Mr Pakula relating to Mr D. M. Davis's declaration under the Members of Parliament (Register of Interests) Act 1978 and referring an inquiry on the declaration provisions under the act to the Privileges Committee;

(2) notice of motion 198 standing in the name of Ms Pennicuik relating to marriage equality;

(3) notice of motion 195 standing in the name of Ms Mikakos relating to funding cuts to various youth programs;

(4) notice of motion 197 standing in the name of Ms Pennicuik relating to the production of documents relating to the manual gates and railway crossing at New Street, Brighton;

(5) notice of motion 115 standing in the name of Mr Jennings relating to the Swan Hill hospital redevelopment funding; and

(6) notice of motion 121 standing in the name of Ms Pulford relating to jobs growth in regional Victoria.

**Motion agreed to.**

### Standing orders

**Mr LENDERS** (Southern Metropolitan) — I desire to move, by leave:

That, noting that Her Majesty the Queen departs Melbourne for Perth on Wednesday, 26 October 2011 at 3.15 p.m., so much of the resolution agreed to by the Council on 13 October 2011 be amended to enable the Council to meet at 4.00 p.m. on Wednesday, 26 October 2011, and for the President to interrupt business at 10.00 p.m. that day.

**Leave refused.**

## MEMBERS STATEMENTS

### Australians for Disability and Diversity Employment: forum

**Mr SCHEFFER** (Eastern Victoria) — I congratulate the Australians for Disability and Diversity Employment group on the excellent forum it conducted last week to raise awareness of the obstacles standing in the way of people with disabilities obtaining suitable employment. The forum heard from the disability discrimination commissioner, Graeme Innes, who spoke about the participation rates of people with disabilities in the workforce generally and the professions in particular, sharing with us his own difficulty in getting a job in law after his graduation.

Justin Le Couteur discussed the progress that the Australian Capital Territory government is making through its disability employment strategy, which is increasing the number of people with disabilities employed in the ACT public service, and he also discussed the support necessary to assist employees. Phil Nadin, who is the CEO of Psychiatric Rehabilitation Australia, gave a terrific presentation on how his organisation is modelling good practice by employing people with a mental illness. Around 25 per cent of the PRA's staff have a mental illness, and those workers are doing a great job.

Andrew Wiltshire, the manager of the New South Wales Deaf Society's employment service, stepped the forum through the issues his organisation manages and that have resulted in people with disabilities making up 50 per cent of the society's staff. It is good that this Parliament's Family and Community Development Committee is conducting an inquiry into workforce participation by people with a mental illness to the inquiry. Submissions will close on 11 November. This is an important reference, and I am sure that individuals and organisations who attended the Australians for Disability and Diversity Employment group forum will share their knowledge with the committee and press their case.

### John Burt

**Mr RAMSAY** (Western Victoria) — Last week I had the opportunity to visit the Ballarat Specialist School on the invitation of its executive officer, John Burt, OAM. The school caters for 350 students who have special needs and provides education for children aged between 5 and 18 years, as well as providing a school-ready program for children aged between 3 and 5 years. A farm and accommodation life experience is

also provided to students who are being skilled to enter the workforce.

The school itself has been transformed into a state-of-the-art facility that provides a range of programs and opportunities for children who suffer degrees of disability, all of which have a common purpose of readying students to integrate into the wider community so that they can make a valuable contribution to society. There is no doubt that the quality of the staff and the care they provide have played an integral part in the success of this school and its reputation for providing quality care second to none.

However, the school's driving force has to be John Burt and his passion and commitment to the school and the children. I have no doubt that John infects others, me included, with those same traits, to be involved as supporters, donors or active participants. There is also no doubt that the quality of the amenities and the equipment the school enjoys are due to the superhuman efforts of John Burt.

Apart from the recognition of his achievements through federal and state awards for outstanding school leadership and his national recognition in being awarded an Order of Australia medal, it is not until you meet John and see the relationship he has with his students, staff and school that you appreciate the huge zest he has for children with special needs. I am a disciple, and I will support John in his pursuit of building an early learning centre which will integrate all children aged between three and five years in the Ballarat region. It will help those children with special needs to socialise with other children.

## Commonwealth Heads of Government Meeting

**Ms PULFORD** (Western Victoria) — Embracing this week's royal theme, in a few days the Prime Minister of Trinidad and Tobago, Kamla Persad-Bissessar — who is the Commonwealth Chairperson-in-Office and the first woman to hold that office — will open the Commonwealth Heads of Government Meeting in Perth. There is no doubt that those attending the meeting will discuss many issues of importance to the Commonwealth's 54 member states under the broad heading of Building Global Resilience, Building National Resilience. Some of the items on the agenda include climate change, food security and matters of governance.

The theme for the Commonwealth of Nations for 2011 is 'Women as agents of change'. Discussions at the meeting will cover such issues as safety, equal rights, economic security and health. There is one symbolic matter I would like to speak about. I urge the Victorian Parliament, as part of the greater Commonwealth, to support any moves to change the succession laws in the Commonwealth, formerly the British Commonwealth, so that the firstborn child of the Duke and Duchess of Cambridge might inherit the Crown irrespective of gender.

## World Teachers Day

**Ms PULFORD** — On another matter, Friday, 5 October, was World Teachers Day, and I hope teachers in Western Victoria Region had a happy day. I also hope teachers are successful in getting the same deal as, or a similar deal to, the one negotiated between the Police Association and the government, particularly given the Assistant Treasurer's assurance to the house in question time that 19 per cent is the new deal for wages policy.

## Occupy Melbourne protest

**Ms PENNICUIK** (Southern Metropolitan) — Last Friday, 21 October, the Lord Mayor of Melbourne, Robert Doyle, announced on ABC radio that he had arranged with Victoria Police to remove the Occupy Melbourne protesters from City Square. When I arrived just before 10.00 a.m. City Square had been fenced off, with protesters inside surrounded by about 200 police, including riot and mounted police. Over the next few hours I witnessed the most unnecessarily heavy-handed approach to the most peaceful protest that could be imagined. Police fenced off the east side of Swanston Street, and contractors smashed up tents and other possessions and threw them into rubbish trucks. I have heard people have had little success in trying to recover their possessions. I then saw police forcibly remove the mainly young people from City Square and move them into Swanston Street or place them in police vans, injuring some.

Many protesters and others who arrived in the meantime then entered the intersection of Swanston and Collins streets and intermingled with passers-by and spectators. This group was pushed forward by mounted and riot police. I saw people fall in front of horses and police. Around this time other observers and I were also moved along by police, some with police dogs. It was intimidating and frightening. I stayed until 3.30 p.m. to observe what had by then turned into a huge incident in the centre of the CBD.

I support calls for a public inquiry into the events of 21 October. I would urge both the Ombudsman and the Office of Police Integrity to look into the actions of the Lord Mayor, the state government and the police to

determine what was decided and by whom and why such a heavy-handed approach was employed.

## Police: enterprise bargaining

**Hon. R. A. DALLA-RIVA** (Minister for Employment and Industrial Relations) — In my members statement I wish to reply to a matter that was raised by Mr Pakula during question time. There was a question asked in relation to the police EBA (enterprise bargaining agreement) and whether protective services officers (PSOs) were in fact covered. I said I would take advice from the police minister. I have taken advice from the police minister, so I will now confirm that PSOs are covered by the negotiated outcome of the police EBA.

**Mr Ondarchie** — How quick was that?

**Hon. M. P. Pakula** — Terrific, thank you.

**Hon. R. A. DALLA-RIVA** — You can tweet that now, Mr Pakula.

## Peninsula Community Legal Centre: award nomination

**Mr TARLAMIS** (South Eastern Metropolitan) — I rise to congratulate the Peninsula Community Legal Centre on being nominated as a finalist in the prestigious 2011 Law Institute of Victoria President's Awards in the category of legal organisation of the year. These awards celebrate and acknowledge the outstanding achievements and contributions of lawyers and legal services to the community and recognise those individuals and organisations who work towards improving community engagement and the legal profession in Victoria.

The centre is an independent not-for-profit organisation that has been providing legal advice and service to vulnerable community members across the south-eastern metropolitan suburbs for over 30 years and is a worthy candidate for this year's awards. The centre helps its clients use the law to protect and advance their rights, and it offers free advice on most legal issues while providing targeted and continuing assistance to clients who are experiencing disadvantage. In addition to general legal services, the centre operates family law and child support programs, intervention order, tenant and consumer advocacy programs, but most importantly it delivers legal and support services to community members who do not have the economic resources to engage legal representation or who are unaware of their rights and responsibilities under the law.

It is important to acknowledge that the service relies on the skills and contributions of over 120 highly trained and skilled volunteers, lawyers and paralegals to deliver additional free legal advice in five other locations, including Bentleigh, Cranbourne, Frankston, the Pines and Rosebud. Some of these volunteers have been with the service for over 20 years. In 2010 and 2011 the centre provided free legal advice on 7104 occasions, including 1645 instances of advice provided by volunteer lawyers.

The award winners will be announced on 18 November, and I wish the Peninsula Community Legal Centre the best of luck in receiving the recognition it clearly deserves.

## Occupy Melbourne protest

**Mrs KRONBERG** (Eastern Metropolitan) — I support the right to peacefully protest in this state. The Occupy Melbourne group, which camped in City Square for six days, had an extensive period of time in which to get its message across. For me the message was tinged with great sadness and a sense of helplessness in that those young people seemed to have given up on making preparations to contribute to society in a productive manner. Perhaps the reality of the state of the world economy has frightened them.

Rather than mounting an assault on people who invest, take risks, work hard, employ others, innovate and form the basis of our economy, I believe it is time for them to take the scales off their eyes and analyse what the catastrophic situation in Greece means in terms of the ramifications for the entire European Union and ultimately the global economy. I will join the dots for them. Greece is a socialist state. It kept borrowing to spend on its ever-expanding public sector, and now it is a basket case. Only a small proportion of the Greek economy is outside its public sector. It is socialism, not capitalism, that brings suffering to the people.

We have been told that the protesters are part of a global phenomenon — a snowballing series of tented anti-capitalist protests. These protests have modelled themselves on the Arab spring. The Arab spring has not yet played itself out to its final conclusion, and with the likelihood of sharia law operating in newly liberated Libya, there is every chance that Egypt could go that way as well. People in the know are holding their breath as to what this means for the West and the freedoms the protesters actually enjoy. In seeking to bring down capitalism, do these protesters fully understand what they are asking for?

## Water: food bowl modernisation project

**Ms DARVENIZA** (Northern Victoria) — I want to take this opportunity to welcome the federal Labor government's $1.2 billion announcement for stage 2 of the food bowl modernisation project. I am pleased that we now have certainty around this very important project that the previous state Labor government started. The previous state Labor government recognised the importance of keeping our farmers ahead of the game, and that is why we committed to upgrading the food bowl irrigation system. We also recognise that returning the resulting water savings from the project to our waterways would greatly improve our river systems. There is no doubt that continuing to upgrade the 100-year-old, leaky, run-down irrigation system will provide much-needed water security for farmers across the Goulburn-Murray irrigation district.

The announcement has been welcomed by the community, including those whose livelihoods depend on irrigated agriculture and the many related industries, such as food processing, transport, packaging and warehousing, which employ a substantial number of people in our region. I also know that the Northern Victorian Irrigation Renewal Project, the organisation that has been delivering the project, has attracted many skilled workers to Shepparton, and this has benefited local communities and their economies as well as the workers, who buy homes there, shop in the local area, attend local schools, join sporting groups and generally add to community life. This is a terrific announcement, and I know it has been welcomed by all.

## Occupy Melbourne protest

**Mr FINN** (Western Metropolitan) — I rise to congratulate those officers of Victoria Police who were involved in clearing Melbourne's City Square last Friday morning. Their efficiency was matched only by their restraint in the face of extreme provocation from a mob spoiling for a fight. We know the type who gathered as part of the so-called Occupy Melbourne demonstration. They are what is known as the 'usual suspects' — anarchists, socialists and other extreme left-wingers. These troublemakers led the charge, as they usually do, but this time our thin blue line did not crack. I, for one, was immensely proud of our boys and girls in blue.

Last Friday morning was more than just the removal of law-breakers. It was a message to Victorians that the Christine Nixon era of policing in this state is over. No more will Victoria's finest stand back and watch as the rule of law disintegrates in the face of mob violence. No more will our police have to cower behind motor vehicles as professional political agitators run riot. No more will Melburnians going about their lawful business have to run in fear as thugs control the streets. Never again will we witness disgraceful scenes like those of just a few years ago in Collins Street, when our policemen and policewomen were violently assaulted and in effect shackled in defending themselves.

Victoria Police command is to be strongly commended for freeing the troops to do their job. They have done their job well. I am sure in the years to come they will continue to do us all very proud.

## Dialla Merie

**Mr ELASMAR** (Northern Metropolitan) — On Friday, 21 October, I was delighted to attend a very special graduation ceremony at Antonine College to present the year 12 academic endeavour award to Ms Dialla Merie, a most worthy recipient. By way of information, I established this award a few years ago in an effort to encourage students to aspire to academic excellence. This young lady has certainly made her parents and Antonine College proud, and I wish her a bright future.

## Member for Bendigo East: media release

**Mr DRUM** (Northern Victoria) — On Thursday, 6 October, I was delighted to read a press release from the Deputy Premier, Peter Ryan, highlighting a $400 000 grant program for Victorian volunteers and promoting a series of volunteering opportunities around the state. However, the following day I was gobsmacked to read a similar press release by the members for Bendigo East and Bendigo West in the Legislative Assembly, Jacinta Allan and Maree Edwards respectively. It was quite an unbelievable situation: across the media networks came this press release, which had the exact same wording as the press release the Deputy Premier had put out the day before.

We have the situation now where the people of Bendigo East are being told by their local member, 'This is the press release I am putting out in my own words. I am telling you about what is happening in volunteering, what is available for all volunteer groups and how you should go about getting the money'. However, they were not the words of Jacinta Allan; she merely copied her adversary at the table, Peter Ryan. All of a sudden Jacinta Allan is using Peter Ryan's words to do her job. She cannot even make up her own press release; she has to take advice — the words — from the government of the day. Thank goodness Jacinta Allan was caught out and called to account.

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

## National Jockeys Trust: funding

**Hon. M. P. PAKULA** (Western Metropolitan) — At the beginning of March I raised an adjournment matter for the Minister for Racing seeking state government support of between $1 million and $1.5 million for the National Jockeys Trust, a fund set up to support the families of jockeys who are injured or killed undertaking what is probably the most dangerous land-based job in Australia. The minister provided me with a completely non-committal reply a few weeks later, and as a result of his inaction and his failure to take this matter seriously the Australian Jockeys Association is now planning to highlight the issue more prominently during the Flemington carnival next week.

Almost 400 000 people will attend Flemington during the four days of the carnival, and the industry more generally is a massive employer, a key part of Victoria's major events strategy and a generator of hundreds of millions of dollars for Victoria. It will also generate $140 million in taxes for the state government this financial year alone. None of this can happen without our brave jockeys. Their ask is a modest one: $5 million in seed funding from all governments combined, including a little over $l million from the Victorian government.

Minister Napthine has had no trouble finding the cash for his pet racing projects. Given all the extra cash coming to racing through his unclaimed dividend policy, he should be able to find $1 million to $1.5 million for the National Jockeys Trust. The executive officer of the Victorian Jockeys Association, Des O'Keefe, and his team do a great job supporting injured jockeys. It is time the minister stumped up and did his bit, and I renew my call for him to do just that.

## CRIMES AND DOMESTIC ANIMALS ACTS AMENDMENT (OFFENCES AND PENALTIES) BILL 2011

*Second reading*

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

**Mr LENDERS** (Southern Metropolitan) — In rising to speak on this bill I indicate that the opposition will not oppose it. In fact after the tragedy in the western suburbs earlier this year the Leader of the Opposition in the Assembly, Daniel Andrews, undertook that we would be bipartisan in supporting solutions. We have certainly been prepared to vote for both tranches of legislation. However, in the debate on this bill I will raise a number of questions — in fact there are seven of them — for the Minister for Higher Education and Skills, who is in the chamber. If he can answer them in his summing up or if one of the other government speakers can, then we will certainly support the second and third readings; however, if these questions are not answered, we may seek to go into committee to obtain some further details about the bill.

I will not describe what the bill does, because it was clearly explained in the second-reading speech of the Minister for Agriculture and Food Security in the Legislative Assembly and it is a waste of everybody's time to repeat what the minister has said. If anybody wants to find out what the bill does, I suggest they look at Minister Walsh's second-reading speech in *Hansard*. If anyone wants to check the detailed Labor Party response for the record, they could look at the *Hansard* record of the response by the member for Bendigo East in the Legislative Assembly, Jacinta Allan — perhaps stripping out some of the inane interjections of Terry Mulder during that speech — to see the substantive issues she raised.

I note the differences between the chambers. The opposition is perpetually disappointed that when it seeks to take matters into the detailed consideration stage in the Assembly, ministers simply refuse. Mr Hall again gets the questions in this place because his colleague Mr Walsh is not prepared to face Jacinta Allan.

The issues this bill deals with involve the complicated interrelationship between dogs and human beings. It is an understatement to say that the vast majority of dogs and human beings get along extraordinarily well in a friendly partnership, but in a minority of cases it does not work. Governments of all persuasions have sought to address that issue by way of regulation. Without going into everything in the bill, it includes definitions of dangerous dogs, menacing dogs and restricted breed dogs.

I give the government credit for trying to have a consistent regime where essentially the sanctions for the offence of negligent driving causing death are replicated in this legislation, where negligent custody of a dog effectively causes death. The sanctions are the same. I appreciate the briefing from the minister's office and the departmental officials on how this legislation brings together a sound intellectual framework for the legislative regime, so this is not a critique of the legislative regime. The questions I will

raise for the minister during my contribution are more about the interface of that regime with the real world as we know it.

I will start to go through the issues that are raised. In my contribution I will not go on about breed versus deed; I think all of us who have been lobbied by constituents or advocacy groups for various breed animals know that is a vexed issue in the community. This legislation does not seek to address that. This legislation replicates the five restricted breeds, and the previous legislation dealt with the timing of that. While that is probably the biggest item people have contacted me about, it is not before the Parliament, and therefore I will not ask the minister to comment on that, although as I have said to the minister before, I have very helpfully steered a number of people in the direction of his colleague the Minister for Agriculture and Food Security, Mr Walsh, to share their views — away from the urgency and heat of the moment with this piece of legislation — where perhaps a more measured view can be had of that. I will not go into breed versus deed.

The first question I would ask the minister to take on board and address, although not in massive detail, in his summing up is the issue of how he sees the clarity that is given to the courts when they address the issue of who is responsible for the dog. The bill contains a series of clauses that deal with owners. Without belabouring the point, it may well be that a dog I own is in the custody of my adult child, who visits a friend and the dog inflicts damage on a person. It would be interesting to get a bit of clarity from Mr Hall, Mr Ramsay, Mr O'Brien or other government speakers in plain English about how they would see that would be applied. It would certainly help me in addressing my constituents on how the definition of 'owner' will be put in place.

The second thing I raise is the rights of owners. What rights do owners have to appeal any declaration by a council of how a dog is treated? I think the existing legislation is quite clear about what are dangerous dogs, menacing dogs and restricted breed dogs. But I am curious as to whether the minister sees any diminution of the appeal rights that owners may have with this legislation. Certainly members on our side are not seeking any shortcuts in dealing with a dangerous dog, but I am interested in how the minister would describe any of those particular issues.

We supported the previous legislation and lauded the prohibition on the five restricted breeds being brought forward, particularly in relation to American pit bulls, which is the most pertinent breed as far as Victoria goes. But it is one thing to have legislation that says such an outcome will happen; it is quite a separate thing to have that legislation enforced. When we dealt with the first tranche of legislation I flagged with Mr Hall that at a future date I would be asking about what resources were being deployed, either through the Department of Primary Industries or, more importantly as far as where the dog catchers are employed, to municipal councils to assist them in policing this new legislation.

It is not an idle question; it is probably the most relevant one. If the answer is, 'Councils are asked to reprioritise their own resources', that would be an interesting directive from the state government. But if the state government is serious about dealing with this scourge, then my serious suggestion would be: it needs to put some money in. From the councils' perspective, they will always enforce these matters far more significantly and treat them more seriously if the state were to put some resources in so councils could engage more municipal dog officers. My question to Mr Hall, which I foreshadowed during the last debate — and I use the specific instance of Brimbank council, which is where all this legislation came from — is: what extra resources will the City of Brimbank have to enforce these two tranches of legislation?

The next point I raise is not an issue for government, obviously; owning dogs is very much a personal thing for people. But I am interested in any views Mr Hall may have as to a cultural change regarding people taking responsibility for their dogs. Does he envisage that this legislation will have any outcome? I think the answer will probably be that the penalties will strongly focus people's minds, and that will certainly be an acceptable answer. But I would be interested in whether he sees anything further in this and what cultural change needs to happen around people's responsibility for animals.

Dogs are by nature very social creatures. By nature they roam, and particularly in urban areas, where they are locked up in yards and do not get a lot of exercise, dogs exhibit some strange behaviours. Some of that behaviour comes from the fact that they are not exercised and from a range of other issues. I am interested in whether any of the behavioural aspects are being addressed by the government.

The main question I have is really the starting point I raised with Mr Hall, which comes to: who is 'a person in charge' for these offences to apply to? I again use an example: in my home I have two dogs, which are hardly dangerous, menacing or a nuisance but which are often in the custody of my children or my children with their friends, who quite often go and visit other

friends or their grandparents. The onus of who is actually in charge of those dogs will vary perhaps three or four times in a single day. I do not think that is an unusual occurrence in urban Victoria today. That is probably the main issue I would raise.

Another issue perhaps does not need an answer in the house today, but I certainly ask the minister to take it into consideration for any future tranches of legislation. It goes to the statistics of serious injuries inflicted upon humans by dogs in Victoria over the last whatever period of time — 1, 5, 10 or 20 years — and how many of those have been caused by what are called dangerous dogs, menacing dogs or restricted breed dogs. I am not suggesting some draconian suite of legislation on this, but we often try to have cause and effect by legislation. We have business impact statements for regulations and regulatory impact statements. I would be genuinely curious to know whether at some time in the future the government is going to do work or whether the minister would answer a question now on where the injuries have come from. This is not a reflection on the current government; it is a reflection of what happens in Victoria: sadly, when something tragic happens, governments are expected to respond quite quickly. Certainly an ongoing dialogue on future directions beyond this commitment of two tranches of legislation as a result of the tragedy earlier this year in the west of Melbourne would be appreciated.

For our part, Jacinta Allan, the member for Bendigo East, and a number of our other speakers raised most of the issues in the Assembly. The comments of bodies that contacted me, like the American Pit Bull Terrier Club of Australia, the Royal Society for the Prevention of Cruelty to Animals, the United Kennel Club and a whole lot of others, have been well and truly put on the parliamentary record in the Assembly, so I will not go through them again. I look forward to Mr Hall's response to some of these questions, which will certainly be of assistance to me and other members of the house.

**Mr RAMSAY** (Western Victoria) — I am pleased to stand here and support the Crimes and Domestic Animals Acts Amendment (Offences and Penalties) Bill 2011, as I did previously on the first tranche of legislation, the Domestic Animals Amendment (Restricted Breeds) Bill 2011. I noted Mr Lenders's comments, and I certainly will not be reading word for word the second-reading speech by the Minister for Agriculture and Food Security, Mr Walsh, but it is worthwhile identifying to this chamber some of the detail around the amendments.

I also note Mr Lenders's comments in relation to comments made by the member for Bendigo East in the other house, Ms Allan. From what I can understand of Mr Lenders's contribution, he had one question and a couple of queries in relation to cultural change. The question he asked was about ownership, which I am happy to address in my contribution, as I am sure will Minister Hall and my colleague Mr O'Brien.

In supporting this amendment — and I note that the opposition also supports the amendment — I would like to congratulate the minister. He has made many difficult decisions over the last few months in relation to significant policy change and the introduction of legislation for rural and regional areas, particularly in relation to water. We have just heard about the successful conclusion of the Northern Victoria Irrigation Renewal Project agreement with the commonwealth. We have also had the launch of the fox bounty in Ballarat by my colleague Mr O'Brien. Minister Walsh has had the courage to pass legislation to allow wild dog baiting, particularly in the alpine areas, which have been crying out for some control mechanisms to suppress the significant impact that wild dogs have been having, with sheep and calves being particularly at risk. It is great to have a minister who has the courage of his convictions to push through legislation to support regional Victoria and also the farming communities around regional Victoria.

This is another instance of a minister responding quickly to the community's concerns about dogs — particularly those classified as restricted, such as pit bull terriers — and the impact they are having on the community, including the tragic killing of little Ayen Chol last month. The death of a child is absolutely ghastly and intolerable, and there is an expectation that we respond. I have long held the view that dogs which have the potential to kill, are trained to kill or meet the restricted breed specification pose a risk to the community. I am delighted to see that the Baillieu government has responded to my concerns, and I suspect community concerns, in relation to how those dogs are managed into the future.

This bill will strengthen the laws protecting the public from dangerous and restricted breed dogs. This is the second phase of the government's response to that tragic death last month. The bill also amends the Crimes Act 1958 and the Domestic Animals Act 1994 and imposes significantly greater penalties in relation to offences. I will take a minute just to outline the offences, because it is important that they are documented in *Hansard*, and the cost of those offences in relation to fines and penalties imposed.

The first offence is that of failing to control a dog whose actions result in death. This offence will apply where an owner or a person in charge of a dangerous and restricted breed or menacing dog fails to keep the dog under control and the dog kills a person. Also the owner or person in charge of the dog will be criminally liable if a reasonable person would have realised that the failure to keep the dog under control would expose either the person who was killed or another person to an appreciable risk of death. The maximum penalty for this offence is 10 years. That is a significant penalty for a significant crime and is one which the community would expect to be imposed.

The second offence is that of failing to control a dog whose actions endanger life. Under this offence an owner or a person in charge of a dog will be criminally liable if without lawful excuse they are reckless as to whether the dog is under control. This will cover cases where a dangerous restricted breed or menacing dog places a person's life in danger, whether or not a death actually results. The maximum penalty for this is five years imprisonment. This is another significant offence and punishment. Both these offences are serious and are seen as serious by the community, and that is why we are here today debating the changes to the Crimes Act 1958.

As I said initially, the community demanded that we respond and respond quickly and strongly. This is a strong piece of legislation, but it needs to deter and also make accountable dog owners in relation to how their dogs behave. It also provides for dog owners to be found culpable in relation to the behaviour of their dogs and the impact that those dogs might have on the community.

Mr Lenders will well know that I come from a farming background, although I am not a squatter according to his definition. I had a number of working dogs, so I have a very paternal instinct towards dogs and animals in general, given my life experience and work. Having said that, I have always treated my animals with respect, but I have also ensured that they posed no risk to animals or the public. It is a very different case where, particularly in suburban homes, large dogs — and in this case restricted and dangerous dogs — are allowed to roam free without any accountability or culpability for their actions. I certainly support this legislation in not only amending the Crimes Act 1958 to impose greater penalties but also having very clear guidelines in relation to ownership, which Mr Lenders asked a question about. There is a requirement for registration and for an identification collar to be around the animal to make sure that it is clearly traced to the owner so he or she can be liable for the actions of his or her animal.

This legislation provides clear messages to the community about controlling their own dogs. Owners of dangerous and menacing restricted dogs have responsibility and culpability for their dogs' actions. Endangering life or causing death should be treated as serious criminal offences. I support the increase in the penalties in the amendment to the Crimes Act 1958. As has been said previously, restricted breed dogs wear collars that identify ownership. This is tough legislation. It is needed, and the community expects it. The previous legislation provides an amnesty to allow dog owners to respond to the new tranches of amendments to the legislation and to take action on the basis that the second tranche will provide severe penalties for those restricted breeds of dogs that are a menace or put at risk the lives of the public. I support this bill.

**Ms PENNICUIK** (Southern Metropolitan) — The Greens are supporting this bill, and in doing so I have some comments to make. Firstly, I acknowledge that the amendments to this bill and the previous legislation, which add the American pit bull terrier to the list of restricted breeds under the Domestic Animals Act 1994, were instigated by the death of Ayen Chol in St Albans in August. That was a horrific incident which was very distressing for everybody in the community. My heart goes out to her family and also to her friends and neighbours who were witnesses to that event. I am sure they still suffer. I pay my respects to them in opening my contribution to this bill. It was a terrible thing to happen.

Dogs are companions that are loved by a great range of people, including families in the community, but they can also cause harm. This bill will address those situations when dogs cause harm to people or to other dogs. We heard of another incident in the northern suburbs of Melbourne today, where three dogs — I am not quite sure if they have been identified as American pit bull terriers, but they were dogs of that ilk — attacked and killed a neighbour's dog, a Staffordshire terrier. There needs to be greater education in the community and a cultural change about how people deal with dogs. Some dogs are allowed to wander uncontrolled and unrestrained. One sees that every day; if you are out walking along the beach or in a park, that is what you can see. Some of those dogs are capable of causing harm to other people.

When I was looking at what people in the community have said about this legislation I could not find a lot that has been said about this particular bill. As Mr Lenders

stated, a lot has been said about the earlier legislation, which added the American pit bull terrier to the list of restricted breeds under the Domestic Animals Act 1994. I agree that is a vexed issue, and I do not want to reprosecute that argument here, except to refer to some of the comments that have been made about that bill by certain groups in the community. The Animals Australia website reminds people to register their dogs before the bringing forward of the amnesty — —

**Mr Ramsay** interjected.

**Ms PENNICUIK** — It was brought forward by the last piece of legislation. The amnesty for people to register their dogs as restricted breeds was not extended; it was brought forward under the new definition of restricted breeds. Maria Mercurio, who is the chief executive officer of the Royal Society for the Prevention of Cruelty to Animals (RSPCA), is reported in the press as saying:

> … we don't want people to be lulled into a false sense of security. This is not going to remove all dog accidents from our communities.
>
> …
>
> Any dog can, is potentially a biter, any dog is potentially aggressive. What determines often the difference between a dog that is not aggressive and a dog that is aggressive can be any number of factors; amongst those are how the dog is treated, how it's kept, how it's related to, how it's socialised. Has it been well trained? I mean all of those factors have a direct bearing on how animals behave.

That is still apposite in terms of this bill. The main provisions of the bill create four new indictable offences under the Crimes Act 1958, with two parts to each. One offence is caused by a person failing to control a dog that has attacked a person, resulting in the death of that person. Another offence is caused when another person who is not the owner is in charge of a dog temporarily and the same thing happens. It is also an offence when an owner or another person temporarily in charge of a dog fails to control the dog and it has attacked a person but has not resulted in the death of that person. That offence will attract a lesser penalty. The penalty is a maximum of 10 years imprisonment for the more serious offence when someone is killed. If the person is not killed, the penalty is a maximum of 5 years imprisonment.

The bill creates indictable offences, but I echo what was said by Mr Lenders and many others in the community, including the RSPCA: that is not going to be enough. We need a change in culture and the education of dog owners in terms of what dogs are capable of and how they need to be controlled and restrained. Mr Lenders asked a few questions about the definition of 'owner', the rights of owners and other dogs. The issue of other dogs is one I would also like to raise. The indictable offences created by this bill refer to only the breeds of dogs referred to in the Domestic Animals Act 1994 — that is, menacing dogs, dangerous dogs and restricted breeds.

The minister may want to address in his summing up of the bill or when we go into committee what happens when an incident occurs involving dogs not covered by the legislation. I do not want to pick on a particular breed of dog, but let us think of a large dog whose owner has not controlled or restrained it. It has not been classed as a menacing, dangerous or restricted breed, but it has attacked someone and killed them. Will that owner or the person in charge of that dog be able to be charged under this legislation? I presume on my reading of the bill that that will not happen. How will that situation be addressed?

As Mr Lenders asked, of the fatal and serious injuries that people have suffered as a result of a dog attack, how many have involved a dangerous, menacing or restricted breed as opposed to any other dog? I know anecdotally that other dogs attack people — for instance, labradors have been known to bite people, and they are not a restricted breed and not usually classed as a dangerous or menacing dog. It is a serious issue that I would like the minister to address. All dogs should be controlled and properly trained, and their owners should be responsible for their behaviour; they should certainly be responsible for training them, treating them well and restraining them when they are out and about, according to the by-laws of the local council.

I mentioned earlier that if you are walking along the beach or in the park, you sometimes see dogs that are not restrained and running amok. Around Easter I was walking along Elwood beach and I saw two large dogs: one was a German shepherd and one was a blue heeler. They were running along the beach very fast, and when you get two dogs together they often egg each other on. I am not sure the dogs were necessarily going to attack anybody, but they certainly ran through a group of children who were all aged about two or three and started snapping at them; they were running around and through this group of children. A few of the children fell over, and they were all crying.

I followed the dogs and finally found their owners. I suggested they put their dogs on a lead and restrain them. I mentioned the havoc they had caused on the beach, to which the owners had been completely oblivious, and their attitude was that I should mind my own business and their dogs would never bite a two-year-old. You just cannot say that about a dog.

This is the sort of thing I am talking about in terms of the education and cultural change that we need when dealing with animals. Yes, people have companion animals and they are lovely to have around, but they need to be trained and looked after properly.

The bill prevents the ownership of a restricted breed dog from being transferred on the death of the owner to anyone except an immediate family member. While I understand the rationale behind that provision, I wonder if it is not a bit restrictive. There could be a very good family friend, for example, or the next-door neighbour of the restricted breed dog who knows that dog well and could be a suitable owner. If that restricted breed dog has never attacked anybody or done any harm, I wonder why there is not some flexibility in terms of a suitable owner. Perhaps there could be an assessment by the local council as to who could take over the ownership of that dog.

Those are my major queries regarding the bill, and I hope the minister will be able to address them if he is planning to sum up, otherwise I would like to have them answered in the committee stage.

**Mr ELASMAR** (Northern Metropolitan) — I rise to contribute on the Crimes and Domestic Animals Acts Amendment (Offences and Penalties) Bill 2011. Whilst it is true that we on this side of the house are not opposing this bill, there are a few important issues that I would like to raise. Firstly, nobody I know is against the bill currently before the house. We have all seen terrible scenes of young children and frail elderly people being savaged, for no apparent reason, by dangerous dogs that have been allowed by irresponsible owners to roam free in our community. I believe in many instances these dogs are bred specifically for fighting or are from a long-established breed well known throughout the ages as pit bull terriers that are trained to fight other dogs for sport — not their sport, but the sport of their owners. This practice has been banned for decades and was officially eliminated in Britain in 1835 as animal welfare laws were introduced. However, we know that the lower orders within our criminal society continue to practise this cruel and barbaric custom. This bill has been fast-tracked through both houses as a way of introducing protective measures for the defenceless in our community. This cooperation between both houses came about as a result of the terrible death of a young child, Ayen Chol, who was killed by a vicious dog in St Albans a few weeks ago.

But legislation by itself is not enough. Local councils that have carriage of ensuring compliance have not been provided with any resources or additional funding. The government may establish severe penalties and even jail terms for the irresponsible owners of dangerous dogs, but without allocated resources and education the legislation will most surely fail. I do not want to add any more to the debate except to say that I support my colleagues in not opposing this bill.

**Mr O'BRIEN** (Western Victoria) — I also rise to support the bill and commend the minister for bringing it into the house in a timely manner. I also thank the other parties for not opposing the legislation. The primary purposes of this bill are to amend the Crimes Act 1958 to create new offences relating to the death or endangerment of a person caused by a person failing to control a dangerous, menacing or restricted breed dog and to amend the Domestic Animals Act 1994 to increase the penalties for offences under that act and create a new offence relating to the transfer of ownership of restricted breed dogs.

This is the second instalment of what has been a swift and decisive response from the minister and the government who in record time brought in the Domestic Animals (Amendment) Restricted Breeds Bill 2011, which ended the amnesty for the registering of restricted breed dogs, being pit bulls, and also introduced a standard for restricted breed dogs. I commend members who spoke in relation to that action, and I recall in particular Mr Elsbury's passionate contribution. He was particularly touched by the events that prompted these bills.

In fact all members have been touched by the tragic death of Ayen Chol in her St Albans home in August. The dog that perpetrated that act was an unregistered, restricted breed dog. As Ms Pennicuik mentioned, just this morning there was an ABC news online report of a dog attack in Reservoir on Monday. According to the reports, after police had attended the dog entered a property and mauled another dog. When the owner of the other dog intervened, he too was attacked.

To pick up Mr Lenders's starting point in his contribution to the debate, the relationship between dogs, other animals and humans has been a long one and there is a need for support for that relationship, but it should be done appropriately. Mr Ramsay mentioned the long and important relationship between working dogs, farm dogs and other dogs, including seeing eye dogs, police dogs, guard dogs, sniffer dogs and domestic pets, which provide a lot of joy to a lot of families. However, there are restricted breed dogs that have been specifically bred for fighting, and they have caused particular concern to the community.

These recent dog attacks are not the only tragic dog attack incidents that have occurred; there have been

many others in the past. Unless these dogs are further restricted and controlled, there may be other incidents in the future.

As outlined by Ms Pennicuik, other dogs that are not necessarily known to be a dangerous breed can become dangerous if they are raised in a certain way or if something is sparked in those dogs. For that reason, the response in the legislation is an identification of those three dog categories — that is, dangerous dogs, menacing dogs and other restricted breed dogs. Given the amount of material to cover, I will not go through those definitions that have been covered, although I will go to the extent of responding to some of the contributions made by other members.

The bill creates two new offences. The first is failing to control a dog where an attack results in a death — that is, where an owner or a person in charge of a dangerous, menacing or restricted breed dog fails to keep the dog under control and the dog kills a person. The maximum penalty for such an offence will be 10 years imprisonment, and that is an important new offence. The second offence is the failure to control a dog that endangers life, which will apply where an owner or a person in charge of a dog is reckless in controlling the dog. It will also apply when a dangerous, restricted breed or menacing dog places a person's life in danger, irrespective of whether or not a death happens as a result. The maximum penalty for that offence will be five years imprisonment.

I will do my best to provide the answers that I can to Mr Lenders's questions. I will allow Mr Hall to pick up other matters which I may not fully attend to.
Mr Lenders's first question, which was also his fifth question, and I think is the fundamental question, was about who is responsible for a dog. There has been an attempt to make this legislation comprehensive, and it has been designed to clearly pick up the issue of who is the owner of a dog. The owner of a dog is its registered owner as defined in the Domestic Animals Act 1994. The bill also picks up other categories of people who may be in charge of or have custody of a dog. It does that by, firstly, referring to the definition of the owner of a dog or cat in the Domestic Animals Act 1994, and it includes a person who keeps or harbours animals or has animals in his or her care for a time, irrespective of whether the animal is at large or in confinement. That includes, and I refer to section 4:

> 4 Parent or guardian …
>
> Where the owner of a dog or cat is under the age of 17 years, for the purposes of this Act, the parent or guardian of that person is deemed to be the owner.

In relation to the new offences, the bill addresses an important concept which is designed to provide the necessary flexibility in terms of that clear legal ownership question in certain circumstances where a person, not the owner, is for a time in charge of or has the care of a dog. That is designed to be a broad catch-all to properly capture the situation where someone is caring for or has custody of a dog so that there are no loopholes under the legislation.

In any individual case it will always be important to refer to the facts of the case, which will vary from case to case. It is impossible to be totally prescriptive, but the bill is intended to pick up, for example, the instance where someone is in charge of and caring for a dog whilst its owner is on holidays and also the issue of dog walkers. The legislation is intended to recognise that a person who is in charge of a dog for a time but is not the owner may or may not be familiar with that dog — that is, they may or may not be aware that the dog is dangerous, menacing or of a restricted breed. Serious criminal offences such as these should not apply where a person is unaware of the classification of the dog that is in their care. Therefore the offences are applicable to a person who is in charge of the dog for a time, but there is a further element to be proved — namely, that the person was reckless or aware that the dog was probably dangerous, menacing or a restricted breed dog. Each of those questions, as I have said, must be determined on facts.

I turn to Mr Lenders's second question about appeal rights. The short answer is that there are appeal rights in relation to the decision to declare a dog as dangerous, menacing or a restricted breed. Those decisions can be appealed at the Victorian Civil and Administrative Tribunal. The decision by a council to refuse to register a restricted breed dog on the basis that it is prohibited is similarly reviewable under section 98 of the Domestic Animals Act 1994. It should be noted that in a criminal prosecution that will be a separate proceeding to any appeal that may be made in relation to the right to review the status of a dog.

All dog owners need to be mindful of not only their dog's status but also, to pick up some of Ms Pennicuik's concerns, the behaviour of all dogs in question. There remain penalties in the Domestic Animals Act 1994 in terms of all dog bites and the failure to control all dogs. They certainly do not have the criminal sanctions that the new provisions do, which relate to the loss of life. As other speakers have outlined, it equates to a concept of recklessness similar to that of dangerous driving or situations where people have conscious and unjustifiable disregard for the wellbeing of others.

In relation to some of the debate that has occurred in the wider community, this is a balanced and measured response. Yes, there is a right to have a dog in certain circumstances, but that right comes with responsibilities and is not absolute. That applies to all animal welfare and animal ownership.

I will try to pick up on a couple more of Mr Lenders's points. The government has provided resources to councils as well as the Bureau of Animal Welfare, which assists councils in relation to the provision of advisory services on the interpretation and implementation of the new legislation and the approval of declarations in terms of standards. The government is still negotiating the provision of financial grants to seven individual councils which have requested assistance for funding in relation to administration, hiring personnel, checking dogs and dealing with owners who are concerned that their dog may fit into the new definition of restricted breed dogs. I think Mr Hall will further elaborate on this if necessary.

A further matter that Mr Lenders raised relates to an important cultural issue. I have previously referred to the relationships between animals and humans and the need for planning to ensure that all aspects of animal welfare are taken seriously and that relationships are taken seriously in addressing how we build our cities and how we encourage people to exercise healthily with their dogs. I know there is a popular film called *Red Dog* that according to one article encourages greater ownership of kelpies and other farm dogs. That is not necessarily a bad thing in appropriate areas, but if you are taking a working dog into an urban environment, there is the potential for you to cause a problem if you are not prepared to look after it and to exercise it. Certain breeds are more appropriate for areas where there is sufficient room to exercise them.

Other actions taken by the minister in recent weeks that relate to animal welfare generally and show the coalition's balanced response were outlined by Mr Ramsay in his thoughtful and precise contribution to the debate. They include the fox bounty and the wild dog bounty as well as the baiting program in certain areas. I had the pleasure of being at the receiving centre in Ballarat last Monday when 28 fox scalps were brought in by the first hunter, who was very happy with the program, which is the result of a longstanding promise by the coalition. The program will result in a reduction in the number of that species, which is an imported species that preys on our native animals and also on our important domestic farming operations, especially sheep.

I also note the work done this week by the Premier and the Minister for Agriculture and Food Security with the announcements made today about tougher controls for puppy exports. The controls are designed to send a very clear message that the government will not tolerate establishments that breach animal welfare standards. Last year 9303 dogs were exported from Australia; 2910 in consignments of four or more. There was no minimum standard for the export of puppies.

Finally, in relation to Ms Pennicuik's question about statistics on dogs, I am not sure if the minister is able to answer it, but I point out that an article in the *Geelong Advertiser* of 25 March headed 'Dogs put bite on Geelong kids' states:

> The number of dog attacks on children in Greater Geelong has increased significantly in the past year …
>
> There were 11 dog attacks … in 2011, compared with just 2 attacks in calendar year 2009 …
>
> At the same time the number of dog attacks on adults dropped slightly from 53 in 2009 to 43 last year.

It also states:

> The figures included attacks on other animals, with dogs attacking other dogs the largest category, with 84 incidents in 2010, down from 101 in 2009.
>
> In total there were 182 attacks by dogs in 2010, up on the total of 163 dog attacks in 2009.

I hope that example in Geelong provides some answers. I have other examples of attacks. An article in the *Wyndham Leader* of 18 October talks about 'a toddler attacked by her family's pet dog in Werribee last week'. An article in the *Melton Leader* of 3 November 2010 is headed 'Police shoot two dogs dead in Melton South after attack'. It relates to a teenager who was bitten in a dog attack in Melton South. According to the article they were not restricted breed dogs. A further article in the same newspaper is headed 'Melton dog attack victim left scarred and scared'. It relates to an attack where a lady was:

> … hospitalised with cuts to her chin and scalp, and suffered puncture wounds to her arms, legs and hands after she was set upon by an 18-month-old bulldog in Greens Road on 15 August. The dog was destroyed three days later.

There are plenty of other examples. I thank the other parties for their cooperation with the passage of the bill. I commend the bill to the house and urge the minister to keep up his able work in the administration of his very extensive and important portfolios.

**Mr LEANE** (Eastern Metropolitan) — I want to make a brief contribution to debate on the bill. I support the amendments being made to the Crimes Act 1958 in

these circumstances. You have only to think of recent events and how the death of a young girl who is no longer here could have been averted if some form of responsibility had been shown with the restraint of a particular dog. If it had been restrained, that girl would still be with us. In those sorts of circumstances someone needs to be held responsible. There has to be a point where people are held responsible for these types of dogs. There has to be a point where people are held responsible for the activities of their dogs, because you certainly cannot expect a dog to be responsible. I agree with the changes being made by this bill to the Crimes Act 1958.

I want to touch on a few things that have been talked about in the debate, including the importance of education and cultural change when it comes to the ownership of dogs and the potential for dogs to be dangerous to the public at large. I will get back to education, but I want to give an example of something I researched after an event that happened to a family pet of ours a couple of years ago. A couple of Siberian huskies jumped what was probably a waist-high fence and ripped our pet into a million pieces. They killed it in front of one of my daughters, who was the only one at home at the time. When I got home I had to pick up the pieces of our family pet from the side fence, from the back fence and from right across the backyard. That led me to do a little bit of research about the breed. The council ranger I spoke to said the breed has a tendency to attack smaller animals and can, in certain situations, act in a pack. I was told that had my daughter tried to intervene in the attack, it could have led to an attack on her. I did some research on the breed on the web and, because they are lovely, fluffy-type dogs, a lot of websites say they are good family pets. Nowhere on the websites is there a rider to say that this particular breed is descended from wolves and may have a tendency to attack.

I think the bill is a step forward. A further step could be to look at some education around the fact that most breeds have the potential to be dangerous. We encourage families to do their homework on the breed of dog they wish to purchase. Whether or not it falls into the category of being a restricted breed dog, people should take responsibility for their dog and how it behaves outside the home, because if they are not prepared to take responsibility for the actions of their dog, who will?

**Hon. P. R. HALL** (Minister for Higher Education and Skills) — I want to thank Mr Lenders, Mr Elasmar, Mr Leane, Ms Pennicuik, Mr Ramsay and Mr O'Brien for their very responsible and good contributions to debate on this bill. I also thank the opposition and the Greens for the indication that they are supporting it.

First of all I have a couple of general comments to make in reply. I think all members raised the issue that although these are very good provisions in their own right, if we are going to be able to rely on more than that, there needs to be cultural change. There need to be progressive moves towards our taking greater levels of responsibility for the animals we have as pets from time to time. I think everybody agrees with that. In fact one of the questions Mr Lenders raised went to that very point: he said he would be interested in my observations about whether this piece of legislation will in itself contribute to a cultural change in that regard. I certainly think it will, but it is simply one of the measures. I agree that increasing penalties shapes the minds of people and makes them think more seriously about their responsibilities as pet owners, and I think that is important, but I think there is also a lot more community pressure regarding responsible pet ownership.

Some of the incidents reported in the media, some of which have been mentioned briefly in contributions made during debate here today, are helpful in shaping the consciences of pet owners and raising awareness of what their responsibilities are. If you think back to many years ago and reflect on where we are today with respect to responsibility in pet ownership, you see that we have come a long way. That is a very positive move, and we will continue to improve our position by heightening community concern about people being responsible for the pets they own. In respect of that matter, I agree with the view intimated by all members who made comments — that is, there is a need for further measures to encourage responsible pet ownership, and this is a measure that will contribute towards that.

I will endeavour to respond to the points raised by members, particularly Mr Lenders. Ms Pennicuik also raised some issues for me to respond to. Probably the most complex of those concerns the ownership of a pet, and in this instance the ownership of a dog. In responding to that, let me summarise the fact that the legislation before the house today applies to dogs that are deemed to be and are classified as being dangerous, menacing or of a restricted breed. These new criminal offences under the Crimes Act 1958 apply to those three classifications of dogs, but the criminal offences go to two other areas — that is, failing to control and recklessness. There is a purposeful differentiation between those because it relates to the ownership category. The failing to control measures particularly apply to the registered owner of the dog, whereas

recklessness is more appropriately applied to those who may not be the registered owner of the dog and may not have the same knowledge of the background of that particular dog as the official or registered owner.

In respect of ownership, this bill relies on the definition of 'owner' given in the Domestic Animals Act 1994 — and I am sure that Mr Lenders has had a look at that definition. Also salient to this point is the comment made by Mr Leane when he said that someone must be held responsible. That is why there are provisions in here relating to failing to control and recklessness in the practice of control. This ensures that nobody escapes the net and that someone is held responsible. In respect of the application of the definition of ownership and whether offences may be best laid under the failing to control or the recklessness provisions, in many instances a court of law will decide which of those offences is most appropriate and therefore give some guidance as to the application of the definition of owner. The definition of owner applies to both the registered owner and the person who is in control of the dog at a particular time.

There needs to be some common-sense application of that; we cannot legislate for every particular instance where a dog is looked after by its registered owner or by somebody else. We could all think of different circumstances and we could make some assessments as to who should be responsible under those circumstances, but importantly this bill goes to the very point made by Mr Leane: it does as much as we can possibly think of to legislate an assurance that somebody is going to be held responsible. The courts will ultimately make that decision if the inappropriate charge is levelled at one or another person. Those are my comments in respect of ownership, and I hope that addresses some of the debate about that point.

Mr O'Brien replied to the question about whether there are rights of appeal against determinations by a council with respect to the classification of a dog. Very clearly a person can appeal to the Victorian Civil and Administrative Tribunal if they believe their dog has been unfairly classified as dangerous, menacing or of a restricted breed. There is a right of appeal to VCAT.

Mr Lenders also raised the issue about resources for municipal councils required to implement these measures. We acknowledge that it is an important question, and Mr O'Brien was accurate when he said that some assistance has been provided by both the department and the Bureau of Animal Welfare in respect of putting in place some of these provisions. Moreover, I am advised that the Department of Primary Industries, through the minister's office in particular, is negotiating with seven municipal councils that have come to the government and said they need some financial assistance for the implementation of these measures. I am advised that the requests of those seven councils are still active and are being considered by the government. I am more than happy to ask the minister to keep Mr Lenders and other members who are interested advised on this matter; but we are serious about these measures and therefore serious about assisting councils where there is a need for some financial support in implementing them.

In respect of the collection of statistics about dogs classified as menacing, dangerous or of a restricted breed, the requirement for those dogs to be registered means there will be a list of the number of dogs and of the names and addresses of the registered owners who have dogs under each of those three classifications. If somebody presents for treatment at a hospital for a dog bite or attack of that nature, some collection of statistics is available through that particular health organisation. If somebody presents to hospital with, for example, a dog bite, whether that bite is from a dog that is a menacing, dangerous or restricted breed dog is not, to my understanding, officially recorded.

However, as Mr O'Brien quoted, there are statistics about dog attacks and dog bites which will provide some helpful guidance to the government of the day with respect to the effectiveness of these provisions and other measures put in place to address the issue of dog attacks in our communities. The lists of dogs registered under these categories, their owners and the statistics that are available through the reporting of dog attacks will provide us with some information to gauge the effectiveness of these provisions and other measures. I think those were the issues raised by Mr Lenders.

Ms Pennicuik raised a matter of what provisions there are for a situation where a non-classified dog bites, attacks or seriously injures somebody. I refer Ms Pennicuik to provisions under the Domestic Animals Act 1994, particularly section 29 of the act, which lists a whole range of offences and liabilities relating to dog attacks. Penalty units are associated with each of those offences, and there are sanctions against dog owners whose dog has bitten or attacked somebody. Moreover, if a dog that is not classified in any of the three categories that we have been talking about attacked somebody and brought about their death, then there are provisions in the general common laws regarding manslaughter under which somebody could take action. The bill may not be a catch-all, but there are other provisions in place already, and the bill is, on balance, a pretty good measure.

Another issue raised by Ms Pennicuik was whether there should be more flexibility in the transfer of ownership of a restricted breed dog to a person other than a family member. I can understand the sentiment being expressed there. The government has made an assessment of community attitudes to restricted breed dogs. On balance, we believe what the community would find reasonable is allowing the transfer of ownership to a family member who might have shared the care of the dog in a more intimate way than a non-family member would have. There is no flexibility — I concede that — but that has come about after consideration of what we believed most members of the community would see as a reasonable compromise on the humane treatment of such a dog after the death of its registered owner.

Finally, I have attempted to address the issues raised and comments made by Mr Lenders and Ms Pennicuik. If my answers were not satisfactory, then I assure the members that I am more than happy to take on board any written communication, and I will get a further response from the responsible minister. I thank members for their contributions to the debate.

**Motion agreed to.**

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

*Third reading*

**Motion agreed to.**

**Read third time.**

## DISTINGUISHED VISITORS

**The ACTING PRESIDENT** (**Mr Elasmar**) — Order! I acknowledge that in the gallery we have a Brazilian delegation that is visiting Victoria. I welcome the delegation.

## EMERGENCY MANAGEMENT LEGISLATION AMENDMENT BILL 2011

*Second reading*

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

**Hon. M. P. PAKULA** (Western Metropolitan) — I am pleased to rise to make a contribution on the Emergency Management Legislation Amendment Bill 2011 and to indicate that the opposition will not be opposing the bill. This is in effect the latest piece of legislation to emerge from the report of the 2009 Victorian Bushfires Royal Commission, which as we know was a consequence of the worst natural disaster this state has faced, certainly in our lifetime or in living memory. We have acknowledged that the natural disaster the state confronted on Black Saturday, and in fact other natural disasters that have beset the state in recent times, exposed some operational issues that have had the effect of not allowing our emergency services to manage their responses to those events as well as they should.

This bill focuses primarily on the Country Fire Authority's command structure and on issues relating to volunteer involvement which have been raised in a number of forums. To some extent these issues are addressed by this bill.

It is worth relating to the house that the previous government did a range of things over a number of years to improve the ability of our fire services and other emergency services providers to respond to events — both catastrophic and otherwise. It is important that there be a continuation of that effort not only through the provisions of this piece of legislation but also through other responses to the bushfires royal commission report, through the budget and through other forms of funding that the emergency services require.

I put on record that in the 2009–10 budget alone the previous Labor government provided $26 million to fast-track the construction and upgrade of some 60 Country Fire Authority stations. In 2009–10 the CFA was provided with a record budget of $391.2 million, more than triple the CFA's budget when the previous government came to office in 1999. Some 655 firefighting and other emergency response appliances were provided to the CFA by the previous Labor government in the period 1999–2010, including almost 400 heavy tankers, at a total value in the vicinity of $137 million. I do not say any of that to be boastful but simply to make the point that support for our emergency services is something which by necessity continues in a linear fashion across governments, whatever their political stripe, and it is done in the interests of protecting Victorians and ensuring that our emergency services are able to respond appropriately when there are both catastrophic and less than catastrophic events.

This bill principally implements a couple of recommendations of the bushfires royal commission. Recommendation 11 is implemented by the amendment of the Emergency Management Act 1986 to remove the

title of coordinator in chief of emergency management from the Minister for Police and Emergency Services. As a consequence of this bill, the coordinator in chief will be the Chief Commissioner of Police, and the chief commissioner will be responsible for operational matters in relation to emergency management.

At this point it is worth putting on the record the fervent desire of the opposition that the search for a new chief commissioner end shortly so that Victoria Police can have the certainty going forward that can only be provided by having a new permanent chief commissioner. None of that is meant to reflect in any way on Acting Chief Commissioner Lay, but I think everyone would agree that operationally it is best for Victoria Police to have a chief commissioner who has been appointed, who has the confidence of the government and who knows that he or she has a full term in which to implement all that needs to be implemented, both in policing and in this new role as coordinator in chief that will be required over the years to come.

The bill also implements recommendation 54 of the final report of the royal commission by amending the Country Fire Authority Act 1958 to enable the chief officer of the CFA to delegate the power to issue fire prevention notices. However, it is important to note that it will still be the responsibility of local councils to enforce those notices.

The bill also amends the Fire Services Commissioner Act 2010 to address some unintended consequences of that act which were outlined by Minister Ryan in his second-reading address, but it also then clarifies that the fire services commissioner's responsibility for managing the state control centre extends beyond the CFA, the Victoria State Emergency Service (VICSES) and the Metropolitan Fire Brigade to any agency that might be using that control centre in an appropriate circumstance.

The bill enables the various fire services to enter into agreements for the provision of aid to one another in relation to fires other than major fires. Currently the Emergency Management Act 1986 provides for the transfer of response activities, the control of those response activities and the appointment of assistant controllers in the circumstance of there being a major fire. This bill extends that to fires other than major fires. I am not sure whether those fires would be described as minor fires, but they are fires that do not fall into the category of major fires.

The bill also broadens the powers of delegation of the director of operations of the Victoria State Emergency Service to provide that delegations can be made in favour of any person. This is similar to the existing power of the CEO of VICSES, which allows delegation of those powers to volunteers. The director of operations will have the title of chief officer of operations, which is in line with other emergency services organisations.

They are the key components of what is essentially a technical bill. I have already placed on record some of the actions that the previous government took to boost the responsiveness, the budget and the equipment available to the Country Fire Authority in particular, prior to the last state election. However, it is also appropriate to place on record some of the opposition's concerns about the government's response to the royal commission generally. As members who were here in the last Parliament would recall, the then opposition made a very big play of saying its members will implement each and every recommendation of the royal commission in full. In fact I recall a spirited debate between me and Philip Davis, amongst others, at which time I questioned the common sense of undertaking to implement all of the bushfires royal commission's recommendations before anyone had seen them.

Nevertheless, that was the commitment made by the opposition of the time, and its members were given plenty of opportunities to perhaps moderate that undertaking, given that no-one knew what was going to be in the recommendations. However, the then opposition, which is now in government, declined those opportunities to moderate that undertaking, and its members continued to insist that they would implement every recommendation of the royal commission sight unseen and indeed continued to make that undertaking once the recommendations had been handed down.

The fact is that the government has been slow to act on implementing all of the bushfires royal commission's recommendations. Opposition members think the government is still very much struggling to sort out how it will implement and how it will fund its promise to implement recommendation 27. I should remind the chamber of what recommendation 27 is, because I think there has been a bit of rewriting of history, particularly by the Minister for Energy and Resources, about exactly what recommendation 27 says, which is that:

> The state amend the regulations under Victoria's Electricity Safety Act 1998 and otherwise take such steps as may be required to give effect to the following:
>
> > the progressive replacement of all SWER (single-wire earth return) powerlines in Victoria with aerial bundled cable, underground cabling or other technology that delivers greatly reduced bushfire risk. The replacement program should be completed in the areas of highest

> bushfire risk within 10 years and should continue in areas of lower bushfire risk as the lines reach the end of their engineering lives.

It is not a recommendation that there should be a replacement of some SWER powerlines; it is a recommendation for the progressive replacement of all SWER powerlines, and I do not think I can recall hearing the government repeat the commitment to replace all SWER powerlines since it came to office.

The recommendation is also for:

> … the progressive replacement of all 22-kilovolt distribution feeders with aerial bundled cable, underground cabling or other technology that delivers greatly reduced bushfire risk as the feeders reach the end of their engineering lives. Priority should be given to distribution feeders in the areas of highest bushfire risk.

What we have seen so far from the government is a commitment of $50 million and a budgeting of $5 million. We have seen those opposite endeavouring to suggest to the Parliament and the Victorian community that somehow that acquits their promise to implement all of the recommendations of the 2009 Victorian Bushfires Royal Commission, including recommendation 27. I will be interested to hear if government speakers are prepared to restate on the record that the government will implement recommendation 27 to replace all SWER lines and all 22-kilovolt distribution feeders.

The other recommendation that I think the government is being somewhat cute about is the buyback provision. The buyback provision, as we suspected — and as has been confirmed recently by the government — is going to be applied by this government in a very restrictive way. The recommendation was that the government buy back properties in areas of high bushfire risk. At the commencement of the government's term in office we witnessed the backsliding on that commitment and heard: 'We would have to agree, and the property owner would have to agree'. In other words, there is no right for any property owner to have their property bought back by the government.

I would have thought that if the government wanted to buy a property and a vendor wanted to sell a property, you would not need any royal commission recommendation or legislation to enable that to happen. It could happen any time, any place and has always been available to anyone. The government can buy a property if a vendor is willing to sell a property to the government. That can occur with or without a recommendation of the bushfires royal commission; it is completely unrelated to the commission.

However, we now have the situation where the government is saying it will only be able to buy back properties that burned in the 2009 fires — that is, not necessarily properties in all areas of high risk. This is in relation to recommendation 46, which urges the state to:

> … implement a retreat and resettlement strategy for existing developments in areas of unacceptably high bushfire risk, including a scheme …

It does not say anything about those areas of high bushfire risk being only those that were affected by the bushfires of 2009. When we asked why the buyback does not apply to high-risk areas that did not burn in 2009 we received the following brief and not very enlightening response from the minister:

> When you have regard to the provisions of recommendation 46, this scheme is appropriate.

The minister sets himself up as the arbiter of what is appropriate or not and whether or not the recommendation of the royal commission is going to be implemented. I would have thought a government truly committed to implementing all of the recommendations of the bushfires royal commission would have to concede that what the royal commission recommended is not related or limited to only those areas that burnt in the Black Saturday bushfires of 2009 but that it applies to any area where there is unacceptably high bushfire risk.

That is a difficulty that the government is having in terms of its promise to implement all of the recommendations. It is certainly the opposition's view that the bushfire-prone area maps that were released by the government quite recently were inconsistent with the CFA's Victorian fire risk register. That set of maps has caused quite a degree of confusion amongst Victorian communities, and, again, this is an area where the government's implementation of its commitment has been lacking.

Having said all of that, the opposition is supportive of the technical amendments that are contained within this legislation, the implementation of recommendations 11 and 54 in particular and the passage of this bill to enable that implementation to occur. On that basis we in opposition will not be opposing the bill.

**Ms HARTLAND** (Western Metropolitan) — I thank the previous speaker for outlining this bill in detail. It is an extremely straightforward bill, and it has come about as a result of Black Saturday and the 2009 Victorian Bushfires Royal Commission. It was quite clear from the royal commission's investigations that there were operational problems on Black Saturday,

and this bill makes sure that those things have been fixed. This includes transferring the title of coordinator in chief of emergency management from the Minister for Police and Emergency Services to the Chief Commissioner of Police. That is a logical thing to do, and it makes good operational sense. The bill also updates the language so that words such as 'Displan' are replaced with 'state emergency response plan'. It just makes it clearer and easier to understand.

This is a bill that warrants the support of the house. It is quite clear that, out of the horrendous Black Saturday fires and the royal commission, we learnt a lot about disaster management. If we do not learn from history, we are doomed to repeat it. Hopefully the bill will make sure that if we have another natural disaster, we will be well equipped to deal with it at least in terms of coordination et cetera. With those few words, the Greens will support the bill.

**Mr DRUM** (Northern Victoria) — It is a great opportunity to talk about the Emergency Management Legislation Amendment Bill 2011. As Mr Pakula and Ms Hartland have noted, the bill is put forward in response to the 2009 Victorian Bushfires Royal Commission and will implement its recommendations 11 and 54. The focus of the bill is to implement those recommendations, but it will also help address some of the technical difficulties that were encountered by the Victorian State Emergency Service (VICSES) when it was trying to generate greater cohesion between emergency services in order to facilitate responses to emergencies such as bushfires and floods.

The government's implementation plan in response to the royal commission, which was released in May, states that the government supports all the royal commission's recommendations in the final report. I will come back to that later on in response to Mr Pakula's comments about how we will support the recommendations.

In accordance with the implementation plan the bill will amend the Emergency Management Act 1986 to implement recommendation 11 and clarify the roles and responsibilities of the Minister for Police and Emergency Services. Under current legislation the minister is effectively in total control during an emergency, whether it be a bushfire or another emergency.

In the aftermath of the 2009 bushfires the then Minister for Police and Emergency Services, Mr Cameron, was questioned as to whether he had fulfilled his role. Minister Cameron had always said he should not have had those responsibilities. The then Chief Commissioner of Police, Christine Nixon, was also in a position of responsibility at that time, and there was a lot of confusion about whether or not she was in control. It was less than ideal that in the aftermath of the fires we had to try to work out who was in control.

The bill goes a long way towards putting in place a system of control that will see the Chief Commissioner of Police, as state emergency response coordinator, being responsible for keeping the minister informed during emergencies. On the other hand the minister will have the role of making sure that satisfactory and appropriate emergency management arrangements are in place and ready to go.

The bill will also implement recommendation 54 of the final report in relation to the Country Fire Authority Act 1958 to enable the chief officer of the Country Fire Authority (CFA) to delegate the power to issue fire prevention notices and the like.

I will go through some of the bill's other objectives. The bill amends the Victoria State Emergency Services Act 2005 to address some of the technical issues that have been raised since the bill was enacted. The bill also amends the Emergency Management Act 1986 to modernise certain terminology — and Ms Hartland mentioned this — to allow the transfer of control of functions in emergencies other than a fire that is classified as a major fire.

In relation to recommendation 11 the bill removes the title of 'coordinator-in-chief of emergency management'. The minister will no longer be referred to in that manner. I have already spoken about the changes to the minister's role. The minister will not be responsible for operational matters but will be responsible for putting in place the correct arrangements and systems to make sure that the Chief Commissioner of Police, who will be in control, can carry out the necessary duties.

The bill will implement recommendation 54 by amending the Country Fire Authority Act 1958 to enable the chief officer to delegate the powers to issue fire prevention notices.

The Fire Services Commissioner Act 2010 has had to be slightly amended because of the unintended consequences of the use of a few terms such as 'emergency service agencies'. That term has caused some concern and is now known to be too narrow, as it does not enable the delegation of powers to all the necessary people in an emergency.

The bill makes necessary changes to broaden the powers of the Victorian State Emergency Service so that the director of operations will be able to issue directions to individual members. This will help members to go about their jobs in an emergency. Three regulations will be enacted in relation to VICSES standing orders, because at the moment volunteers are unable to receive standing orders in the face of an emergency. The Victorian State Emergency Service Act 2005 will be amended to allow those volunteers to work in a more cohesive manner with people from authorised or government agencies.

The power of delegation will also be changed. As Mr Pakula said, previously the power of delegation within the various agencies was given to people who were employed by the agency, and that precluded those people working in the service in a voluntary capacity.

A raft of changes have been brought in in relation to how agencies are going to operate in an emergency. With the recent floods there were some clear examples of VICSES teams being overwhelmed but unable to delegate authority to the people who may have been able to help them. The obvious example is when the SES in a small town may not have had the quantity of workers it needed and a CFA strike team could have easily been called out and been delegated respective roles, but those delegations were not able to take place. The new legislation will enable common-sense approaches to be taken, and it will provide for those levels of command that need to be put in place.

There are some other aspects of the bill in relation to the Emergency Management Act 1986. It will enable an agency to have overall control of emergency response activities and to transfer control of a response activity to another officer in another agency, with the consent of the officer in charge of that agency. There will be the opportunity for the entire control of the response to be moved to the agency which is most appropriate and which has the ability to handle that effort. We have seen that with the way the Department of Sustainability and Environment (DSE) sometimes has a better capacity to cope with an emergency than maybe the SES or the CFA. There is now a whole raft of opportunities for agencies to work in a more cohesive manner and for authority to be delegated to the group which is the most appropriate and which has the ability to act.

As we have said a number of times, we are fully committed to implementing all 67 recommendations of the 2009 Victorian Bushfires Royal Commission final report. The government is committed to supporting the CFA, the fire services commissioner, the VICSES and all other emergency services that are carrying out their statutory obligations. It has gone to great lengths to make sure that all the people who work in those emergency services understand that this government is a government they can rely on for full resources, full assistance and full support when it comes to making tough decisions in the face of an emergency. It is important for these emergency service providers to understand that when things get really tight in the face of an emergency they will have the support of the government.

In relation to consultation, the government has consulted closely with the CFA, VICSES, the fire services commissioner and the DSE in the development of this bill. In effect the people it will be working with and those who will be affected by this legislation have had a great opportunity to be involved in the formation of the bill to make sure that some of the kinks that have occurred since the bills that have been brought into the Parliament in the last few years are ironed out.

Before I finish I want to touch on some of the things that Mr Pakula said in his contribution, including how the government, when in opposition, made statements about what it would do with the full recommendations of the commission. Yes, it did say that it had total confidence in the royal commission and that it would support the royal commission's report when it came out. And when it did come out I vividly remember the current Premier, the Deputy Premier and ministers locking themselves away and poring over the final recommendations for the best part of a day, as did a whole army of staff who volunteered their time on a weekend to pore over the final recommendations of the bushfires royal commission.

It was then that the then opposition reinforced its confidence in the royal commission by reaffirming and reconfirming that in government it would support each and every one of the 67 recommendations that were put forward by the royal commission. And that is what this government is going to do. It is not going to go out and replace all the SWER (single wire earth return) lines tomorrow — it understands that is going to be an expensive process — but it will work as hard as it possibly can. It understands that that is what the people of Victoria would want us to do.

The government has taken the view that the people of Victoria do not want it to take the line that the Labor Party has taken — that is, one of sitting back and picking off some of the low-hanging fruit and saying that some of the other pieces are a bit too tough and, 'We'll let those slip'. That is not what Victorians want from a responsible government. Victorians want a

responsible government that will take on board the recommendations of the royal commission, which was made up of esteemed people who worked over many, many months and who received thousands of submissions and listened to verbal evidence from so many witnesses who came before them. This government believes that what it needs to do on behalf of all Victorians and in the most financially responsible way it possibly can is take on board all of those recommendations, and that is what it will do.

I refer to the buyback scheme that Mr Pakula referred to. He said the government is maybe not doing as good a job as what the people would have liked. Again, let me go back and go through a bit of a time line here in relation to the buyback scheme. Approximately 20 months, maybe a little bit more, passed from the time the fires took place until the time the now opposition, the former government, was voted out by the Victorian people. What did the government of the day do in those 20 months in relation to a buyback system? Nothing. It might have put out a discussion paper — that might have been its total contribution to the buyback scheme. In 20 months worth of work it put out a discussion paper.

Within the 10 months since it came to office this government has delivered on this recommendation, so it is a bit rich for Mr Pakula to come in here and say in relation to recommendation 27, which pertains to the SWER lines, that, 'You're being financially irresponsible and you're spending too much money', but then when talking about recommendation 46, in relation to the buyback scheme, to say, 'You're not spending enough money'. Which one is it? Are we being financially irresponsible by spending too much money? Or are we not being decent and generous enough because we are not spending enough money? Sometimes we hear the former Treasurer say, 'The trouble with the coalition is it is trying to be all things to all people' and 'It is trying to have its cake and eat it too' — he throws all the sayings at us. Does he want us to spend more money or less money?

Here is an exact example. This government is implementing all 67 of the royal commission's recommendations. It will do that in a manner that will enable it to do the very best job, in the most financially responsible way that it possibly can and in a time line that will enable it to do it. It will not turn its back on the people who suffered from the bushfires in the way the previous government did. It will not do that. It will hang in there with these people, and it will work through each of the recommendations in the manner in which the people of Victoria would want it to.

**Mr EIDEH** (Western Metropolitan) — As has already been stated, the opposition does not oppose this legislation. However, we have concerns about its implementation by this government. We have also identified some areas which have suffered the calamities of bushfire death and destruction but which have been ignored by this legislation.

The opposition supports the main thrust of this bill and its amendments to other legislation, but, like so many of the creations of this government, the legislation has holes that see it leaking even before it comes into effect, before it is passed and before we have all spoken on it. As I have already stated, this is very common with bills presented by this government. This will become one of the few things that this government will be noted for when it eventually passes out of mind and into the forgotten pages of history.

All that aside, let us look at what we all agree on. Black Saturday was a great tragedy for our state. One hundred and seventy-three good and decent Victorians perished, including couples, whole families and children, as well as livestock and pets. Homes were destroyed. They were all lost in the greatest tragedy ever to befall our state outside of losses in wars. Those wars were not in our backyard, but the bushfires were and that is why this tragedy feels so close to each and every one of us.

The 2009 Victorian Bushfires Royal Commission estimated the economic damage of the bushfires at over $4 billion. Even today — and what else can we expect — the emotional loss is deeply felt and is very difficult for many families to come to terms with and to resolve. That is why I earnestly hope this bill will address some of the flaws in the management of the tragedy to ensure that it will never happen again. I have read of the bushfire in the Blue Mountains, which was deliberately lit. I make no bones about stating that people who start bushfires have either serious mental or criminal issues.

The amendments made by this bill will address the hierarchy of the responsibility of personnel in emergencies. The Chief Commissioner of Police will be the state emergency response coordinator and have the responsibility for briefing the minister. I doubt that any minister would ever take that to mean that he or she would not need to seek briefings or to offer advice, because the buck must stop with the minister. The chief officer of the CFA (Country Fire Authority) will also be able to delegate power to issue fire prevention notices.

There are other items in the bushfires royal commission report that will not be presented to us as bills until next year, after the bushfire season which will soon be upon

us. I cannot see any logical or rational reason for such a delay, and I sincerely hope the inability of this government to make decisions does not lead to tragedy. We need to ensure that we have the very best technology so that we are able to pinpoint issues and attack them without time being wasted. If that demands that we spend more money, then who would say no? Certainly no member whom I have ever met. We need to help the State Emergency Service and the CFA with equipment, volunteers and whatever else they need to ensure that such a calamity becomes a distant memory and not something to be repeated.

Other members of the opposition have highlighted or will highlight a number of serious concerns that we, on this side of the house, have regarding the implementation of the recommendations of the bushfires royal commission. Sadly, there are many. While the government seeks to excuse them, given what we all felt and what each and every one of us in this house stated after that terrible event, there is no excuse. The people of this state rightly expect us to protect them from harm. This bill goes only a very small way towards that responsibility. It is a start but a very slow and incomplete start. Having said that, we will not oppose this bill.

**Motion agreed to.**

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

*Third reading*

**Motion agreed to.**

**Read third time.**

## CHILDREN, YOUTH AND FAMILIES AMENDMENT (SECURITY OF YOUTH JUSTICE FACILITIES) BILL 2011

*Second reading*

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

**Ms MIKAKOS** (Northern Metropolitan) — I rise to speak on the Children, Youth and Families Amendment (Security of Youth Justice Facilities) Bill 2011. The Labor opposition will not be opposing this bill, but it has some reservations and concerns which I will be seeking to clarify during the committee stage.

This bill proposes to make changes to the security and operations surrounding Melbourne's Parkville youth justice precinct, and I wish to put on the record my thanks to the office of the Minister for Community Services, Ms Wooldridge, not only for the briefing that was provided on this bill but also for the opportunity that I had to visit the Parkville youth justice precinct earlier today. I thank Minister Wooldridge's chief of staff, Mr Ben Harris, for facilitating that visit. Obviously I would have preferred if it had not occurred on the day that the bill was being debated, but nevertheless I am grateful for the fact that I had an opportunity to visit the precinct.

It is important to put on the record that when we were in government the Drugs and Crime Prevention Committee also visited the Parkville precinct. I thought it was beneficial to members of the then opposition to visit those facilities. I am sure that all parliamentarians would find it quite eye-opening to have an opportunity to not only visit the Parkville precinct but also the adult prison system. When we as parliamentarians are grappling with difficult decisions around sentencing it is important that we have an opportunity to see for ourselves those types of facilities that sentenced individuals end up in. That would put the whole sentencing debate into proper context.

The Brumby Labor government had a strong record of supporting young people both in and out of the youth justice system. Our primary focus in the area of youth justice was crime prevention to avoid low-risk young people entering the youth justice system in the first place, to rehabilitate more serious offenders and to support young offenders after release from custodial care to ensure that they did not develop an offending lifestyle. That is why the Labor government invested $22 million in new initiatives in last year's budget to strengthen the response to youth crime across Victoria by employing 55 on-the-ground youth workers and introducing a new behavioural change program for young people and a rapid response team to work with police dealing with young people in crime hot spots. I hope the Minister for Community Services will continue all those worthy initiatives and support them into the future.

It was also a Labor initiative that introduced the youth justice group conferencing program in 2006. This program makes young offenders accountable for their offending by bringing them together with their victims to apologise and repair the harm caused by their offence. The program has had enormous success in reducing recidivism among young offenders. I am pleased that the program was supported in this year's budget. By attempting to strengthen a young person's family and community, this program helps to identify

ways of restoring the harm associated with the offending behaviour.

The previous government also committed funding to establish a new behavioural change program for young people who are found carrying knives or offending with knives. We also put in place an intensive bail support pilot program for young people who would otherwise be remanded to youth justice custody, enabling the courts to provide for bail. I hope the new government will continue all these initiatives into the future.

I firmly stand by the sentiment that the best way of reducing crime among young people is to divert them away from the criminal justice system. By and large the majority of young people deal successfully with the challenges of adolescence and the transition to adulthood without experiencing serious or lasting difficulties. However, we all know that there is a small minority of young people who, due to a variety of factors, are at risk of engaging in criminal or antisocial behaviour. These factors must be understood and addressed in an effort to tackle the range and complexity of problems faced by these young people who are at risk. We know that they are very complex individuals who have complex problems. What I am concerned about is the one-size-fits-all approach that the Baillieu government is putting forward with its introduction of mandatory sentencing.

The Brumby Labor government was committed to ensuring that young people are diverted away from the justice system before they progress into an adult life of crime. As a result of that diversionary approach we have a unique dual-track system, which enables the courts to sentence young people aged 18 to 22 to a justice facility rather than an adult prison. Victoria has the most effective youth justice system in Australia. According to the most recent data collected by the Australian Institute of Health and Welfare, in 2008–09 Victoria had the lowest ratio of young people under supervision in this country — at 3.2 for every 1000. I understand it is still the case that Victoria has the lowest ratio of young people in youth facilities. This is testament to the fact that diversionary tactics work.

I wish to draw to the attention of the house an excellent report that was produced by the Drugs and Crime Prevention Committee, of which I was a member at the time, as was our Opposition Whip, Mr Leane, and Mrs Coote. This report was tabled in the house in July 2009. It is entitled *Inquiry into Strategies to Prevent High Volume Offending and Recidivism by Young People — Final Report*. The Drugs and Crime Prevention Committee found that engaging young people in education and training, constructive leisure activities and/or meaningful employment empowers them and assists in preventing youth offending. The committee looked at the youth justice group conferencing program as part of its inquiry, and there was a great deal of bipartisan support for those achievements.

Often youth justice deals with some of the most disadvantaged, vulnerable and complex young people in the population, with many having been victims of abuse or violence in their childhood. My understanding is that approximately 60 per cent of young people in youth justice facilities are young people who have had contact with the child protection system. Experiences of rejection and broken promises are prominent among young people at risk, leading to issues with trust, interpersonal relationships and interactions with authority figures.

The committee agreed that overcoming alienation and providing young people with opportunities to build positive connections with the community are essential components of any attempt to reduce high-volume offending. One initiative is the Ropes program, a diversionary program that operates after a young person is charged by police but before any formal court hearing. First-time offenders aged between 13 and 17 who admit their offence get together with a police officer and undergo a rope-climbing course in an attempt to build bonds and break down the stereotypes and barriers that can exist between police and young offenders. I do not think I am overstating it when I say that the committee members across all the political parties are enthusiastic supporters of the Ropes program after having seen it in action.

**Mrs Coote** interjected.

**Ms MIKAKOS** — Yes, Mrs Coote, it was excellent. I hope that program continues and is supported into the future. The community legal service, Youthlaw, considers the Ropes program to be an extremely successful diversionary program, as does Judge Paul Grant, who is the president of the Children's Court of Victoria. Judge Grant is a strong supporter of the Ropes program and suggested to the committee that it be introduced statewide. Many coalition MPs on that committee recognise that diversionary programs like the Ropes program are extremely worthwhile. I hope they speak up in their party room when the mandatory sentencing legislation arrives.

The previous government also established with the Department of Human Services a new task force to oversee the implementation of a security upgrade, the rollout of training programs for staff and refinements to

procedures at the centre. The bill before the house has come about as a result of two reports, one of which is the Ombudsman's report. At the time the Ombudsman's report was tabled in this Parliament last year, 10 of the recommendations contained in the report had already been implemented and another 17 were under way.

While we all acknowledge that there is no single cause or factor contributing to juvenile offending, the coalition's one-size-fits-all approach to youth crime will not work. Incarceration of young people should only ever take place as a last resort. Alternative strategies such as diversionary programs have proven to be much more successful for the majority of young people.

I am not just concerned about mandatory sentencing, I am also concerned about the Baillieu government's commitment to supporting Victoria's young people in many areas. Since coming to government, the coalition has cut many programs that have been beneficial to young people, like the apprenticeship completion bonus enticing employers to take on more young people and see them through their training, cuts to the Victorian certificate of applied learning, cuts to the FReeZACentral intensive workshops and the ending of the dedicated funding for youth mentoring programs. These are the very programs that give at-risk, disengaged young people a meaningful future and steer them towards further education and training and employment opportunities. The focus should not just be on locking up kids.

I note with great concern that various performance measures contained in this year's state budget for the youth justice custodial services indicate that the Baillieu government expects to see more young people in detention. On page 225 of budget paper 3 under the performance measure of 'Annual daily average number of young people in custody — males (15 years plus)', the target has risen from 130–180 to 140–190. That was explained in the notes as reflecting 'policing and sentencing practices impacting on custodial numbers'. Furthermore, the percentage of clients participating in community reintegration activities has been lowered to reflect, as the note describes, 'the changing profile and reductions in eligibility for community reintegration activities.'

Instead of aiming to reduce the number of young people locked up, this government is expecting to incarcerate more young people. At the same time it has decreased the eligibility of young people to engage in reintegration activities. As I said earlier, the aim should not be to simply lock up more young people but to provide meaningful programs for them when they are incarcerated so that they are successfully rehabilitated.

I was really pleased today when visiting the Parkville youth justice precinct to hear that there is a very real focus by the new director of Youth Justice Custodial Services, Mr Ian Lanyon, on providing greater support to young people in detention in accessing education and training programs. I am very supportive of that measure, and if the government moves to adopt those types of measures and programs, it will receive very strong bipartisan support.

I believe it is not just about locking kids up and throwing away the key, it is about ensuring that they are properly rehabilitated into the community and given a meaningful future. That is what the whole focus of the youth justice framework is about; it is about rehabilitation. Unlike the adult system, there is a very distinct focus in the legislation on the purpose of Children's Court orders, and that is that the detention of young people is about rehabilitating them. There is no magical solution, of course, but one thing is for sure — and that is, that there cannot be a simplistic approach to such a complex program. The investment by the Baillieu government in the budget for youth diversion and rehabilitation programs is a positive step forward, but I believe much more can be done in addressing these complex factors.

As I indicated earlier, this bill has come about as a result of two reviews conducted last year into the Parkville youth justice precinct, one by former police chief commissioner, Mr Neil Comrie, following the escape of six boys from the Melbourne Youth Justice Centre in May 2010, and one by the Victorian Ombudsman following a whistleblower's allegations about conditions at the Parkville precinct in October 2010.

The Brumby government took immediate action following the release of these two reports and committed to implementing the recommendations contained within them. At the time of the release of the Comrie report the Brumby Labor government committed $16.6 million over four years to overhaul and upgrade security and operations at the centre. The Comrie report recommended a single point of entry for all staff, visitors and vehicles entering and exiting the youth justice facility. That project commenced under the previous government, and I understand the single point of entry will be completed by the end of the year. I saw a slab earlier today, and I certainly hope the rain we have been having of late is not going to be a significant cause of delay for that project. I was advised

in the briefing that it was due for completion in December.

In receiving the government's briefing on this bill I was told that it was largely a bill that sought to tighten the security measures in our youth justice facilities by reducing any ambiguity in the principal act in relation to security practices. The bill proposes to make key changes in three distinct areas. They are search offences, including the seizure of items, security offences and secrecy offences.

The Children, Youth and Families Act enables searches of visitors and detainees within a youth justice facility. However, I was advised at the briefing that currently there is some ambiguity in relation to searching staff. The definition of 'visitor' has been amended in the bill to remove any ambiguity in relation to searches of staff members. Currently the act defines a visitor to a youth justice facility as 'a person who visits a youth justice facility to have contact with a detainee'. Under proposed new section 488A, the bill will establish the right to search all people — staff, contractors, detainees and visitors — before entry and exit of the youth justice facility. A visitor will now constitute 'any person, other than a detainee or an officer, who enters, leaves or remains in a youth justice facility'.

The bill provides that searches will be conducted by officers employed by the department or contracted security staff, although officers who are not departmental employees cannot conduct strip searches. The bill provides that inside the facility searches will be conducted only where the officer in charge considers they are necessary for the security and good order of the facility or for the safety of detainees or staff. The Community and Public Sector Union has raised some concerns with me about the possibility of staff being searched once they are inside the facility, and I will be exploring some of those issues further during the committee stage of the bill to ensure that all staff and the public clearly understand what is intended by this legislation.

The bill also provides that a person other than a detainee — that is, visitors, staff or contractors but not a judge or magistrate — may be subjected to a formal search using an electronic or mechanical device or an approved dog to detect drugs, weapons or metal articles. They may also be subjected to a frisk search by the quick running of a hand over the person's outer clothing using a mechanical or electronic device over a person's outer clothing or, once that is removed, an examination of the person's overcoat, coat, jacket or any other such clothing that is conveniently and voluntarily removed. None of these individuals is able to be subjected to a strip search or a body cavity search.

I wish to contrast these provisions with new section 488AD, which leaves some doubt as to whether strip searches apply to both visitors and detainees. Under the current act a visitor cannot be asked to submit to a strip search; however, under new section 488AD both a frisk search and a strip search are available to the officer in charge. Whilst a visitor cannot be asked under existing section 488A to submit to a strip search, it is unclear whether a frisk or strip search may be conducted on a visitor under new section 488AD. I will be exploring this issue further in the committee stage of the bill.

Under proposed section 488AC a detainee may be subjected to a strip search but not a body cavity search. The community-based legal service Youthlaw has raised some concerns with me regarding subsection (3) of that section, which allows for reasonable force to be used when conducting a strip search of a detainee. It has suggested that this section be slightly amended to clarify that reasonable force may be considered necessary only if the detainee does not consent to the search. I will be seeking some clarification of this during the committee stage.

Whilst the bill does not elaborate on a definition of 'reasonable force', I presume the appropriate checks and balances will be contained in the regulations. Given the second-reading speech indicates that the juvenile justice operations manual and the regulations are under review, I will be seeking some clarification about what is proposed to be contained in those documents, as they will deal with reasonable force. I believe that is a matter which will be of considerable community concern.

Proposed section 488AD sets out the manner of conducting a search. Before conducting a search of a person other than a detainee, officers will be required to inform any person entering a youth justice facility of their authority to conduct a search, that the person may refuse a search and of the consequences of such a refusal. A person who does not consent to a search may be prohibited from entering the facility or be ordered to leave the facility. The bill provides for a fine of 5 penalty units.

In the second-reading speech the minister elaborated on this point:

> Clear signage and verbal communication will ensure that people entering the centre are informed about what constitutes contraband and what items are permissible to bring into the centre.

Whilst it is not spelt out in the bill exactly what these contraband items are — I will be seeking some clarification during the committee stage — I was advised earlier today on my visit to Parkville that cigarette lighters are contraband items that are seen regularly.

The bill will require all officers conducting searches to do so expeditiously and with regard to the decency and respect of a person being searched. Under proposed section 488AD(4) and (5) strip searches of detainees must be conducted in the presence of another officer, and the detainee must be positioned in such a way that the detainee being searched is not in view of that second officer. The other officer must be of the same sex as the detainee, unless the search is urgently required and an officer of the same sex is not available.

Youthlaw has also raised concerns with me regarding this section and the understanding that all searches are conducted in a culturally sensitive manner — for example, female staff are to search Muslim girls and women. I would prefer that all female detainees in all circumstances are searched by female staff.

In the second-reading speech the minister specified that a strip search of any detainee would be conducted in private, but I have not seen clear evidence of that in the bill, and I will be seeking assurances of that during the committee stage of the bill. I hope some of these issues will be cleared up by the minister in the committee stage so that, as I have said, legal services working with young people can be given some assurances about how these provisions will be able to operate in the future.

In relation to the seizing of items, an officer may seize contraband found as a result of a search. These items include things such as a weapon, an explosive substance, a drug of dependence and/or items suspected to have been stolen or used in the commission of an offence. Any item that is seized must be included in a seizure register, and the officer in charge must be informed of items that have been seized.

The seized items must be held securely until the end of potential legal proceedings. The person from whom the items are seized must be informed of whether the items will be returned and to whom they will be returned, in the case of stolen items, or whether the items will be disposed of. Money that is seized must be returned to the person upon leaving the youth justice facility, except where money is suspected of being stolen or obtained as a result of an offence. It appears that purely suspicion alone can trigger the seizure of an article under this subsection. The bill does not go into detail as to what information or belief is necessary to be held by a youth justice facility officer before coming to such a conclusion. I will be seeking to raise these issues during the committee stage. If an item has been disposed of, it must be recorded in the seizure register and the disposal must be conducted by at least two officers.

In relation to these new security offences, the bill introduces a number of provisions. The existing provisions of the Children, Youth and Families Act 2005 will be amended to more closely reflect section 32 of the Corrections Act 1986, so it will now be an offence for a person who is not authorised to enter or attempt to enter a youth justice facility or communicate or attempt to communicate with a detainee who is on temporary leave from a youth justice facility if the communication threatens the security of the youth justice facility or any person. A person must first be warned that continued communication constitutes an offence.

The bill provides the following penalties. A case in relation to a child involves 15 penalty units or three months imprisonment. A case in relation to an adult involves two years imprisonment, which is the same as the Corrections Act 1986. The bill provides 5 penalty units for refusing to submit to a search and an order to leave. I believe the intent of this section is that there only be a penalty for refusing to leave — as we were advised at the briefing — but I will be seeking some clarification about the operations of this provision at the committee stage.

Youthlaw has raised concerns about the excessive penalty in this section in regard to children — that is, a $150 fine or three months imprisonment. It has suggested that perhaps a warning system be first implemented prior to these penalties being incurred by a child or that the penalties for a child offender should be reduced.

The final part of the bill relates to secrecy offences. The bill introduces entirely new secrecy provisions about which I have some concerns. The bill makes it an offence to:

> … record, disclose, communicate or make use of confidential information, except to the extent that is reasonably necessary to perform a duty or function of that position, or to exercise a power of that position, under this or any other Act.

The bill provides for a penalty of 5 penalty units, which is the same as in the Corrections Act 1986. It provides a very extensive definition of ‘confidential information’. It includes items such as information given to the youth parole board, the emergency procedures or plans of a youth justice facility, management or operational security measures and information concerning the

investigation of a breach or possible breach of the law by either a detainee or an officer, information given to a court or — and I will read paragraph (1)(f) of the proposed section:

> information of a business, commercial or financial nature relating to the provision of services within a youth justice facility, if the disclosure of that information may threaten the good order or security of the youth justice facility or any person …

This last paragraph of the definition of confidential information is very broad in nature. It covers details such as the number of security staff employed and details of cleaning or other contracts and could in fact be used to deny the release of all sorts of information through FOI applications. The secrecy provisions apply to departmental officers as well as to volunteers and contracted service providers such as the YMCA, which provides sport and recreation programs. They also apply to a person appointed by the department or an independent body conducting an investigation of a youth justice facility or visiting a youth justice facility. In the case of parliamentary committees — for example, the Drugs and Crime Prevention Committee, which has previously conducted an inquiry into the youth justice system — I have concerns that even members of Parliament could be precluded from discussing in a parliamentary committee anything they have seen on a visit if it could be said to threaten the good order of the facility.

Exceptions to the disclosure provisions are contained in the bill. These include evidence in criminal proceedings where the disclosure is in accordance with the minister's written authority; disclosing confidential information to the Ombudsman or to his or her officers; photographs being disclosed to the police; information being provided to members of police or the Australian Federal Police regarding preventive detention orders under terrorism legislation or for the security of any youth justice facility or the safety of a detainee; and disclosing confidential information as authorised under another act such as the Whistleblowers Protection Act 2001 or child protection legislation. Under the Health Records Act 2001 disclosures are specifically excluded.

We have some concerns about the very wide scope of the confidentiality provisions and how they will operate in practice. I certainly hope that the bipartisan approach to this issue — for example, the willingness of the minister's office today to facilitate a tour of the Parkville detention facilities — will continue into the future and that these confidentiality provisions will not be used to prevent critical information from being disclosed to parliamentarians in the future. I note with some concern, however, that when I submitted a question on notice to the minister seeking information on whether the recommendations contained in the Comrie report had been implemented, I received a two-line answer. I would like to put that answer on the record, which was:

> The report by Mr Neil Comrie … specifically relates to the Parkville youth justice precinct.
>
> However, some areas for action will be considered for implementation across the youth justice custodial services system.

On this side of the house we are all getting very used to getting non-answers to questions on notice, but I think that is a particularly unhelpful response.

**Ms Pennicuik** interjected.

**Ms MIKAKOS** — You are absolutely right, Ms Pennicuik, and I certainly hope that more information will be forthcoming in the future. It forces opposition members to resort to asking a lot of questions during the committee stages of bills, and if these are our only opportunities, then I can tell members that we are going to have some very long committee stages in the future.

As I outlined earlier, while the opposition will not be opposing the bill, we do have some concerns with regard to the underlying philosophy of this government's handling of youth offenders. Locking up more young people while cutting back on programs that aim to address the more complex needs of these young people is not a path we should be going down.

I take this opportunity to refer to a media release that was put out by Jesuit Social Services. On Friday evening, with my colleague the member for Narre Warren North in the other place, I had the pleasure of attending the Jesuit Social Services National Justice Symposium — —

**Ms Pennicuik** interjected.

**Ms MIKAKOS** — And Ms Pennicuik, of course; I do apologise. I also attended most of the conference on the following day. I thought it was an excellent and extremely worthwhile conference. It was disappointing that the Minister for Corrections attended to open the conference and then hastily departed. He did not have an opportunity to hear from former Victorian Supreme Court judge Frank Vincent, AO, QC, who delivered an excellent keynote speech at the opening of the conference. What Frank Vincent had to say was that minimum mandatory sentences would lead to injustice for some young people. I will read from the media

release released by Jesuit Social Services following the conference, which quotes Mr Vincent having said:

> … minimum mandatory sentences had the potential to not only lead to injustice for some young people but will also be counter to the long-term achievement of a safe community.
>
> 'A humane system recognises that prisons are inherently damaging institutions, I know from nearly 50 years working in the criminal justice system that detention in a youth facility or an adult prison even for a very short period can have profound impact on the lives of young people'.
>
> 'We need to work on the basis of prison as a last resort. The research shows that putting people in jail makes it more likely that they will reoffend once released'.

I think parliamentarians from both sides of the political fence should listen to the very wise words of Frank Vincent, who has worked not only as a senior member of the judiciary in this state but also for many years as the head of the youth appeals board. I think his views should carry some weight.

To be fair to the Minister for Community Services, I believe her heart is in the right place. I think she is a person who cares about young people in our state — both those in juvenile justice and those in the child protection system. But my concern is that I do not believe that her view of the world is going to carry weight in the cabinet. I think there are those in the cabinet, such as the Attorney-General and the Minister for Police and Emergency Services, who are committed to a law and order approach, and I believe the mandatory sentencing debate that we are going to have fairly soon will be just the start of a more punitive approach by the Baillieu government. I think the mandatory sentencing debate around youth offenders is going to galvanise youth groups around Victoria; certainly all the ones I have spoken to are extremely concerned by the coming legislation.

I hope the government will have a long, hard look at its approach to juvenile offending and connect the dots when it comes to increased recidivism rates. Everyone is concerned about youth offending and wants to see young people rehabilitated, have a meaningful life and make a meaningful contribution to society, but I do not believe the government has come up with the right approach to achieve that. I have raised a range of issues that I will be pursuing in the committee stage, and I have done so throughout my contribution to give the minister an opportunity to pursue answers to those issues when we get to the committee stage — hopefully later today.

**Ms PENNICUIK** (Southern Metropolitan) — I am happy to speak on the Children, Youth and Families Amendment (Security of Youth Justice Facilities) Bill 2011, which is a necessary bill because it follows on from recommendations contained in reports on the Parkville youth justice precinct by former police commissioner Neil Comrie and the Victorian Ombudsman. The recommendations of the Victorian Ombudsman were contained in his report which was tabled in Parliament in October 2010; however, the Comrie report has not been released. I was fortunate enough to have an executive summary of that report forwarded to me by the Minister for Community Service's department when I asked for it, and that sheds some light on what is in that report. Given the recommendations of those two reports, we needed this legislation that is before us today.

The bill will provide the legal authority to make key changes to security, including enabling security officers to search everyone except judges and magistrates upon entry and exit of a youth justice facility. New security offences have been created and there will be tougher penalties for adults who enter or attempt to enter a youth justice centre without authorisation, who communicate with a detainee in contravention of a clear order from the Secretary of the Department of Human Services or who take or send contraband items in and out of youth justice centres. The bill makes it an offence for a person who holds a particular position, such as an officer of a youth justice centre, to use confidential information in a way that is not authorised. In summary, they are the provisions of the bill before us.

It is not a long bill, and it makes those broad changes to the Children, Youth and Families Act 2005 with respect to youth justice facilities. As I said, these changes were initiated by the reports of the Ombudsman and Mr Neil Comrie on their investigations into the Parkville facility. I will return to those reports later in my contribution, because the Ombudsman's report in particular was frightening reading for anybody who read through it last year.

The bill amends the act to clarify what is meant by formal and frisk searches on all staff, visitors and detained young people, and by strip searches on detainees. It clarifies what things can be seized and what happens to things when they are seized during a search. It prohibits disclosure of certain confidential information by people working in youth justice facilities about the detainees in those facilities or what goes on in the facilities. While Ms Mikakos raised some concerns about that, the other side of the coin is that when you are dealing with children in detention you definitely need to protect their rights as there are special rights that need to be accorded to children in detention. It also prohibits a person from communicating with a detained young person who is on

temporary leave in such a way that threatens the security of a youth justice facility.

I take this opportunity to thank the departmental staff for their comprehensive briefing and their attempts to answer all the questions that we raised on this bill, both while I was at the briefing and subsequent to that. Even today I have received some communication from the minister's office on certain aspects of the bill.

While the bill aims to clarify what security measures can be undertaken by officers in charge of a youth justice facility, there are certain concerns that the bill raises as well. We were told in our briefing that the changes in the bill implement four of the eight recommendations made by the former Chief Commissioner of Police in his report on the escape of six young people from the Parkville precinct last May. Those changes will apply to all youth justice facilities and not just the Parkville youth justice precinct. The four recommendations not contained in the bill are practical matters and we have been told they do not require legislative change. The bill takes up the Comrie report recommendation to align this act with the Corrections Act 1986, except in relation to cavity searches, which are not conducted at youth justice facilities.

Some concerns have been raised about the conduct of strip searches on detainees in youth justice facilities. The intention is not clear from the bill, although I have obtained extra information from the minister's office which clarifies that the intention is to make sure equivalent protections are in place for detainees who are strip-searched in a youth justice facility as those that apply to adults as set out in the Corrections Act 1986. But I would add that children need more protection than adults. Ms Mikakos also raised these concerns. We will need to spend some time in the committee stage to make sure the bill provides that strip searches of detainees are conducted in such a way that the rights of children in detention are protected — which is what we are talking about.

An interesting issue which the government speakers may want to comment on is the actual commencement date of the bill. I have noticed it is 19 December 2011. It is unusual to have a bill commencing on a day in the middle of a month, rather than, say, 1 January, 30 June or 1 July. I am just curious as to 19 December being the commencement date of the bill. There may be a very good reason for it, but it is interesting.

The main clauses of the bill are clauses 5, 6 and 7, which repeal the search provisions that are currently in the act and replace them with new sections. As I mentioned earlier, in our departmental briefing we were told that these clauses clean up the search provisions. They do not make substantive changes, but they clarify that anyone entering or exiting a youth justice facility can be searched, including staff and visitors. Of course at the moment staff and visitors are searched or can be searched — frisk searched, asked to remove outer garments or asked to turn out their pockets or open their bags — on entering a youth justice facility, but the bill clarifies that.

Clause 4 provides for some new definitions in the act of 'approved dog', 'detainee', 'formal search', 'frisk search', 'officer', 'officer in charge', 'seizure register', 'strip search', 'visitor' and 'youth justice facility'. All of these new definitions are designed to clarify who and what can be searched, who can be searched under what circumstances and what those processes will be.

New section 482B gives the officer in charge power to authorise persons to use the search powers. It specifies that the officer in charge cannot delegate the strip search powers in sections 488AC and 488AD. The officer in charge can delegate some powers but not the authorisation powers or the power to authorise a strip search on a detainee. A strip search must be done by the officer in charge.

New section 488AD is an important new section in the bill because it goes to the strip search procedures. During our briefing we asked questions about this particular new section, which allows for the strip search of detainees. My reading of the bill is that the new section beforehand, section 488AC, makes it clear that only detainees can be subject to a strip search. In her contribution Ms Mikakos raised that it was unclear whether other persons could be strip-searched. I think it is pretty clear in the bill that only detainees could be. However, I am happy for the minister to clarify it so everybody is clear on that matter.

In the briefing we talked at some length about how the privacy of the detainee would be ensured. We were told that the procedure to be followed is that the young person being searched will be behind a screen and can only be seen by the officer who is conducting the search, bearing in mind that a strip search means that the detainee is required to remove their clothing, not that anybody touches them. Another officer will then be placed in such a way that they can observe the officer who is conducting the search but cannot see the detainee behind the screen. We were told this is the normal procedure that happens already and that this bill will clarify that. I am not sure the bill does clarify that. We are hoping we will get some clarification of the clarification of how these searches will be carried out,

because it is very important that the rights of minors in this type of situation are protected.

We were also told that facilities keep records of the searches carried out. We had a look to see whether or not the records of the strip searches carried out in our youth justice facilities are publicly available and published in the annual report of the department. We were not able to come to a firm conclusion on that issue, so that will also be something I will be raising in the committee stage. I would like the minister to clarify that, because I think those reports need to be made public — not the details of the reports but the number of searches undertaken and any results of those searches in terms of contraband or other items seized.

New section 488AE provides that a visitor — or it could also be a staff member — who does not consent to a frisk search can be denied entry or compelled to leave immediately. The bill allows for seizure of certain items and provides a hierarchy of responses in terms of how items are handled, used, returned or disposed of, based on the types of items seized.

New section 492A provides for new secrecy of security arrangements at youth justice facilities, making it an offence for a person in the position of officer, delegate of the secretary, support services provider or sheriff or similar to investigate, record, disclose, communicate or make use of certain confidential information. The new section qualifies that by saying:

> … except to the extent that is reasonably necessary to perform a duty or function of that position …

The penalty for contravening that new section is 5 penalty units. There are exceptions where a person gives evidence in criminal proceedings, discloses information with the written authority of the minister or to the Ombudsman, discloses a photograph to police to assist with official duties or discloses information to a member of the Australian Federal Police in certain circumstances, or where the disclosure is specifically authorised by another act. Again, I think the particular provisions of new section 492A require some explanation in the committee stage. I would like to be assured that the privacy of detainees in youth justice facilities is protected to the greatest extent possible, apart from where it is absolutely necessary for information to be disclosed. Hopefully, even though the information may need to be disclosed for another lawful purpose, it would be disclosed in a way that protects the privacy of that person. There are some other minor amendments in the bill, including consequential amendments to the act.

Representatives from Youthlaw have contacted us. Youthlaw is a very good organisation that works with young people who have been charged with offences and who may or may not end up in youth detention facilities or under community orders or other non-custodial sentences. Youthlaw has lawyers who help those young people. They have raised some concerns. Ms Mikakos went to those meetings as well. They were mainly about the processes and procedures that are followed when a person in a youth facility — a detainee — is required to, asked to or ordered to undertake a strip search and those procedures being protective of the person. They were also about the secrecy provisions of the bill, emphasising that children and young people have special rights of protection and that the provisions in the bill should be in line with those rights; however, it is not clear to us that that is the case.

The bill amends section 501 of the principal act which deals with offences to persons held in youth centres. The penalties for children in section 501(2) seem excessive — that is, 15 penalty units or three months imprisonment versus two years imprisonment for adults. Where a person in a youth justice centre is charged with an offence under this act, we are also raising the issue of whether it is appropriate or effective for that young person to be given a fine which they are probably unable to pay. Perhaps there needs to be some other way of dealing with those issues rather than putting in place a penalty which is not going to be able to be paid by the young person. We agree with Youthlaw, which raised the idea that there should be either greater opportunities for warnings to be implemented prior to penalties being incurred by a child or a reduction of the penalties.

We also contacted the Community and Public Sector Union, which had raised concerns about the bill with regard to the searching of staff members at youth justice facilities. In particular they raised the issue of the difference between departmental officers searching staff and contract officers searching staff. With regard to the Charter of Human Rights and Responsibilities, departmental officers have obligations under the charter but it is not clear whether contractors would have those same obligations. That is another issue we would be interested to hear the minister's view on, and certainly I will be asking questions about that clause when we get to the committee stage of the bill.

As I said earlier, the bill has arisen from the report by Neil Comrie that was released on 16 July 2010. I have read through the executive summary that the minister's office supplied to me. That report was instigated because on Wednesday, 19 May 2010, six youths

escaped from the Eastern Hill unit of the Melbourne Youth Justice Centre. What is significant is that Mr Comrie said in his executive summary that the investigation into the escape of 19 May confirmed that the escape was planned some time in advance, that the escape occurred after a staff member opened the door to a double client room in response to a request for toilet paper and that weapons — knives — were used to threaten staff. It also found that there was no evidence of any collusion by staff in the escape. The executive summary of the report also notes that there are numerous high-level risk factors evident at the Parkville youth justice precinct.

The recommended matters for action to address these risk factors as detailed in the report were summarised as additional compliance measures to actively manage the security and maintenance issues identified and the need to upgrade security measures to improve perimeter and internal security, including the creation of a single point of entry for all staff, visitors and vehicles entering and exiting the precinct. We understand from the briefing that that is under way — that is, the single point of entry will be completed by the end of the year — and other areas where people were able to enter the precinct fairly easily are being removed.

Mr Comrie also recommended the following: a review of the legislation to support improved security and protect security information at the Melbourne Youth Justice Centre, which is what we have before us in this bill; improved recruitment and training standards for personnel employed at the centre — I am not sure whether that is under way, but perhaps the minister could talk about that and I will certainly ask those questions during the committee stage of the bill; updating the operations manual to reflect security and supervisory practices; and upgrading and improving maintenance and the capacity of the building fabric to meet growing demand, the need to respond to the rehabilitation of vulnerable clients and an emerging trend of others being committed for violence-related offences.

There are other issues which I would like government members to speak about, because they are not covered in this bill but they are important issues that were raised by the report. There is also the consideration of options for expediting hearings of matters at the Children's Court when clients are held in remand. We all know that young people are held in remand at youth justice facilities and can be mixing in with older offenders et cetera. As everyone knows, that is an issue. Perhaps in summing up the minister or one of the other government speakers could speak on that issue. There is also the establishment of a dedicated project team to implement the accepted recommendations. The team should operate under the guidance of a reference group chaired by the senior executive of the department, noting that this action will require considerable human and other resources to be effective and to mitigate the existing risks identified in the report.

That is all we can glean from what is contained in the Comrie report, but I think it is worth putting on record that serious risk factors were evident and that other recommendations were made, apart from the bill we have before us. I would like to hear from government members what they are doing about those.

The other report is the 2010 Ombudsman's report entitled *Whistleblowers Protection Act 2001 — Investigation into Conditions at the Melbourne Youth Justice Precinct*, which was released in October last year. By any stretch of the imagination one would have to call that a scathing report, particularly in relation to the youth justice facility at Parkville. The major question raised by the Ombudsman in his report was whether or not the facility should be closed and a new one built.

It is worth reading some small sections from this report and putting them on the record. In paragraph 46 of the executive summary the Ombudsman noted:

> I therefore propose to review conditions at the precinct in relation to the implementation of external oversight arrangements. I propose to report to Parliament on this issue in 12 months time.

Twelve months time is now, so we should be looking forward to a new report from the Ombudsman.

In paragraph 55 of the executive summary the Ombudsman stated:

> Early in 2010 I received allegations from a whistleblower about the conduct of staff at the Melbourne youth justice centre (justice centre). The allegations related to staff:
>
> inciting assaults between detainees
>
> assaulting detainees
>
> restraining detainees with unnecessary force
>
> supplying contraband to detainees …
>
> stealing goods and consumables.

The disclosure also included allegations relating to general mismanagement of the justice centre, overcrowding, poor adherence to operational procedures and an organisational culture that fosters unethical conduct.

I am particularly concerned about restraining detainees with unnecessary force, given that this bill provides for force to be used in the strip search of a detainee. It is concerning when you are reading that in the context of what the Ombudsman raised. At paragraph 13 he states that non-compliance with the charter of human rights is worsened by the problem of overcrowding, which he identifies as a considerable issue in the precinct, particularly in the justice centre. He lists a range of concerns, and people who have not read the report should look at it.

Paragraph 18 indicates the Ombudsman found that 63 out of 143 former staff did not have working-with-children checks on their personal file. He also found that 132 of 367 current staff do not have working-with-children checks on their current file. At paragraph 21 he stated:

> Management was aware of many of the above allegations concerning the conduct of staff, but at times failed to take appropriate action.
>
> …
>
> … the department's failure to address improper conduct, particularly conduct which impacts on the health and safety of detainees, contravenes the department's statutory obligations and human rights provisions.

At paragraph 22 the Ombudsman stated:

> The evidence obtained by my office indicates that independent and regular oversight of the precinct is necessary. Unlike the adult prison system, the precinct is not subject to inspections by official visitors nor is there a central oversight body such as the Office of Correctional Services Review for the Victorian prison system.

Members would be aware that in the previous sitting of this Parliament, and I will look at doing it again, I raised the need to establish an independent body to oversee the corrections facilities in Victoria rather than that role being carried out by the Office of Correctional Services Review, which is contained within the Department of Justice.

The Ombudsman also raised a whole lot of other things, including the issue of inadequate care for detainees with mental health issues. His investigation identified that:

> … the precinct is struggling to meet adequately the needs of children who are seriously mentally ill, including detainees who are suicidal or displaying self-harming behaviour …

The report goes on, and it is a depressing report to read. I understand that around 10 of the recommendations that the Ombudsman made have been implemented and that the rest are on the way to being implemented. It seems the facility was run down. In his report the Ombudsman spoke about unhygienic conditions, infectious diseases and conditions that detainees were exposed to. He said there is an awful lot of work to do to bring the facility up to speed. I would be very interested to hear what the government has to say about that. The legislation does not address these problems, but they really are the crux of the issues that the Ombudsman has raised.

I was interested to hear that Ms Mikakos was offered and took up a tour of the facility just today. I put it on the record that I would like to have that offer made to me as well. I would like to go to the facility to see for myself whether the improvements that the Ombudsman has recommended are actually happening.

The Scrutiny of Acts and Regulations Committee also raised an issue regarding the procedures for strip searches of detainees. We kept talking to the minister's office about that, and Ms Lovell was facilitating those discussions. I was able to get a copy of a letter — I am not sure whether the minister has actually sent it to the Scrutiny of Acts and Regulations Committee yet or whether I have an advance copy — in which the minister says that a strip search must be conducted in a private place or a place that provides reasonable privacy to the detainee; that the strip search must not involve touching a detainee's body unless reasonable force is required to carry out the search, and the idea of reasonable force is something we need to go to in the committee stage of the bill; that detainees be allowed to dress in private following the search; that appropriate clothing be provided if clothing is seized in the search; and that a register be maintained to record details of the search. Of course none of those things are in the bill. We are not quite sure whether they are going to appear in the regulations or in a manual, and they are some of the concerns and issues we will be raising in the committee stage of the bill.

In general and in conclusion I agree with many of the points that Ms Mikakos has raised. When we are dealing with juvenile offenders we should always start with detention as the last resort. That is the principle that I know most people would adhere to. There is very rarely anything to gain by detaining young people. Many of our young people in juvenile justice facilities have major issues with what has happened to them in their family life and also in regard to their mental health, which, as the Ombudsman points out in his report, the Melbourne Youth Justice Centre was struggling to deal with. They have problems with attempted suicide and self-harming. They are very complex issues, and incarceration is rarely an answer to them.

We always need to start from the principle of not incarcerating young people, and it is concerning to see that it is envisaged that more young people will be incarcerated. It is concerning that we may have a bill about mandatory sentencing coming down the line. I urge the government to rethink that approach, because all the evidence says mandatory sentencing does not work, is an infringement on human rights and is an impediment to the rehabilitation of offenders, particularly young offenders.

Ms Mikakos mentioned the address given by former Justice Frank Vincent to the Jesuit Social Services' National Justice Symposium on Friday night, which I attended — although I did not attend the sessions on Saturday. To paraphrase, he said that in his 50 years of experience in the criminal justice system, sentencing young people to terms of incarceration always left him with a heavy heart. He knew that would never be a good thing for young people because they come into contact with older offenders — and we all know what happens to offenders in youth justice centres and to young adults in prisons.

Mr Vincent also commented that the prospect of incarceration was not really a threat to older offenders who had had troubled lives because they were already quite institutionalised. As a society we need to rethink our approach to justice and law and order, to look towards incarcerating the fewest people possible, particularly young people, and to look at other ways of dealing with offenders through non-custodial sentences and community-based orders — that type of thing. He also said some people need to be incarcerated because they are a danger to the community, but they are the minority and we should look towards not incarcerating people. I agree totally with his sentiments in that regard.

We look forward to having our concerns about the bill addressed by the minister in the committee stage.

**Mrs COOTE** (Southern Metropolitan) — I quote from the executive summary of Neil Comrie's *Review of Escape Incident at the Melbourne Youth Justice Centre on 19 May 2010:*

> At about 10.00 p.m. on Wednesday, 19 May 2010, six youths escaped from the Eastern Hill unit of the Melbourne Youth Justice Centre … This escape occurred after the lone night shift officer on duty opened the door to the room of two clients in response to a request for toilet paper. These two clients then manhandled the officer and took his keys from him. They then opened the doors to other rooms, releasing three other clients. It is believed one of the other clients was already out of his room. The keys were also used to open a safe in the unit office from where a number of knives were taken.

That is what we are debating today. The minister has responded to both this report and the Ombudsman's report to address the issues that have arisen from such incidents. The executive summary goes on to say:

> Although the escape on 19 May 2010 could be simply attributed to the poor judgement of the night shift officer in opening the door alone to a room occupied by two clients with a history of violent offences, there are several systemic failures that are also contributing factors to this incident. There is evidence that this officer was in the habit of regularly opening client doors alone at night, a practice that should have been identified and dealt with by an effective supervisory regime.

Today we are debating such a regime.

The overall objective of this bill is to enhance the security of Parkville youth justice precinct in accordance with the recommendations of the Comrie review, which I just quoted, and the Ombudsman's report and in accordance with the government's election commitments on community safety.

The bill amends the Children, Youth and Families Act 2005. It repeals existing search powers to insert new provisions to enable searches of people upon entry and exit and within youth justice facilities. It amends the existing provision relating to security offences to ensure that actions which compromise the security and good order of youth justice facilities are prohibited and to increase the penalties attached to security offences for adults. It creates a new provision for the protection of sensitive and confidential information relating to security arrangements at youth justice facilities.

I turn to the contributions made by Ms Mikakos and Ms Pennicuik. Both of them put on the record their praise for the department and for the chief of staff to the Minister for Community Services, Ben Harris, and adviser Anna Schultze. Both praised the openness and transparency of Minister Wooldridge's department. They said they had been well briefed, had been given an opportunity to visit the facility and were pleased with the results. This is a point of demarcation from the former Labor government, which was not open and transparent under any circumstances — indeed it was quite the reverse.

The Minister for Housing, who is representing Minister Wooldridge in this chamber, will be relishing the idea of the committee, because she will be able to open up all the issues that have been raised by Ms Pennicuik and Ms Mikakos on searches, security, secrecy and a range of other issues. We stand proudly by this piece of legislation. It is a good bill. We encourage the bringing out of details in the committee, which will allay any of

those minor concerns that those members have brought to our attention.

However, Ms Mikakos went on to criticise the Baillieu government for not supporting youth justice enough. I put on the record what the Baillieu government has done in 11 short months. The Labor government had 11 long years and did not do very much. We have installed closed-circuit television throughout the precinct and scaled up supervision and compliance monitoring at night. We have renovated client units after the Ombudsman noted appalling conditions there. We have expanded education and training for young people in custody by introducing an extra class session every day, revising timetables, creating larger class sizes and adding new TAFE short courses. We have committed $4.15 million over four years to implement comprehensive workforce improvements in youth justice custodial services. We have also allocated $1 million in the 2011–12 budget for planning and feasibility to develop a long-term strategy for the future of youth justice custodial centres. That is not a bad record in 11 months.

In addition, there has been a $5 million investment to create a single point of entry. The single point of entry is an interesting point to consider. Ms Pennicuik said in her contribution that she wondered why the bill provided 19 December as the starting point. She was perplexed about this and pondered the question: why 19 December? I put on the record that the reason it is 19 December, which both Ms Pennicuik and Ms Mikakos queried, is that the single point of entry will be completed by the end of this year. The reason we want this legislation in place is so it can be bedded in and worked through, so that by the time the single entry has been implemented this legislative framework will have been bedded down and will be ready. It is important to get that on the record.

It is a great pity that I do not have as long to make my contribution to the debate as did Ms Mikakos and Ms Pennicuik. They raised a number of issues which I would like to speak about. One is the issue of strip searches and the protection for youth justice detainees in the regulations. The regulations are currently being reviewed, and the additional requirements will be: that a strip search must be conducted in a private place or a place that provides reasonable privacy to the detainee; that a strip search must not involve touching a detainee's body, unless reasonable force is required to carry out the search; that detainees are allowed to dress in private following the search; that appropriate clothing is provided if clothing is seized in the search; and that a register is maintained to record the details of the search.

These protections are in addition to the safeguards introduced by this bill, which include: that a strip search must only be conducted by an officer of the same sex as the person being searched; that it must not include a body cavity search; that a strip search must always be conducted in the presence of another officer, who must generally be of the same sex as the detainee and must be positioned in such a way that the detainee is not in view; and that searches must be conducted expeditiously, with regard to the decency and self-respect of the person being searched and in compliance with any other prescribed requirements.

Ms Mikakos brought to our attention the issue of culturally sensitive searches. I am certain the minister will address that in the committee process, and I believe that will certainly be agreed upon.

One of the things I would like to say to Ms Pennicuik in response to her contribution is about the special provisions for searching child visitors to the youth justice facilities. We do not intend to put special provisions into the bill to govern searches of child visitors for the following reasons. The proposed searches are similar to those undertaken at secure places such as courts, airports or the MCG. I remind Ms Pennicuik of the searches people have to go through coming into this Parliament. We all know and have seen on many occasions that schoolchildren who visit Parliament House go through a similar screening process. At the end of the year, usually laid out on a table for us all to see, are the knuckledusters, the long knives, the flick-knives — the whole armoury of weapons that, we are told by security here at Parliament, children, including primary schoolchildren, bring into this place. I am not sure whether they have a set against us as politicians; however, security officers here at Parliament say that the young people are carrying these weapons because they are afraid. I believe that is an indictment in itself.

I would also like to put on record that both Ms Mikakos and Ms Pennicuik, as well as the minister and I, know and are very aware that a large majority of Victorian young people are really decent citizens who are great contributors to the wealth of our state. There are young offenders who end up in youth justice facilities who have challenging behaviours, and it is important that we send the right message to the community and to those young offenders that their behaviour is unacceptable. However, it is important for us to balance that with the knowledge that many young people in Victoria are great contributors to our state.

The searching of visitors will not be untoward, and I hope the concerns of Ms Pennicuik will be allayed by

that comment. The only search of a young visitor is a formal search, which is a search of a person to detect the presence of drugs, weapons or metal articles that is carried out by an electronic or mechanical device or by using a dog such as a sniffer dog, or a frisk search, which is a search of a visitor conducted by quickly running the hands over the visitor's outer clothing or by passing an electronic metal detection device over or in close proximity to the visitor's outer clothing, or an examination of anything worn or carried by the visitor that is conveniently and voluntarily removed by the visitor.

There are a number of issues to go through, and I am sure members will want to know some of the details, but can I say that it is imperative that visitors to these centres comply for their own safety and for the safety of the staff and of the clients who reside in the youth justice system.

I do not have much longer to speak on this bill, but I reiterate how important it is because it provides clarity. It clarifies a number of points for all those who are affected. I would like to finish by saying that this government is interested in rehabilitation and wants to build upon the excellent dual-track system in Victoria. As Ms Mikakos rightly said in her contribution, Victoria is alone in having a dual-track system, and it has done very well.

I know that the Malmsbury youth detention centre is a good stepping stone for people who have perhaps made a mistake and want to move on with their lives. As Ms Mikakos said, the Drugs and Crime Prevention Committee visited Malmsbury, where I personally spoke to some of the residents, a couple of whom said they had been involved in car accidents and had killed their friends. As they said to me, they had to live with that for the rest of their lives. Their lives had been changed forever. But they were there at Malmsbury to rehabilitate and to learn what they could to get skills and to go back out into the workforce.

We should remember how important rehabilitation is. The legislation before us and the amendments it makes are not intended to move the youth justice system towards retribution and away from rehabilitation. I want to emphasise that these changes are not going to move the youth justice system away from rehabilitation. As I said earlier, in the 11 months that we have been in government we have in fact enhanced some of the educational programs at the Melbourne Youth Justice Centre.

We need to treat young people differently from adult offenders for a number of reasons. Most young people grow out of offending. Assisting young people to grow out of crime is a key avenue towards building safer communities. There are key differences in brain development between young people and adults. Young people are more likely to be impulsive and have a less developed ability to engage in consequential thinking. Often young people have more complex needs than adult offenders, including substance abuse, mental illness and cognitive disability.

Minister Mary Wooldridge has under her jurisdiction child protection as well as mental health, drugs and alcohol and domestic violence. All those issues make up some of the complex reasons people end up at Parkville, and it is important to have an overarching idea and understanding of that. This bill goes a long way towards addressing a number of the complexities and issues, it clarifies a number of things for staff, visitors and residents, and I recommend that it be passed today. I look forward to hearing what is teased out in the committee process, because I believe that will enhance the bill. I thank the other parties for their support.

**Mr SCHEFFER** (Eastern Victoria) — As we have heard, this bill changes the security arrangements for youth justice facilities in Victoria. The minister's second-reading speech refers to a review that was conducted by Neil Comrie, a former Chief Commissioner of Police, into an incident at the Melbourne youth justice precinct in May last year. The speech also refers to an investigation conducted by the Victorian Ombudsman, George Brouwer, into the conditions at the precinct. The government says that the amendments contained in this bill build on a range of measures that have been put in place to strengthen the security platform at the Parkville facility. The government says that the provisions contained in this bill are necessary because enhancing security platforms, installing closed-circuit television, enhancing surveillance and supervision of night operations, improving the facility itself and making sure that staff are effectively supervised all have their limits.

Ms Mikakos has indicated that the opposition will not be opposing the bill; however, the debate presents an opportunity to make some observations about aspects of youth justice in Victoria and the direction this government appears to be moving in. The incident in May last year involving the escape of some young people from the youth justice precinct in Parkville, which the government identifies as one of the circumstances that has given rise to this bill, should be looked at briefly. Clearly the state has an obligation to ensure that the welfare and rehabilitation of young people caught up in the justice system is paramount and

that everything is done to work towards this objective. On the other hand our system requires that there be an appropriate level of security in place that prevents young people in custody from behaving in violent ways towards each other and also towards the community if they should they leave the precinct.

No matter what the objective circumstances are, the cornerstone of our obligation as a society towards children is enshrined in the Charter of Human Rights and Responsibilities Act 2006. It is important to remind ourselves, as Mrs Coote did in her contribution, that in this statute we committed ourselves to the principle that every child, as a member of a family and as an individual, is entitled to be protected by society and the state. Under this act children have the right to such protection in their best interests for no other reason than they are children. The act makes specific reference to children in the criminal process and guarantees that children who have been convicted of an offence must be treated in a way that is appropriate to their age.

Where does the present coalition government stand on justice issues in general? The coalition focuses on escalating public alarm that Victoria is suffering a record level of violence and that police need to be taking a tough, zero-tolerance approach to crime, violence and antisocial behaviour. In this it is aided by the tabloid media, which is always on the lookout for sensational stories that feed the appetite of its readers and viewers for salacious entertainment rather than factual reports on the real data relating to public safety. The coalition members' approach to dealing with this inaccurate but politically useful perception of rising public violence is to talk up the increase in police on the streets and public transport and to talk up what it calls major reforms in sentencing. They talk about tougher sentences for serious offences, statutory minimum sentences for gross acts of violence and the abolition of suspended sentences and home detention, and they attack Labor for being soft on crime.

People who rely on talkback radio, family and friends or commercial television — and I would add the coalition to that list — have inaccurate perceptions of crime. I think that less than 10 per cent of crime involves violence, but around 20 per cent of people, when they are asked, say it is much higher than that. We know that tough-on-crime rhetoric and punitive approaches are not successful. More positive strategies include redesigning the urban environment so that natural surveillance is maximised, focusing on areas where criminal activity is more likely to occur, and working on family and school environments, for example, to help people develop strategies to prevent and avoid crime.

In 2009 the Parliament's Drugs and Crime Prevention Committee conducted an inquiry into strategies to prevent high-volume offending and recidivism by young people. It is well worth having another look at this, even though I heard Ms Mikakos referring to this important report earlier. It is an appropriate time to have another look at some of those recommendations.

**Sitting suspended 6.30 p.m. until 8.02 p.m.**

**The ACTING PRESIDENT (Mr O'Brien)** — Order! I meant to thank Mr Elsbury for the flowers he very kindly sent to my wife. I thank Mr Elsbury publicly; he was the first cab off the rank.

**Mr SCHEFFER** — Before the dinner break I was referring to the Drugs and Crime Prevention Committee's 2009 report on its inquiry into strategies to prevent high-volume offending and recidivism by young people. I was indicating to the house that the principles upon which the recommendations of the committee were based should be looked at in the context of this bill. Leaving aside the important observation that only a small minority of young people get involved in criminal or antisocial behaviour and that young people make a valuable contribution to the community, the report affirms that strategies to address youth offending should be grounded in a rights-based framework that recognises the needs of the child as paramount. The report reminds us that there are many more young victims of crime than there are young offenders. In fact they are more sinned against than sinning, as the adage goes.

For many years the evidence has shown that detention should be used only as a last resort and that alternative strategies such as diversionary programs are more successful. The report is clear: it says that engaging young people in education and training, constructive leisure activities and/or meaningful employment empowers young people and assists them in preventing youth offending. In relation to the police, the courts and the youth justice system, the final report recognises that few of us would support the incarceration of young people as an optimal solution to address youth offending. The report notes the fact that there is a minority of young people for whom a sentence of detention is the only viable option given the seriousness of the crime, the threat they pose to the community or their history of offending. When we take this action we should not lose sight of the fact that, as the Children's Society of Great Britain states:

> Custody fails to prevent reoffending or to act as an individual deterrent. Over 80 per cent —

these are British figures, of course —

> of those sent to youth custody reoffend within a two-year period following release.
>
> The value of custody as a more widespread deterrent is doubtful. Custody is a fairly remote concept for most young people. Paradoxically it is those who know friends who have been in custody who seem most likely to follow suit. Increasing the rate of custody has practically no impact on crime rates.
>
> A juvenile in custody is making no restitution or reparation to the victim or to the community at large.
>
> Whilst prisons provide society with immediate 'protection' from the offender, the great majority of juveniles sentenced to custody pose no serious risks to the community. Indeed, they may have become a significantly greater danger on their return.

That is a quote from a British report. I am not implying that those figures are necessarily applicable to Victoria, but the general point that is made in it — that we need to treat juveniles with great care — stands as a principle. It should stand as a warning to the coalition government not to rely on incarceration to deal with youth crime in the future with its steps towards the mandatory sentencing of young people. There is a danger on the horizon, and we need to be cognisant of what these important reports have contributed to the debate.

Our laws need to strike a terrible balance, which is why the tabloids' attack on the value and preciousness of young people must be challenged. Ms Mikakos has given a very comprehensive account of the many measures that Labor put in place when it was in government. The measures that we have put in place have provided an important benefit to young people in the justice system. The youth justice centres are charged with the responsibility of maximising the rehabilitative opportunities and outcomes for young offenders in their charge and balancing rehabilitation and welfare on the one hand with the safety and wellbeing of the community on the other. How well are they delivering on that obligation? Following the escape of six young boys from the Melbourne Youth Justice Centre the then Labor government instigated a review into the circumstances surrounding the event. The review conducted by Neil Comrie focused on security, remodelling the building so that there was only one entry point, improving the monitoring of the security systems and improving the kinds of people who are recruited to work in the centre and ensuring that their training levels are raised, as well as reviewing legislation that relates to security at the centre. The management came in for some criticism for not ensuring that appropriate practices, policies and procedures were in place.

The Ombudsman's report on its investigation into conditions at the Melbourne youth justice precinct in October 2010 was extremely critical of the condition of the facilities and found that the conduct of many staff was unacceptable, with accusations of assault and restraint with undue force. In the report the Ombudsman said he was concerned about the health and safety of the physical environment resulting from poor design and a failure to undertake satisfactory maintenance and keep the premises clean. He said the facility is inappropriate for the custodial care of vulnerable children and breaches their human rights.

Victoria's child safety commissioner said it was a damning report, and the then Leader of the Opposition, Ted Baillieu, was reported to have said that a future coalition government would consider shutting down the precinct on the basis of the Ombudsman's recommendations, if necessary. Bernie Geary, the child safety commissioner, at the time did not think the precinct should be shut down. He said that was a shallow response. At the time there were varying views on what should be done, and while there are some measures contained in this legislation, obviously long-term measures will have to be implemented to improve the situation, as recommended by the Ombudsman's report. That brings us to the present legislation, which seeks to upgrade security at the site. It is a small objective within a much larger range of issues and the deeper concerns I have mentioned.

In summary, the bill establishes a right to search everyone when they go into or leave the precinct. It creates new security offences and increases penalties for those who try to get into a centre or attempt to communicate with a detainee when they do not have permission or those who try to get certain objects into the centre. Finally, the bill puts some controls on the release of sensitive security information.

As Ms Mikakos said, the opposition will not be opposing this legislation. I commend it to the house.

**Mr ONDARCHIE** (Northern Metropolitan) — I rise tonight to speak on the Children, Youth and Families Amendment (Security of Youth Justice Facilities) Bill 2011. This bill honours a commitment to analyse the security and management of the Parkville youth justice precinct and to implement appropriate responses, including upgrading the security of the site. After listening to Mr Scheffer's oration just now, I would much rather that he had said he supported the bill rather than saying that he did not oppose it. We should all be getting behind the support and optimisation of the lives of young Victorians.

Ms Mikakos said she visited the youth justice centre today. This is the youth justice centre in Parkville, in the electorate for which she has been a member of the upper house for a long time. She visited the centre today, the day the bill is being debated in the upper house. In my short time in this Parliament I have been to visit the youth justice centre, but I did not do it today, the day of the debate on the bill; I went some time ago. I took briefings from the department and I visited and spent time with the centre's director, Ian Lanyon, a fabulous man who has some really good ideas about the management of his clients and staff, and I understand the issues.

I understand the issues associated with security of the Parkville site. I understand the enhancements required to optimise the management of that facility. At the end of the day we, as members of Parliament, have a responsibility to optimise the lives of our children. Those who have fallen foul of the law, those who have made a mistake and those who have hung with the wrong crowd at the wrong time deserve a go. We need to improve the security arrangements around the facility to meet those needs.

This bill is a key component of all the security enhancements which are under way. It follows a review in 2010 under the Brumby Labor government. A former Chief Commissioner of Police, Neil Comrie, reviewed the escape of six young boys from the youth justice centre in May 2010 and the Victorian Ombudsman himself instigated an investigation in October 2010 following a whistleblower's allegation about conditions at Parkville. Both reports were highly critical of the security arrangements and conditions at the Parkville precinct and the services provided to young people in custody. Both reports identified multiple security deficiencies and made numerous recommendations to minimise the likelihood of escape and improve safety at the youth justice centre at Parkville.

A number of these deficiencies have been addressed through the installation of closed-circuit TV around the precinct, enhanced security surveillance and supervision of night operations, improvements to the physical fabric of the site and improved monitoring to prevent staff misconduct and improve compliance with operational policies and procedures. Ian Lanyon, the director, youth justice custodial services in the Department of Human Services, is to be commended for the work he is doing, but legislative changes are also required to improve the security position and the security platform at Parkville.

There is a change in client profile in our youth justice facilities: there has been a marked shift over the last decade towards more violent offending among young people in custody. It is sad; it is a tragedy. Violence against persons comprised the majority of all primary offences committed by those in custody in 2010 — 83 per cent compared to 23 per cent in 2000. There has also been an increase in the average age of young offenders. This, combined with the increase in violent offences, has significantly increased the risks to the staff, the clients and the community. The most significant security improvement at the Parkville precinct is the creation of a $5 million single point of entry building, which is currently being constructed. Right now at Parkville there are multiple places of entry; it is hardly a secure facility. We want to support Ian Lanyon and his team to do the very best they can by our kids. Without these important legislative changes, which I hope the opposition would say it supports, officers would not be able to perform their functions properly.

The bill clearly establishes the right to search people — staff, detainees and visitors — before entry and exit. This will stop people entering the facility without a security clearance and confirmation of who they are. It will tackle the introduction of contraband, drugs, solvents, knives and cigarette lighters by staff, visitors and detainees. Currently there are some provisions within the Children, Youth and Families Act 2005 that enable the searching of visitors and detainees, but there is a bit of ambiguity related to searching staff. This bill will enable security officers to search everyone upon entry to and exit from a youth justice facility. It is a good bill; it is a responsible bill and it is appropriate for its time. Once inside the facility, searches will only be conducted where the officer in charge considers it necessary for the security and good order of the facility or for the safety of detainees or staff.

The bill will establish clearly the manner in which searches are to be conducted. Upon entry officers will inform of their authority to search the person and any article or thing accompanying the person. There will be clear signage and verbal communication to make sure that people entering the centre are very clear and informed about what constitutes contraband and what items it is permitted or not permitted to bring into the centre. The bill will require all officers conducting searches to do so with regard to the decency — —

**The ACTING PRESIDENT** (**Mr O'Brien**) — Order! There is a lot of chat in the chamber. I know Mr Ondarchie has a loud voice, but in relation to the contribution he is making, if there could be greater respect shown by all persons in the chamber who are

engaging in private conversations, that would be appreciated, at least by the Chair.

**Mr ONDARCHIE** — I commend you, Acting President, on your attention to this matter, which I know you know is important.

The bill will require officers who are conducting searches to clarify issues with regard to decency and respect of the person being searched. There may be frisking and strip searches if required. They will be conducted in private and carried out by officers of the same sex as the person being searched. A second officer will be positioned so that a detainee cannot be seen by them, and they will supervise their colleague.

The bill will create new security offences and boost penalties for adult offenders in order to improve the security within and around that facility. If members have been out to that facility, as I have, they should realise — and Ms Mikakos discovered this today — that there is some need to support the security arrangements around that facility. It is very close to roads and laneways. It needs our support.

As I have spelt out tonight, there will be new arrangements to improve security, particularly in relation to those who try to enter or attempt to enter a youth justice centre and those who try to communicate or attempt to communicate with a detainee in contravention of a clear order from the secretary. If certain things are taken, attempted to be taken or sent in or out of youth justice centres, we are very clear about what the penalties will be. It will also be an offence for a person who, without authorisation, communicates with or attempts to communicate with a detainee while they are on escorted leave from a youth justice centre in a way which threatens the security of that centre.

The act is being amended to reflect the penalty for adults who commit any of those offences under the Corrections Act 1986. Penalties for persons aged 17 years or under will remain the same. Under the legislation Victoria Police will be responsible for enforcing penalties for these security offences. An officer may seize contraband found as a result of a search. An item can be held in security until the end of any legal proceedings.

This is a good bill; it is a responsible bill. It provides a sound legislative framework to build a stronger security platform at Victoria's youth justice facilities to care for our kids and to keep our kids, the staff and visitors safe. The extension of search powers and the creation of additional offences are necessary to uphold the security and good order of youth justice facilities and to protect the broader community, detainees and staff.

The act is consistent with the principles of youth justice in relation to facilitating rehabilitative outcomes. We all want that. We all want to reduce recidivism, and we all want these kids to have a better life. It is incumbent on us to do the best we can. I am hopeful that members opposite will recognise this as an important part of the government's community safety initiatives. Rather than say they will not oppose the bill, I am hopeful that they will say they support the bill. When it is in the committee stage, I hope members opposite will get behind this bill, because it is good legislation.

**Ms DARVENIZA** (Northern Victoria) — I am pleased to rise and say a few words on the Children, Youth and Families Amendment (Security of Youth Justice Facilities) Bill 2011.

As a member of the previous Labor government, I am proud of our record in relation to juvenile justice. None of us wants to see children incarcerated and none of us wants to see young people detained, but there are times when children have to be detained. Under the previous Labor government, of which I was a member, Victoria had the lowest rate of children under youth justice supervision in Australia. That is something to be proud of.

We also committed significant funds: as far back as 2000–01 the then Bracks government allocated $34.2 million to implement our juvenile justice support strategy, which was all about strengthening community-based non-custodial options for minors and low-risk offenders and more effectively rehabilitating more serious offenders. It was aimed at juveniles having a non-custodial option and was geared towards rehabilitation. Between 1999 and 2010, there was a 152 per cent increase in funding for rehabilitating young offenders and diverting them from a life of crime. That is a very significant amount of funding and a very significant increase that recognises there are other options for juvenile justice apart from retaining juveniles in detention.

In the 2009–10 budget the previous Labor government invested $2.9 million over four years in the youth justice mental health initiative. We all know that many of our young people whom we find caught up in the juvenile justice system have a whole range of social and family problems and mental health problems. There can also be issues in relation to mental disability. Often they are people who have fallen through the gaps and have not been caught earlier on. To put that amount of

money into mental health initiatives was a very good thing, and I was proud to play a part in those initiatives.

In the 2010–11 budget the previous Labor government invested in strategies to reduce the level of crime committed by young people. We invested $22 million in new initiatives, and 55 new youth workers were employed. A rapid response team to work with police in crime hot spots was put in place. There were new behaviour change programs for young people who were found carrying or offending with knives. That was a very big issue that we dealt with in this Parliament. There was intensive bail support and a pilot program for young people who would otherwise have been remanded in the youth justice system.

We introduced a range of group conferencing programs, and we were successful in reducing the chance of reoffending by 16 per cent — this was a change to reoffending — compared to the 40 per cent chance of reoffending for those people who did not participate. That was another initiative that had very positive results. I think this contrasts quite dramatically with what the current Baillieu government is doing.

We see now that the government is advocating mandatory sentencing for young people, whereas when we were in government we looked very much at community-based and other alternative options for youth offenders.

If we look at the government's budget papers, we see they project that more young people are expected to be detained.

**Mrs Coote** interjected.

**Ms DARVENIZA** — I am going by the government's budget papers. Mrs Coote is interjecting and getting very excited about this, but the government's budget papers show that it is expecting to detain more young people in youth justice facilities in this financial year.

Since the Baillieu government came to office, it has put in place a whole range of cuts to programs which support young people who fall into at-risk categories. Young people who are recognised as being at risk and in need must have the necessary supports put in place or they may end up in the juvenile justice system. The government cuts include those to the apprenticeship completion bonus program, which provides an incentive for employers to take on more young people and to see them through their training. This program is about the employment of young people in apprenticeships and giving them a start, giving them training and giving them the skills to get gainful employment in the future.

The cuts to the Victorian certificate of applied learning (VCAL) are cuts to an alternative education option, which is often sought by students who do not necessarily want to go on to university but who need an alternative program to be able to stay in education. Again, it does not always happen, but there are at-risk students who take up this option, and the cuts to the VCAL program will mean those at-risk students will be more at risk of dropping out of school, of not continuing in education and of not having gainful employment and the security that brings later on in life.

Cuts have also been made to the FReeZACentral intensive workshops. I am speaking as a member for Northern Victoria Region, which is a large rural and regional electorate. These programs have been much sought after and well patronised by rural and regional communities. It is the at-risk individuals who were part of those programs who are affected, and I do not want to see any cuts to the programs in my electorate or anywhere else across the state.

There have been cuts to the mentoring and capacity-building initiatives. The government has targeted funding at 12 youth mentoring programs across Victoria. Quite a number are in northern Victoria. Those programs are directed towards at-risk youths who need extra support and who get it from having a mentor. There is a great deal of angst out there in the community and in my electorate of Northern Victoria Region about the Baillieu government's cuts to this program and to VCAL, because these important services are directed to at-risk youth.

It is all very well to say the government cares about juvenile justice, but clearly the initiatives it is putting in place and the direction it is taking, not only in terms of the legislation that it is looking at with mandatory sentencing but also the cuts it is making to alternative education programs and to other community programs that are directed towards at-risk youths, show that it does not care. As the budget papers predict, under this government it is clear that there will be more people in our juvenile justice system. This is something I do not want to see.

While opposition members are not opposing the bill, we have a range of concerns about it. Ms Mikakos has been through the bill in some detail, as has Mr Scheffer. Our concerns have been outlined, and we will raise them and seek greater clarification about the detail of the bill in committee. The changes the Baillieu government is making could have a detrimental effect

on juvenile justice, and I look forward to hearing some clarification of those matters through the committee stage.

**Mr EIDEH** (Western Metropolitan) — I wish to make a brief contribution on the Children, Youth and Families Amendment (Security of Youth Justice Facilities) Bill 2011. When we were in government we practised what we believed. In this case it was that those young people who commit offences against society should be brought before the courts and, where convicted, placed in safe but secure facilities run by competent and trained people, with a strong view towards rehabilitation, since that is the best way to ensure that these young people come out with a positive review to the future so they will not reoffend and will never again be on the wrong side of the law and of society.

But is this the bill to guarantee that? No, it is not. The government is not willing to negotiate better pay and conditions for staff in such facilities, yet unless we attract and retain the right staff, we fail the young people in them and thus we fail society. This government is doing just that.

The government is also limiting access to programs that would see many young people avoid trouble and thus avoid entering the corrections system in the first place. It seems totally unable or unwilling to understand how its savage cuts to the Victorian certificate of applied learning will create future problems. If we are not going to consider programs that prevent young people from entering into crime and thus into detention, why are we here? I mean no disrespect, but we must look at such matters as a whole package and not simply snip at the edges, fix the occasional leak and then return to our own cosy lifestyles. That is not what the community expects of its governments, but that is what it is getting from this government.

The bill comes before us in response to two reviews of the Parkville youth justice precinct in 2010, resulting in a report by former police commissioner Neil Comrie and a report from the Ombudsman. When the Comrie report was released in the dying days of the Brumby government, we moved quickly to fully enact every recommendation that was put to us. We did not play political games, because the Brumby Labor government looked to the future and sought to act for the people of Victoria.

This bill takes only small footsteps towards effective reform. Is it any wonder that young people are looking at this government? What they need are programs that deter them from offending and give them opportunities to become good and decent adults. What this government is giving them is nothing of the sort, and that deeply saddens me. Of course the bill is better than nothing, and the very few positive provisions that it contains are why we will support it, but it is a sorry take on the great lead that the Labor government showed in this same area just over a year ago. Yes, we are different political parties, but we were getting it right; this government refuses to follow our lead.

It would not matter so much if the government was trailblazing and doing great things, but it is not. As I have already stated, and as other members of the opposition have stated, in many ways this government is going backwards. It would be better if this bill were left off the list and returned for more work, but given the pace of this government's work, we would then be unlikely to see it prior to the next state election.

**Motion agreed to.**

**Read second time.**

**Committed.**

*Committee*

**Hon. W. A. LOVELL** (Minister for Housing) — I seek leave for Mrs Coote to join me at the table.

**Leave granted.**

**Clauses 1 to 6 agreed to.**

**Clause 7**

**Ms PENNICUIK** (Southern Metropolitan) — Clause 7 is the major clause in the bill, which sets out the searches that can be done of persons entering and leaving and also of detainees. I ask the minister, with regard to new section 488A, headed 'Search on entering or leaving a youth justice facility', and with regard to a person who is an officer — or a staff member, but an officer under the bill — will private security firms such as are present in facilities at the moment be able to conduct formal and/or frisk searches on staff?

**Hon. W. A. LOVELL** (Minister for Housing) — The answer to that is yes.

**Ms PENNICUIK** (Southern Metropolitan) — Given that the answer is yes, if private security firms are going to be conducting searches on staff, will they be considered to have to comply with the obligations that a public authority would have to under the Charter of Human Rights and Responsibilities?

**Hon. W. A. LOVELL** (Minister for Housing) — Yes, they will.

**Ms PENNICUIK** (Southern Metropolitan) — Going to new section 488AC, I am interested in the words in subsection (1):

> The officer in charge may cause a detainee to be subjected to a strip search if in his or her opinion …

In other legislation where such provisions are introduced, words such as 'on reasonable grounds' or 'has a reasonable suspicion' are used, rather than 'in his or her opinion', so I am wondering why that turn of phrase has been used?

**Hon. W. A. LOVELL** (Minister for Housing) — I am informed that is just the way parliamentary counsel thought it appropriate to draft that subsection.

**Ms PENNICUIK** (Southern Metropolitan) — I hear what the minister says, although an opinion seems to carry a lesser burden of proof than does a reasonable belief or reasonable suspicion. I just put that on the record as a concern.

I have another question on that particular new section. Subsection (3) says:

> If necessary, reasonable force may be used to carry out a search under subsection (1).

I am wondering what 'if necessary' means? I note that the Minister for Community Services in her second-reading speech said that would refer to a situation where a person did not consent to being involved in a strip search. I am just wondering, for clarification, is there any other reason that would be envisaged?

**Hon. W. A. LOVELL** (Minister for Housing) — With regard to reasonable force, I am advised that training and guidelines are provided to all staff to ensure that the power to use reasonable force is not abused. This includes training on decision-making processes to assess what is reasonable and techniques to best enhance the safety of clients and staff. Staff will also receive refresher training in the use of reasonable force. Additionally the operations manual will be revised to ensure compliance with the human rights charter and the need to have regard to decency and the self-respect of persons who are searched. Training and guidelines entail training for all custodial staff to protect staff and detainee safety. They include techniques to minimise risk, including ways to assess risk and to know when reasonable force is required.

**Ms PENNICUIK** (Southern Metropolitan) — I think that goes to the techniques of applying reasonable force. I am really getting at the question of how the officer in charge decides that it is necessary to use reasonable force in the first place. On what criteria would that decision be made?

**Hon. W. A. LOVELL** (Minister for Housing) — The guidelines set out for the officers the decision-making process to determine when to use reasonable force. These officers are well trained in assessing those situations. It is not envisaged that there will be reasons that actually justify force. It is about reasonable force; it is not about full-scale force.

**Ms PENNICUIK** (Southern Metropolitan) — I understand that, given what we have read in the Comrie report, which is really only two pages. Mr Comrie identified security problems and the Ombudsman did as well, but the Ombudsman also identified some inappropriate handling of detainees by staff. If a young person is going to be handled by a staff member and force is going to be used, making sure that the right protections are in place is a concern.

I will put a scenario to Minister Lovell. In her second-reading speech the minister said that if a detainee refuses or does not consent to a strip search, then reasonable force may be used. I put forward the scenario that the officer in charge says, 'I want you to submit to a strip search', and the detainee says no. What would happen then? Would there be a negotiation with the detainee? I am concerned about the escalation into the use of reasonable force when negotiation or some other practice could be used in the interim.

**Hon. W. A. LOVELL** (Minister for Housing) — I think the heart of this matter goes to what Ms Pennicuik is asking about reasonable force. What reasonable force is will depend on individual situations and the behaviour of the young detainee. The Department of Human Services has policies and guidelines around the use of reasonable force, and staff are well trained to assess a situation and to deal with a situation. I do not think it is a matter of someone just saying no. There would obviously be a conversation between the officer and the young person around why they said no, and there would be procedures in place for that officer to deal with that young person before reasonable force was applied.

We are also putting in additional safeguards to ensure that there are appropriate checks and balances around the use of reasonable force, and these include the newly installed closed-circuit television cameras; the requirement for at least one other staff member to be

present when reasonable force is used; external review and scrutiny of staff training and surprise visits; debriefs for serious incidents and one-on-one training where required. The department also requires all incidents where reasonable force was used to be recorded.

**Ms MIKAKOS** (Northern Metropolitan) — Will handcuffs be used in any circumstances under this provision?

**Hon. W. A. LOVELL** (Minister for Housing) — No.

**Ms MIKAKOS** (Northern Metropolitan) — The reason I ask that question is that when I toured the Parkville youth justice precinct earlier today the person in charge there indicated that staff were to be issued with handcuffs. Can the minister explain in what circumstances they would be used?

**Hon. W. A. LOVELL** (Minister for Housing) — It would only be in some sort of critical incident where the restraint is needed for the safety of either the detainee or the staff.

**Ms MIKAKOS** (Northern Metropolitan) — So in absolutely no circumstances involving a search of a detainee would a detainee be handcuffed?

**Hon. W. A. LOVELL** (Minister for Housing) — Not unless there were safety concerns for the detainee or for the staff member. In normal conditions, no, but if there were concerns about safety, then they may be used.

**Ms MIKAKOS** (Northern Metropolitan) — There has been a lot of publicity around security guards and police officers holding people down and applying pressure around the neck area, which can cause significant harm to an individual. Will staff be trained around these issues and trained in particular to avoid those types of pressure point grips around a person's neck?

**Hon. W. A. LOVELL** (Minister for Housing) — We have already been through the matter of training and guidelines to be put in place for staff to ensure that reasonable force is applied in an appropriate manner. I think those guidelines, those procedures and the training that staff receive will ensure that it is reasonable force, not unreasonable force.

**Ms MIKAKOS** (Northern Metropolitan) — I understand that the minister has covered the issue of training, which I think is an important one, but I have some specific concerns about staff potentially holding down a detainee in a very dangerous manner. I am seeking some assurance that those types of techniques would not be utilised against detainees. I am seeking an assurance that that type of pressure point grip around a person's neck will not be utilised against detainees.

**Hon. W. A. LOVELL** (Minister for Housing) — I am advised that it will not be used, because only reasonable force will be used. I have said several times now that training is provided for staff, that guidelines are in place and that the training and guidelines are provided to all staff to ensure that the power to use reasonable force is not abused. This includes training on the decision-making process involved in assessing what is reasonable and techniques to enhance the safety of all clients and staff — and I emphasise safety. Staff will also receive refresher training in the use of reasonable force on a regular basis.

**Ms PENNICUIK** (Southern Metropolitan) — I refer the minister to new section 488AD, and in particular subsections (4), (5) and (6), regarding the conduct of strip searches. In the briefing, we had it described to us that when a strip search is to be conducted by an officer another officer is in the room, there is a screen and the second officer must not be able to see the detainee. However, it does not specify in the bill that the second officer must be watching the first officer, nor is that covered in the letter from the minister regarding the regulations. I am wondering if it will be included in the regulations that the second officer must be able to clearly see the first officer and be observing the first officer, because that is not in the bill. Whereas the other provisions are specific in the bill, that one is not. It is not mentioned in the minister's letter either.

**Hon. W. A. LOVELL** (Minister for Housing) — There are several layers to what actually governs the procedures that are followed in facilities: there is the legislation and regulations, and then there are guidelines, policies and procedures. This matter will be addressed in the guidelines.

**Ms PENNICUIK** (Southern Metropolitan) — I hear and I trust that that is what is going to happen. However, it is interesting that some parts of it which seem just as important are in the legislation, while the other parts are not in the legislation.

My next question is: when will the regulations and guidelines be in place? Will they be in place by 19 December?

**Hon. W. A. LOVELL** (Minister for Housing) — Yes, they will.

**Committee interrupted.**

## BUSINESS OF THE HOUSE

### Filming of proceedings

**The DEPUTY PRESIDENT** — Order! I am sorry for the interruption, but I wish to advise the committee that the President has given permission to a member of the public, Mr Bill Rizopoulos, to videotape proceedings in the chamber this evening.
Mr Rizopoulos wishes to feature the proceedings in a documentary on which he is working, so I advise the committee of that before the videotaping starts. It will be occurring very soon.

## CHILDREN, YOUTH AND FAMILIES AMENDMENT (SECURITY OF YOUTH JUSTICE FACILITIES) BILL 2011

*Committee*

**Committee resumed.**

**Ms MIKAKOS** (Northern Metropolitan) — I have some questions in relation to section 488AD, so I might turn to those if I may. Whilst I do not believe that the strip search provisions apply beyond detainees, concerns have been raised with me by members of the Community and Public Sector Union, so it is a matter of putting on the record whether the strip search provisions apply in any circumstances to staff.

**Hon. W. A. LOVELL** (Minister for Housing) — No, they do not; they only apply to detainees.

**Ms MIKAKOS** (Northern Metropolitan) — I thank the minister for that assurance. I am sure that will allay some concerns that exist around that.

In relation to the issue of officers conducting strip searches, the minister would recall that in the second-reading debate I raised the issue of officers of the same sex as the detainee conducting strip searches. As I pointed out, whilst the clause makes it clear that an officer of the same sex as the person being searched is ordinarily to be used, the provisions in proposed section 488AD(5) allow an officer of a different sex to be utilised in particular circumstances. I seek the minister's assurance that an officer of the same sex as the detainee — that is, female — will be used when female detainees are being searched. I raise the issue of searches being conducted in a culturally appropriate way — for example, I imagine that a female detainee of the Islamic faith might be extremely concerned about being searched by a male officer. Is the minister able to give some assurances around these issues?

**Hon. W. A. LOVELL** (Minister for Housing) — As the bill sets out, a strip search that is conducted on a detainee must only be conducted by an officer of the same sex as the person who is being searched, and it must not involve a body cavity search. The strip search must always be conducted in the presence of another officer who must generally be of the same sex as the detainee and must be positioned in such a way that the detainee is not in view. Searches must also be conducted expeditiously with regard to decency and the self-respect of the person being searched and in compliance with any other prescribed requirements.

The member is right; she observes that the second officer — the officer who the detainee is not in view of — may be of another sex, but that is only in circumstances where an officer of the same sex cannot be in attendance. Generally it would be tried to be attained in every case that both officers would be of the same sex. The issues of cultural appropriateness will be covered in the guidelines. I believe the guidelines already cover that wherever possible for an Aboriginal detainee an Aboriginal staff member will be present if the young person wants that. Other cultural issues will also be dealt with in the guidelines.

**Ms MIKAKOS** (Northern Metropolitan) — I am pleased that the minister has referred to the issue of indigenous detainees. I think this year marks the 20th anniversary of the royal commission into Aboriginal deaths in custody. There were a whole lot of recommendations in that landmark report around the issue of Aboriginal people being detained. I ask whether regard will be had to those recommendations in the development of the regulations and the guidelines around these issues?

**Hon. W. A. LOVELL** (Minister for Housing) — The development of the guidelines will take into consideration cultural issues and will have regard to the recommendations that the member has referred to.

**Ms MIKAKOS** (Northern Metropolitan) — I turn to the issue of the second officer, which is referred to in sections 488AD(4) and (5), and particularly the reference to the second officer being positioned in such a way that the detainee being searched is not in the view of that second officer. Whilst the legislation does not make it explicit, it is my understanding that that second officer would be on the other side of a screen from the detainee. The detainee would be on one side of the screen and the second officer on the other side of the screen, so that officer could not actually view the

detainee. Can the minister confirm that my understanding is correct?

**Hon. W. A. LOVELL** (Minister for Housing) — That is right. The strip searches would be held in an appropriate room with a screen. The young person would be on one side of the screen, and the second officer would be on the other side of the screen.

**Ms PENNICUIK** (Southern Metropolitan) — Regarding the strip-search provisions under new sections 488AC and 488AD, new section 488AD(5) states that the officer who is viewing the search:

> (b) must be of the same sex as the detainee being searched, unless —
>
> (i) the search is, in the opinion of the officer in charge, urgently required; and
>
> (ii) an officer of the same sex is not available.

I presume both of those provisions have to apply, but it does not say in either of those two new provisions that the officer conducting the search must be of the same sex as the detainee. I am wondering where that provision is.

**Hon. W. A. LOVELL** (Minister for Housing) — In proposed section 488AD(1) it says:

> In the case of a frisk search or a strip search, the officer in charge must ensure that the search is conducted only by an officer of the same sex as the person being searched.

**Ms PENNICUIK** (Southern Metropolitan) — I knew I had seen it too, but I could not find it when I was looking for it again. In the case where the other officer may not be of the same sex as the detainee and something is urgent, what would be defined as urgent?

**Hon. W. A. LOVELL** (Minister for Housing) — I think the word 'urgent' actually explains itself; it means something that is required to be done immediately and cannot wait until another officer comes on duty.

**Ms MIKAKOS** (Northern Metropolitan) — New section 488AE(1) has two paragraphs, (a) and (b). Can the minister advise if the penalty will only apply if a person refuses to leave?

**Hon. W. A. LOVELL** (Minister for Housing) — Yes.

**Ms MIKAKOS** (Northern Metropolitan) — In the circumstances where a person refuses to leave, will the staff of the facility have the power to physically evict that person — by that I mean cart them out — or will the police have to be called in those circumstances?

**Hon. W. A. LOVELL** (Minister for Housing) — The police will be called to remove the person.

**Clause agreed to; clause 8 agreed to.**

**Clause 9**

**Ms MIKAKOS** (Northern Metropolitan) — Earlier I raised my concerns around the very wide definition of 'confidential information' contained in this bill. I particularly want to draw the minister's attention to paragraph (f) of new section 492A(1), which is very broad in nature. Will that paragraph apply to, for example, cleaning contracts that might relate to a youth justice facility?

**Hon. W. A. LOVELL** (Minister for Housing) — That relates to anything of a business, commercial or financial nature involving information which, if disclosed, would threaten the good order or security of the youth justice facility of any person. Anything that threatens the good order or security of the youth justice facility or of any person in that facility is of a confidential nature. This might include such things as security codes or something like that. It would be totally inappropriate for a cleaning contractor to release a security code that would put at risk the safety and security of the detainees and the whole facility.

**Ms MIKAKOS** (Northern Metropolitan) — I would certainly agree that the disclosure of a security code would threaten the security and good order of a youth justice facility, but I am not convinced that information that might be contained in a cleaning contract falls within the scope of that provision. I am going to ask about a series of examples, because I think it is important that we get some further clarification around the meaning of this provision. I can think of many episodes of *Yes, Minister* where all sorts of things were knocked back on national security grounds. In a similar vein it would be open to the government to say that a whole range of information that might be sought by members of the opposition, the media or members of the public might be confidential information under this particular provision and therefore not able to be accessed. Again I ask whether cleaning contracts would fall within the scope of this provision.

**Hon. W. A. LOVELL** (Minister for Housing) — Cleaning contracts would have a commercial-in-confidence nature, and I imagine that their release would probably be subject to commercial-in-confidence concerns rather than security concerns. For anything like that, each freedom of information request would be judged on its merits.

**Ms MIKAKOS** (Northern Metropolitan) — In a similar vein, would providers of educational and training programs at youth justice facilities be caught by the provisions of this clause?

**Hon. W. A. LOVELL** (Minister for Housing) — If they were to release anything that would put at risk the safety or security of the youth justice facility or of any person, they would be caught by this, but if they were to release information about a course that was being studied, that may not breach the provision. You have to put it to the test: does it threaten the safety or security of the facility or of a person?

**Ms MIKAKOS** (Northern Metropolitan) — In a similar vein, would contractors providing sports and recreation programs to a youth justice facility potentially be caught by this?

**Hon. W. A. LOVELL** (Minister for Housing) — We could go on and ask whether everybody in the state could be caught by this. It comes down to a simple test: does it endanger the safety or security of the facility or of a person? Everyone who enters the facility would have to make judgements according to that simple test.

**Ms MIKAKOS** (Northern Metropolitan) — Who will make the determination about whether that test has been met?

**Hon. W. A. LOVELL** (Minister for Housing) — The department would provide an opinion, and each of the contractors or people with this information would have to sign off on that opinion. However, I reiterate that care has been taken to arrive at a reasonable definition of confidential information. The provisions do not prevent people from doing their job or from sharing information where it is in the best interests of the child. They are only prevented from sharing information if it puts at risk the safety or security of the facility or of a person.

**Ms MIKAKOS** (Northern Metropolitan) — I raised earlier in my contribution to the second-reading debate my concern that the secrecy provisions could also apply to members of Parliament, and I gave the specific example of a previous inquiry conducted by the Drugs and Crime Prevention Committee of the 56th Parliament, which visited both the Parkville and the Malmsbury facilities and which I thought produced a good report. Mrs Coote, who is at the table, was on that committee. Would members of a parliamentary committee or other members of Parliament be precluded from discussing anything they have seen on a visit to a youth justice facility under the provisions of this clause?

**Hon. W. A. LOVELL** (Minister for Housing) — Parliamentary committee members will be able to use confidential information to the extent reasonably necessary to perform a duty or function or to exercise a power of that position. Again I would expect a parliamentary committee to check with the department before publication to ensure that publication would not breach the provision by putting at risk the safety or security of the facility or a young person. I would think that members of a parliamentary committee would use their own judgement regarding whether they were putting at risk the safety or security of the facility or a young person and would not publish such information. Committee members might use it to come to their conclusion, but they should not publish it.

**Ms MIKAKOS** (Northern Metropolitan) — I have to say that response does not give me any comfort at all. The minister says that committee members might become aware of something but that she would hope they would not go ahead and disclose that information. I remain concerned that this provision is extremely broad in nature and could in effect prevent parliamentarians from performing their work by gagging them from raising issues of concern in this way.

I move on to new section 492A(3)(f), inserted by clause 9, which refers to the disclosure of confidential information to the extent specifically authorised by another act. Again for the purposes of putting some assurances on the public record, can the minister give me an assurance that that reference would include the whistleblowers legislation?

**Hon. W. A. LOVELL** (Minister for Housing) — The proposed legislation will not prevent any person from speaking to the Ombudsman or making a disclosure under the whistleblowers legislation.

**Clause agreed to.**

**Clause 10**

**Ms MIKAKOS** (Northern Metropolitan) — This clause creates some new offences which relate to people communicating with, or attempting to communicate with, a person on temporary leave from a youth justice facility. As I understand it, people who are soon to be released have the opportunity to engage in periods of leave, some of which might be supervised and some of which might be unsupervised. That is really a part of the process of rehabilitating the young detainee back into the community. Again for the purposes of certainty and clarity, can the minister advise whether this provision would apply only where

the detainee is being supervised at all times during that visit? For example, if they were taken down to the local shopping centre and told, 'You've got 2 hours here to go and see a movie', or something of that nature, would that provision apply in those circumstances, where a member of the public is approaching the detainee?

**Hon. W. A. LOVELL** (Minister for Housing) — There are a variety of reasons why people are on leave. I should say that the fines in this act have not been changed for children and so do not actually relate to any children at all. The only changes relate to adults, and they relate largely to people who are outside the detention centre or people trying to enter or to communicate with a detainee when they are on leave.

This is about security measures. It is about people trying to contact and meet up with a detainee when they are out on leave. It is not about an accidental meeting. People are out for various reasons; it could be for a medical appointment. If you are sitting in a waiting room or something, it is not about someone you know saying, 'Hi, Jenny'; it is about people actually prearranging and trying to meet up with a detainee when they are on leave.

**Clause agreed to; clauses 11 to 13 agreed to.**

**Reported to house without amendment.**

**Report adopted.**

*Third reading*

**Motion agreed to.**

**Read third time.**

## EXTRACTIVE INDUSTRIES (LYSTERFIELD) AMENDMENT BILL 2011

*Second reading*

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

**Mr LEANE** (Eastern Metropolitan) — I am pleased to be speaking on this piece of legislation, considering it concerns a quarry in Lysterfield, which falls inside the electorate that I and colleagues on the other side of the chamber represent. My understanding is that this piece of legislation has been a long time getting to this point, and there has been a lot of consultation between the Knox City Council; Boral, the owner of the quarry; and residents in that area of Lysterfield which may be affected by what the future holds for the quarry. The crux of this is that there will be some rejuvenation of land at the quarry at the end of the extraction operation process.

The importance of the quarry to the whole metropolitan area, especially out in the east of Melbourne, is that the rock extracted from it is used in roadworks. It was used extensively in the building of EastLink, an important project for Melbourne, and it will be used extensively for building the Peninsula Link. As I said, this bill has been a long time coming to fruition. I have spoken to the Knox City Council and it is comfortable with the progress of the bill and what it will mean to the areas surrounding the quarry. I understand that in his contribution my colleague Mr Lenders may have some questions for the minister on this bill, so I will cease my contribution there.

**Mr BARBER** (Northern Metropolitan) — The Greens will support this bill.

**Mr ELSBURY** (Western Metropolitan) — I have to say that Mr Barber's contribution was extensive and succinct.

**Mr Barber** — Just tell us how this relates to Occupy Melbourne!

**Mr ELSBURY** — No, sorry — I was just thrown. I am pleased to be able to speak to the Extractive Industries (Lysterfield) Amendment Bill 2011, as the outcome of this legislation will benefit jobs, the community and the environment.

This bill amends the Extractive Industries (Lysterfield) Act of 1986. The Lysterfield quarry is unique in that it is the only quarry in Victoria which is authorised by its own act of Parliament. As such, the Lysterfield quarry is not subject to the Mineral Resources (Sustainable Development) Act 1990, which authorises mines and other extractive industries throughout the state.

This being said, the outcomes this bill presents for the current environment and future use of the site are outstanding. The bill puts into effect the legislative force to the agreement between the Victorian government and Boral as the operator of the quarry site. Amendments to the act must be agreed to by both parties, so the government cannot unilaterally change the agreement. The work which has been put in by the state government, Boral, Cement Concrete and Aggregates Australia and the City of Knox has resulted in a great outcome. The amendments made by this bill will see the quarry footprint being reduced while maintaining the quality and quantity of the stone being removed. They will also maximise the retention of preserved land, maintaining habitat for flora and fauna;

reduce the need to clear 10 hectares of dense native forest; and place the industry of the site, including drilling, blasting and haulage, away from residential areas to the north of Wellington Road.

At the conclusion of extraction operations the site will provide a great lake area for recreation purposes and improve the visual aspects of the quarry. The hours of the quarry's operation will be normalised. Since 2006 the quarry has applied for extended hours of operation to meet demand for its product. Given the lack of residential or other neighbour complaints about these extended hours, it seems logical to remove a regulatory burden which serves no purpose. Boral will of course need to adhere to EPA (Environment Protection Authority) noise regulations.

The CEO of the Knox City Council, Mr Graeme Emonson, in presenting the council's position on this proposed amendment to the act stated in a letter dated 31 January 2011 to the manager, minerals and extractive operations, earth resources regulations branch of the Department of Primary Industries, Mr Ian McLeod:

> Council has no objection in principle to the revised development and rehabilitation plan. This revised plan introduces various significant improvements from the current plan.

He went on to say:

> Council has no objection in principle to the extended hours … We note that these extended hours have been granted annually since 2005 with minimal issues or complaints from the community.

Both these statements of support were qualified with a request for further community consultation. This was carried out; interested people heard about the proposed changes and were given an opportunity to respond. When this bill passed through the other place I was pleased to see that members of the opposition supported the changes it proposes, and some spoke in glowing terms of the outcome this legislation will achieve. I think this happened because the bill ensures the best use of resources, being the quarry product and the natural elements of the region. The value of both provides a great balance.

Quarries like the one at Lysterfield provide the stone needed for construction as well as elements used in the manufacture of concrete. Quarries are not just holes in the ground. They provide the building blocks for our homes, businesses and transport infrastructure. The value of this industry is impressive. In 2009–10, 46 million tonnes of material was quarried with a breakdown of 29 million tonnes of rocks like granite, basalt and marble and 17 million tonnes of soft rocks like gravel, sand and clay. This extraction equates to $653 million of value across the state. To put this into some perspective, the coalmining industry produced $682 million of its high-demand product. In the same period value-adding industries from the quarry business of cement, such as cement production, were worth $1.1 billion to $1.3 billion. As anyone who has done concreting recently would understand, this figure was based on a value of between $200 and $230 per cubic metre.

The Lysterfield operator is a state leader. Boral operates 12 quarries out of the 300 sites across Victoria. These include the massive basalt operation Boral manages at Truganina, a site which I visited and observed the work carried out in extraction and the ancillary businesses of paver production and waste landfill management. The company has environmentally friendly and logical methane extraction and power production plants to utilise further by-products from the quarry operation. It is very important for Victoria to have quarries in varied locations, not just to capture the various elements needed for construction and other industries but also to reduce transport costs, which in the end assists the consumer.

Ladies and gentlemen, get ready for the big statement of the day: rocks are heavy. That observation now being established, it is important to note that heavier objects will cost more to move. To move heavy objects a long distance becomes cost prohibitive, especially when other sources of the material can be found closer to the place where they are to be used.

We must also take into consideration the impact a carbon tax will have on this industry in transporting materials a long distance and to the value-adding industries, which are unfortunate enough to be energy intensive and rely on extractive industries for their raw materials. In particular, concrete and cement production companies will be vulnerable due to their high energy needs and the fact that their base element is limestone. The process involves the heating of the stone to release — and wait for it — carbon, so that the binding of the other elements added to the process occurs and the end product is strong. Remember this is a $1.1 billion to $1.3 billion industry in Victoria.

I do digress, but having quarries like that at Lysterfield close to areas of construction allows for cheaper building costs due to the reduction in transport costs. The location of quarries also allows for a greater spread of employment in Victoria across more communities. On average over the last 10 years 1900 people have gained direct employment from quarry operations. As

this state continues to grow, quarries like that at Lysterfield, with raw materials and the value-added materials they help to produce remain vital for supporting that growth. Just last sitting week this Parliament passed the Resources Legislation Amendment Bill 2011 to improve efficiency in the sector and enable Victoria to benefit from the resources we have beneath our feet. The coalition government is also reviewing the Mineral Resources (Sustainable Development) Act 1990, or MRSDA, and is working with the industry to achieve positive outcomes which will benefit the quarry and mine operators as well as the communities they share a location with.

The normalisation of the hours of operation of the Lysterfield quarry mentioned earlier will reduce the regulatory burden on Boral. It will also free up Department of Primary Industry office time, allowing other matters to be dealt with. Since 2005 the hours have been changed from 6.00 a.m. to 6.00 p.m., to 6.00 a.m. to 10.00 p.m. These hours bring the operations at the Boral site into line with the neighbouring Hanson quarry. Noise from the site will be regulated by the act and the EPA regulations. Given that there have been minimal complaints made against the quarry on noise issues since the 2005 changes, with it then having to make annual applications for extended hours of operation, which were approved, I would hope that Boral will keep the good relationship it has with the Lysterfield community.

This coalition government is committed to reforms which encourage responsible development in the earth resources sector. The Lysterfield quarry will play its part in Victoria's continued growth by supplying stone for many years to come. Boral has, through its negotiations, shown itself as working to be a good neighbour to reduce its impact on the local community and the environment. Boral has also looked at the future of the quarry once the quarry is exhausted or becomes unviable by preserving natural aspects of the area and reducing the footprint of the extraction site.

I once again congratulate departmental people, those representing Boral, the Knox City Council officers and the Cement Concrete and Aggregates Australia representatives on developing such a great outcome, which will now be supported in legislation. I support this bill and recommend its support by the house.

**Mr LENDERS** (Southern Metropolitan) — On the face of it this bill appears to be a fairly routine measure. The minister outlined in the second-reading speech the nature of the bill. Lily D'Ambrosio, the member for Mill Park in the Assembly, outlined Labor's main concerns with the bill, so I will not repeat them, and my colleague Mr Leane very eloquently summed up the bill in this house. People have waxed lyrical about this particular quarry, the 10 hectares of extra land, the City of Knox's consultation, the 18 people who attended the meeting and the win-win-win situation. The opposition certainly does not oppose the bill, but I have a question for the minister which I hope he can answer in his summing up. The question that is missing in this discussion — as Ms D'Ambrosio outlined in the Assembly — is: who is standing up for the long-term interests of Victoria in having sufficient gravel for construction?

When I went to Lysterfield and spoke to Boral, which is running the quarry, it said that half the cost of the gravel it supplied for Peninsula Link — I know, Acting President, that is a project that is near and dear to your heart! — was the transport costs. As boring as it may be for some people, losing capacity for gravel in Melbourne will add to building costs and road construction costs in years ahead. The state interest is not being addressed by Boral, which has a contract that expires in 10 or 20 years, and it is not being addressed by the City of Knox, which is understandably concerned about the amenity of the area for its residents. The state interest is not being addressed by anybody in this scenario.

I find it interesting that the Department of Primary Industries has so willingly signed off on the amount of gravel that can be quarried being reduced. This is not a criticism of what all the stakeholders have done in relation to this project, because if I were at the City of Knox, I would have done exactly the same thing, and if I were a local resident, I would have had exactly the same view. But what is interesting is who will be looking after the state interest when the Boral lease expires and there is less material available. The question I put to the minister on this joyous occasion of all stakeholders getting together and saying, 'Isn't this a fantastic outcome?' is: who is looking forward to the long-term interests of Victoria? It is a serious question.

This is not an issue that has miraculously appeared during the time of the Baillieu government; this is an issue that has been around under governments of all persuasions. In the minister's summing up I would be interested to hear his response to what is the role of the Department of Primary Industries in looking after the longer term interests that are not in Boral's commercial interests or the amenity interests of the City of Knox. In the long term there will be construction costs, and they will not be met if gravel has to be brought in from 100 kilometres away. That will not be a good environmental footprint, and it will certainly not be a good outcome for Victoria financially. I support the bill and look forward to the minister's response.

**Hon. P. R. HALL** (Minister for Higher Education and Skills) — I would like to thank all speakers — Mr Leane, Mr Barber, Mr Elsbury and Mr Lenders — for their contributions and constructive comments on this bill and also for their indication of support for this piece of legislation. In responding to the question posed by Mr Lenders, I want to make a few comments that I hope will address his concern.

Firstly, the question of security of supply and whether we will have enough quarry material for the future is a concern that I share with him. As a country member, I well understand the point he made about the costs of transporting quarry materials for the purpose of constructing roads and concrete for other projects. For example, in East Gippsland the cost of transportation of gravel to resheet roads in remote areas is a significant burden on both VicRoads and local government. There have been times when I have advocated to the government of the day, of whichever political persuasion that may be, that further work needs to be undertaken to explore local sources of material that could be more efficiently and cost effectively used for the purposes of road building and other projects. I well understand the very valid issue raised by Mr Lenders.

There are a couple of points to make in response. Firstly, the legislation we have before us is a good example of how governments — not just the current government, because this process started under the previous government when Boral made a request to the then minister, Candy Broad, who had responsibility at that time — have worked with Boral, the local council and the community to address some of the issues that have been raised about the ongoing operation of this particular quarry. This is an example of how something can be achieved if there is a will and cooperation among different parties. This is just one measure that can extend the lives of existing quarries when they are in close proximity to neighbouring users of the land. It is one example of how governments can work to extend the lives of existing quarries, and that itself will be of some assistance in ensuring that we maintain the supplies that are required.

My recollection from my own corporate memory of this is that the Department of Primary Industries has always done a good job in geological mapping in Victoria and makes its advice on geological mapping generally available to those who seek to explore for minerals and other extractive products. There is an ongoing role for the Department of Primary Industries to facilitate that information being made generally available for the exploration of minerals and extractive materials.

Furthermore, the government has undertaken a review of the Mineral Resources (Sustainable Development) Act 1990. The previous government commenced stage 1 of the review of that act, and I am advised that the second stage of the review is under way. Included in that review of the act is a look at the processes by which we can streamline approvals and processes in both exploration and extraction. If we can make the processes simpler and reduce the burdens and barriers associated with compliance with the conditions of the act for those seeking licences to participate in quarry-type operations, it will help in meeting our future needs. That is also further evidence of the ways in which we can assist with the ongoing supply of such materials.

Finally, in terms of evidence of what the government is doing to secure sufficient future supplies of quarry materials, members would be aware that the Economic Development and Infrastructure Committee of the Parliament has terms of reference for an inquiry into greenfield mineral exploration and project development in Victoria. The terms of reference call on these processes to apply to extractive products as well. The purpose of that inquiry is to assist in the identification of ways in which the government can help facilitate both exploration and extraction opportunities for both minerals and extractive products.

I am trying to outline some of the ways that the government acknowledges and recognises that this is a legitimate area of concern and that it should be in the business of ensuring that quarry materials, which are important for Victoria's economic development, are appropriately maintained and available for economic development in this state to continue. They are some of the ways in which the government is seeking to address this particular problem.

I am advised that there are of the order of 300 quarries now in operation throughout the state. They will not last forever, and there needs to be an ongoing planning process to ensure that supply is maintained. If the member has additional questions in respect of the matters he raised with me, I will make the offer I made with a previous bill today: I would be happy to speak to the Minister for Energy and Resources. I offer those comments in reply to the issues that members have raised in this debate.

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

**Hon. M. P. PAKULA** (Western Metropolitan) — I rise to speak on the Victorian Commission for Gambling and Liquor Regulation Bill 2011 and indicate that the opposition will not be opposing the bill. Can I say at the outset, though, that as a matter of courtesy, when the opposition is notified on a Tuesday morning that a bill will be debated on Thursday, then it ought to be debated on Thursday, not at 9.45 p.m. on Tuesday. I understand that sometimes debate occurs more quickly than the house contemplates, but in fairness to the opposition and all members of the Parliament who intend to make a contribution on a bill, members should be given the courtesy of having adequate time to give a considered contribution in this place. That is difficult to do when members believe they will be making their contribution some 48 hours later than they actually end up making it.

But having said that, this is a bill which has the principal effect of merging the Victorian Commission for Gambling Regulation (VCGR) and Liquor Licensing Victoria into a single organisation: the Victorian Commission for Gambling and Liquor Regulation. This is a bill which as a consequence acquits a coalition election commitment, not in whole but in part. The reason we say it acquits it only in part is that the then opposition went to the last election with a commitment to bring together the VCGR and Liquor Licensing Victoria. However, in its election policy it said very clearly that such a body would also be accountable for exercising administrative powers via oversight by the Victorian Civil and Administrative Tribunal. That would seem to most people with a passing command of the English language to suggest very strongly that VCAT oversight would be a function of this piece of legislation and that the new authority would be subject to VCAT oversight. But when we had the briefing with the department it became clear that whilst decisions about gaming venues would continue to have VCAT oversight, decisions about liquor venues would not.

That seems to be a very curious decision by the government. I understand that the minister has since suggested that the commitment only applied to gaming, not to liquor, and therefore somehow this legislation is consistent with the government's pre-election policy. But I find it difficult to understand how the government can maintain that argument when it has gone to the election not with two policies — one for gaming and one for liquor — but instead with a policy for a merged entity which would control the regulation of gambling and liquor, and it undertook that that merged entity would be subject to VCAT oversight. To now turn around and say, 'But we only meant it would be subject to VCAT oversight for half of its functions and not for the other half', I suggest is being a bit cute, at best, or disingenuous, at worst. I say that without wanting to insult the minister in any way.

There are a number of other matters that I think bear some commentary in discussion of this bill. One is the appointment of the chief executive officer. In the briefing we were advised that the appointment of the CEO would be one of the roles of the newly-appointed chair of the commission. The chair and commissioners would be appointed by the minister, but the CEO of the newly merged entity would be appointed by the chair. In the normal course of events that would appear to be a fairly regular and standard situation, but the government some months ago announced who the CEO was going to be. The government said the chief executive officer of the VCGR, Jane Brockington, who was appointed after Max Priestley filled the role in an acting capacity for nine months — probably more like 10 months; certainly more than 9 months — would be appointed to fill that role on an ongoing basis, and the minister has already announced that Ms Brockington will be the CEO of the newly merged entity.

It is fine for the minister to say that; it is fine for the minister to put out a press release and say that Ms Brockington will be the CEO of the newly merged entity, but please do not try to tell the Parliament or the people of Victoria that the appointment of the CEO will be a matter for the chair of the commission, because the decision has already been made. It might well be that the next CEO some five years from now will be appointed by the chair of the commission, but this one has been appointed, and the minister has already made it clear that Ms Brockington's role in the VCGR will be translated into the CEO's role in the new authority.

I also want to make some comment about the inspectorate of the two organisations. One of the reasons the government gave for the merging of the two entities was not just that it would be more sensible to have a single inspectorate to deal with the regulation of gambling and liquor — accepting that in that dialogue there is a deal of similarity and crossover in the regulation of liquor and gambling, many liquor venues have electronic gaming machines and most gambling

venues serve liquor — but that there is, no doubt, some common sense and — —

**Hon. P. R. Hall** — Synergies.

**Hon. M. P. PAKULA** — Some synergies! I thank Mr Hall. There are some synergies in the merging of the two entities. The other justification that was provided by the coalition was that there would be some savings to budget for in the merging of the two entities.

But when we had a discussion with the department and asked whether there would be any reduction in the size of the inspectorate, any economies of scale or any efficiencies created by this merger, surprisingly we were told, 'No, there will not be'. There was no intention to reduce the number of inspectors or to create particular efficiencies other than the removal of a single position.

That struck us as somewhat surprising until 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. In other words there will be no formal attempt to remove or make redundant any inspectors once the two authorities are merged, but in the meantime, until it occurs as inspectors leave, retire or resign because they are uncertain about the future of their organisation, they are not being replaced. What that has meant in terms of gaming regulation is that the level of oversight that ought to have been applied by the VCGR over the last six to nine months has been sadly lacking.

This was revealed on ABC Radio a few weeks ago by Jon Faine. He was in receipt of information from insiders at the VCGR that made it clear there was enormous stress and that the teams which were normally made up of four people doing the inspectorate work of the VCGR were sometimes operating with two people, or sometimes the work was done by one person because staff had left and had not been replaced.

I will put that in context: between now, this moment, and 15 August 2012 we are moving to a venue-based model in terms of operators of electronic gaming machines. We are going from two operators to hundreds of operators. There has never been a time when inspectorate work is more important than right now, as there is a whole range of venues trying to get up to speed going effectively from being the housing of electronic gaming machines to being the operators, runners and owners of electronic gaming machines. There is a new monitor who was only appointed some weeks ago, and the need for the VCGR inspectorate to be properly beefed up, on its game and functioning at its optimum has never been more important than it is right now. It appears that work has been somewhat undermined by what appears to be a surreptitious budget-saving policy, which has been operating in the VCGR or through the Department of Justice over recent months.

I think it is worth talking about the composition of the commission. It has been outlined by the minister in the second-reading speech and well analysed by Ms D'Ambrosio, the member for Mill Park in the other place, that there are no real criteria for the appointment of commissioners other than the satisfaction of the minister that an individual has appropriate knowledge, experience and expertise. That is broad terminology. In a normal sense one would not necessarily be concerned about that were it not for the fact that in the last 12 months the commission has, I would suggest, lacked appropriate knowledge, experience and expertise. I say that for this reason: among the commissioners of the VCGR right now there is only one commissioner — as I understand it — Gail Owen, who has any legal expertise or qualifications at all. That means that if the commission were constituted at any given time — sometimes the commission is constituted of three members; sometimes it is only constituted of a single member — by a group of commissioners which does not include that one individual, there would be a complete absence of legal experience or knowledge on the commission as it stands right now.

There are countless examples of applicants, particularly those who represent large liquor venues and large hotel chains, appearing before the commission being absolutely lawyered up. They have legal representation and experience in dealing with liquor licence applications over many years and throughout many cases.

The information that has been provided to the opposition is that in the last year the number of times the commission has, in effect, had to outsource its legal expertise and bring in expensive lawyers to assist with its deliberations to ensure that it is not vulnerable to appeal and challenge has been growing and is a matter of some concern. That is why we think in the circumstances it is appropriate to raise this query about whether it is sufficient to simply have a provision that says a person is qualified to be appointed as a commissioner if the minister is satisfied that he or she has appropriate knowledge, experience and expertise.

The structures of the commission are really somewhat vague at the moment. There is no certainty about how many commissioners will be appointed. Other than the

broad terminology in the bill, there is nothing provided about what the remuneration for commissioners will be, and there is nothing about what skills and experience commissioners will need to have. Frankly, at the moment the opposition, the Parliament and members of the Victorian public are being asked to buy a pig in a poke.

That raises some real concerns, particularly in circumstances where it relates to decisions about liquor, because the decisions of the commission will not be able to be challenged in the Victorian Civil and Administrative Tribunal (VCAT). We recognise that there is still an avenue for those liquor decisions to be challenged in the Supreme Court, but only on a question of law. Certainly when we get to the committee stage — no doubt there will be a committee stage, and I understand some amendments may be moved — we will be seeking to interrogate this question of why the government deems it appropriate not to have any VCAT appeal rights in relation to liquor decisions but considers it appropriate in an ongoing sense to have VCAT appeal rights when it comes to gaming decisions.

We are not suggesting that the VCAT rights be removed for gaming; I suppose what we are wondering, and what we will seek to get answers from the government on, is why its very clear election commitment about VCAT having overarching authority over this organisation has in effect been watered down and then removed entirely as it relates to liquor applications. That is why there is also some concern, given that the commissioners will in effect have the final say, that there are very weak protections in regard to conflicts of interest. There are circumstances in which a commissioner may have a conflict of interest and where that commissioner's decision cannot effectively be appealed to VCAT, but, as the bill is described to us by the government, those commissioners who might have a conflict will not be required to excuse themselves from decisions on liquor applications.

**Business interrupted pursuant to sessional orders.**

## ADJOURNMENT

**The PRESIDENT** — Order! The question is:

That the house do now adjourn.

### Rail: Brighton level crossing

**Mr LENDERS** (Southern Metropolitan) — The matter I raise tonight is for the attention of the Minister for Public Transport. This is a difficult one for me to raise as a member for Southern Metropolitan Region because it deals with strong competition between parts of my electorate for grade separations on level crossings.

The government announced some money in the budget for an upgrade of the New Street rail gates in Brighton. Just this week a constituent of mine, Maureen Austin, from Murrumbeena, wrote to me expressing her amazement and disappointment at the government's decision to prioritise the New Street level crossing, which is in the lower house seat of Brighton. Ms Austin expressed her frustration that residents in Murrumbeena and surrounding suburbs wait at crossings for anywhere up to 20 minutes for trains to pass — and that can be seven trains.

Recently I was on Murrumbeena Road with a number of constituents of mine and Mrs Coote's, watching the trains go past in great numbers. My constituent expressed her concern about the fact that New Street, Brighton, has been dealt with before Murrumbeena Road, Grange Road, Koornang Road and a series of others. What is difficult about this is that I wish those residents well around New Street, Brighton. They have a railway crossing; clearly before the election the member for Brighton in the other place promised it. The crossing at New Street was prioritised at no. 223, whereas Grange Road is ranked at no. 12 and Koornang Road in Carnegie is ranked at no. 37. I cannot even begin to imagine where Murrumbeena Road is ranked.

The action I seek from the Minister for Public Transport is a clear direction: will he pay attention to the independently assessed grading of urgency on level crossings which has been in place in Victoria since the Kennett government, the Bracks government and the Brumby government, or will he be moving to a new, far more arbitrary system that is not based on the amount of time people wait at railway lines? I am not naive enough to believe that there is an endless source of funds for grade separations, but the practice has been that the highest priority separations are done. My constituent is asking, as many do, why a crossing that is ranked at no. 223 has taken priority over crossings that are ranked in the double and single digits. What is this government's criteria for dealing with grade separations?

### Jacks Magazine: future

**Mr ELSBURY** (Western Metropolitan) — The issue I wish to raise this evening is for the Minister for Environment and Climate Change, and it involves a place called Jacks Magazine, which is not a publication,

and you do not find it on a newsstand. It is actually a heritage-listed building on the Maribyrnong River that was constructed in 1871. It was used predominantly to store gunpowder during the gold rush. Then during the Second World War an ammunition factory was built close by and it was used to store the gunpowder and other explosives. The request I have for the minister is that he instruct Parks Victoria to carry out a tendering process as soon as it takes possession of Jacks Magazine from the Delfin Lend Lease group for a tenant or tenants to utilise this unique site. I invite the minister to visit the site, perhaps as part of viewing the many opportunities that the western suburbs have to offer.

I will talk just a little bit more about the Jacks Magazine site and why I believe it has such great potential. It sits directly on the Maribyrnong River, not too far from the Pipemakers Park, which is a park with many artworks and community-based open learning areas. It is on the opposite side of the river to the showgrounds and Flemington Racecourse, so it is placed in a unique area. It is also located in the Delfin Lend Lease Edgewater estate.

For quite some time access to the site has been difficult; however, with Lend Lease getting ready to withdraw from the area it has constructed a new road down towards Jacks Magazine, which will open up this fantastic site. The site consists of 4-metre-high bluestone walls spanning 150 metres by 150 metres. The walls were built to keep people out, unlike Pentridge Prison, whose walls were built to keep people in. It consists of eight main buildings, including two gunpowder stores, a laboratory, packing sheds and a static-free staff change room, which is advisable when you are mucking around with high explosives.

We have this fantastic site which is about to be given to the state government. It is about to be handed over to Parks Victoria to manage, and what we really need is some people to utilise it. It would be great for Parks Victoria to be able to get out there early and start asking who wants to use it. We might be looking at an art gallery or a wine bar or something along those lines — some sort of public space. There is a fantastic hall there that could be used for Sunday markets and all sorts of things. With the new population moving into the Edgewater estate, I think the building will be well utilised.

## Rail: Melton station car park

**Ms PULFORD** (Western Victoria) — My adjournment matter this evening is for the attention of the Minister for Public Transport. Recently I had an opportunity to meet with representatives of the Melton Residents Association, which is a relatively young community action group. It is involved in pursuing a number of issues in its community that are important to local residents. As members will know, Melton is one of Victoria's fastest growing municipalities, and one of the most important gateways to Melton is the railway station. The government has had plenty to say in discussions about the protective services officer policy relating to guards on train stations, about the amenity of train stations in Victoria and about their safety and security.

The matter I wish to draw to the particular attention of the minister relates to car parking and related amenity at Melton railway station. On the south side of the car park there is space for 150 cars and routinely 300 extras. On the north side there is room for 220 cars and at least around 60 on gravel. The lighting is poor, and there are trees that drop limbs, cars that are not in proper car-parking arrangements, unstable surfaces for people to walk on and garden beds that can only be described as depressing for the lack of garden in them.

On this occasion I urge the minister to request VicTrack representatives to meet with the Melton Residents Association with a view to providing support sooner rather than later for these essential works, the cost of which the Melton Residents Association estimates to be of the order of $1 million.

**Mr Elsbury** interjected.

**Ms PULFORD** — Government members seem to think this is a little funny. They laugh, but this is a serious matter for people in Melton, and other members for western Victoria ought to treat it accordingly.

## Melbourne Citymission: Women 4 Work

**Ms HARTLAND** (Western Metropolitan) — My adjournment matter this evening is for the Minister for Employment and Industrial Relations on behalf of the Minister for Corrections. Melbourne Citymission provides assistance to Victorians who are disadvantaged, isolated or vulnerable.

One of Melbourne Citymission's programs has fallen as yet another victim of the Baillieu government's community services funding cuts. The Baillieu government has cut funds to Melbourne Citymission's Women 4 Work program, based in Footscray in my electorate. The program has been operating successfully for 10 years.

The Women 4 Work program is an employment program for women which supports released prisoners

to move into the workforce and reduces the number of repeat offenders and returns to prison. It assists women leaving prison or on community correctional orders to find and maintain employment. The service is specialised, intensive, extensive and flexible. It is tailored to the needs of the clients. It is a service that cannot therefore be replaced by a standard job network provider.

The average rate of returning to prison within two years of release is one in four across Australia. For women in the Women 4 Work program it is a very different picture. In 2011 the return to prison rate was 1 in 50. Evidently the program works. It gets women into work and prevents reoffending and returning to jail. Not only does this benefit the women in the program, it has a broader social benefit and cost savings.

The Women 4 Work program costs between $8000 and $10 000 per person, whereas it costs $110 000 annually to keep a woman in prison. While the Baillieu government has cut the small amount of funding to this program which benefits women, it has increased overall costs to the public.

Also the program benefited industries with skill shortages, as these were the industries targeted, so these industries will also suffer after the demise of this program with even fewer available employees. In summary, this program provided great benefits to the clients, being women released from the prison system, industries with skill shortages, the Victorian taxpayer and the making of a better society.

The action I ask of the minister is that funding to the Melbourne Citymission Women 4 Work program be immediately reinstated.

## Broiler farms: shire of Golden Plains

**Mr O'BRIEN** (Western Victoria) — My adjournment matter is for the Minister for Water, who is also the Minister for Agriculture and Food Security, and it relates to all three of those important portfolio areas and in particular to food security. It relates to the issue of broiler farms and the chicken meat industry, which is a sometimes much maligned but very important part of the minister's pledge, under his portfolio, to feed not only Australia but, where possible as exporters, the world.

In relation to the broiler farm industry, I have had some involvement with broiler farm operators over the years, and in this instance I draw attention to the Balog family, who had issues in relation to Armstrong Creek. The work of that family, with its very well-run operation, and also of Mr Mike Shaw from the Victorian Farmers Federation chicken meat group helped them get their buffer zone protected. In that case Mike Shaw said:

> The Geelong area has traditionally been a major centre for both chicken farming and chicken meat production. Within the city of Greater Geelong and adjacent municipalities there are 21 broiler farms growing 14.1 million birds per year …
>
> Victoria is the second largest producer of chicken meat in Australia and the Geelong region is second behind the Mornington Peninsula in the state's chicken meat production. Consequently the chicken meat industry in Geelong is a major economic contributor to the area.

The particular area to which I am referring the minister is the Barwon Water district. I commend Barwon Water on doing a particularly good job in catering for the region, which is experiencing significant population growth, and the Golden Plains shire, which is centred around Bannockburn and which has also had high population growth rates over the last 10 years, with the new working-age residents in the area either contributing to employment outside the shire or involved in the shire with agriculture or other industries in the local area. As an advocate for the regions, I am sure the minister would prefer to see sustainable employment being created in the regions that have that potential.

The Golden Plains shire has recently made representations to my office regarding a proposal for a significant broiler farm investment in Lethbridge and Bannockburn. There is great potential to extend and expand the intensive agricultural interests in the area, particularly poultry. Turi Foods, whose brands include La Ionica and Golden Farms, is the third largest poultry producer in Australia, with a large portion of its broiler operations located in Bannockburn. The company has recently expressed a need to expand its facilities to meet current and future demand. In addition, an entity called Rural Funds Management, which operates a broiler farm at Lethbridge comprising 20 sheds over four farms, is considering expansion. These proposals would add up to millions of dollars of new industry being created in Golden Plains and of the order of 50 new jobs.

As broiler farming is water intensive and requires considerable water infrastructure, the action I seek from the minister is that he meet with Golden Plains Shire Council representatives to discuss possible avenues that could be pursued in relation to these proposals, having regard to his three important interrelated portfolio areas of water, agriculture and food security.

## Batesford community playground: funding

**Ms TIERNEY** (Western Victoria) — My adjournment matter is directed to the Minister for Sport and Recreation. Like Mr O'Brien, the matter I raise is centred on the Golden Plains shire but is in relation to the Batesford community playground project. I recently met with representatives from the council, including the CEO and the mayor. We dealt with a number of projects being undertaken by the shire council, primarily the planning issues in terms of infrastructure for the small communities within the shire.

Some members of the chamber would be aware that the Golden Plains shire, with its appeal of country living along with its close proximity to the regional cities of Geelong and Ballarat, is currently experiencing a major growth spurt. Young families with children represent something like 45 per cent of the population of the shire. The shire has a high proportion of young people, and it has the highest percentage of children aged between 0 and 4 years. It is therefore particularly important that we provide opportunities for sport and recreation activities for our young people in this community.

As I understand it, the shire council has made an application to the state government for funding for the Batesford community playground project. The council aims to develop a playground with access to children of all abilities within the Batesford Riverstone Estate development. If the proposal is successful, it will encourage community engagement and interaction, and physical and recreational activity. It will provide a regional community activity hub, and it will also provide an increase in the ability for social activities to be conducted in the township. Given the sheer acceleration of population growth, it is important that this application be funded.

The action I seek from the minister is that he take note of the application and of the support this project has from the local community, as well as the support it has from the Labor members of Parliament for Western Victoria Region.

## Albion Football Club: defibrillators

**Mr FINN** (Western Metropolitan) — I also wish to raise a matter for the Minister for Sport and Recreation. I am aware that the minister knows we in the western suburbs love our football. It has to be said from about February to October every year we pretty much live on football. Even those who do not necessarily barrack for the Doggies get a look-in. There are many local leagues right throughout the western suburbs that provide us with an ample quantity of football to enjoy.

The matter I wish to raise tonight concerns the Albion Football Club in the western suburbs. I have received a letter from the head trainer, Allan Williams, who has requested around $7000 to purchase two defibrillators for the club. It would be a very worthwhile purchase. We know how wonderful these machines can be. I am sure many in the house would remember when the late media magnate, Kerry Packer — who was not late then but very much alive — had a heart attack and was revived by a defibrillator. From memory, at that point he was in a position to buy one of these wonderful devices for every ambulance in New South Wales.

I am not asking for anything that might come anywhere near that, but I am very keen to get the $7000 that the Albion Football Club needs for two defibrillators to make not just the players and staff safer on game days and at training but also any spectators who might come along, perhaps have an ale or two during the course of the afternoon and find themselves in need of such a machine. I ask the minister to take that into consideration, to look upon the request favourably and to provide the $7000 that the Albion Football Club needs. I know the Albion Football Club is a frontrunner in many ways in the western suburbs, and it is good to see Allan Williams, as head trainer, once again leading the pack, as it were. One would hope the minister will come up with the $7000 and will kick that one right over the goal umpire's hat.

## Youth Referral and Independent Person program: volunteers

**Mr LEANE** (Eastern Metropolitan) — My adjournment matter is directed to the Attorney-General, Robert Clark. The action I seek is for the Attorney-General to advocate to the Department of Justice on behalf of and talk to a volunteer group working for the Youth Referral and Independent Person program. This program trains volunteers to be independent persons during police questioning of a youth, someone under 18 years of age, in a situation where the youth may not have their parent or guardian available. These volunteers are called out to fulfil that role and help give advice to the youth during this period, and they do a great job. I understand that about 350 volunteers come under this particular program.

I received some correspondence from one of the volunteers who is concerned that when the volunteers are called out to perform one of these duties — it could be in the morning, at night or any time — there is a process whereby the program reimburses them a

minimum amount of money for their expenses in getting to and from whatever police station they have been called to as an independent person.

The correspondence that volunteers have received recently has upset at least this volunteer, because instead of receiving a cash amount, which I understand is distributed four times a year — it may be for 10 or 20 call-outs; whatever they have done in that quarter — those who run the program have arbitrarily told volunteers that they will instead be receiving a Coles voucher. The concern this volunteer has is that there had been no consultation about this measure before it was implemented and that a Coles voucher does not go towards reimbursing, say, a taxi or tram fare or the cost of petrol that would have facilitated getting to and from the particular location at which the volunteer performed the role of an independent person.

I ask that the Attorney-General speak to the Department of Justice to perhaps review this situation and talk to the volunteers about how they would like to be reimbursed rather than just introducing the voucher process.

## Child protection: Loddon Mallee region

**Mr DRUM** (Northern Victoria) — My adjournment matter is for the Minister for Community Services, Mary Wooldridge. My matter pertains to a report handed down today by the Ombudsman which highlights a range of matters concerning issues in relation to child protection services in the Loddon Mallee region of the Department of Human Services. I acknowledge that some of the recommendations that have been put forward by the Ombudsman go to reviewing the way child protection investigations are managed at the regional DHS office, improving the way child protection data is collected, improvements to the documentation of child risk assessments and the reasons for closing investigations, auditing the allocation of child protection cases to specialist supervisors and managers and broadening the circumstances in which child death reviews are conducted.

Through conversations I have already had with the minister today I understand that the government will be adopting all six of the Ombudsman's recommendations for changes to be made to child protection services at Loddon Mallee region DHS. I commend the minister for her prompt response on this issue, but I also realise that if we are to achieve the results in child welfare that everybody wants, it is imperative that we work with the regional staff at Loddon Mallee DHS.

Therefore my simple request is that the minister outline to me as a local member how she intends to work in conjunction with the child protection services staff at Loddon Mallee DHS to ensure that a stark improvement is achieved within the earliest possible time frame in the outcomes that we all expect at DHS in the Loddon Mallee region. We all understand that the staff there are trying as hard as they possibly can to achieve outcomes, and we need to work together to ensure that the outcomes that everybody wants are achieved. Following the minister's prompt response to this report, I am sure she will not only urge improvement but also work with the current group to ensure that this improvement is forthcoming.

## Responses

**Hon. P. R. HALL** (Minister for Higher Education and Skills) — First of all, I have written responses to adjournment debate matters raised by Mr Leane on 16 August, Mr Barber on 1 September, Mr Elsbury on 1 September, Mrs Petrovich on 13 September and Ms Pennicuik on 15 September.

Tonight the first of nine adjournment items was raised by Mr Lenders for the Minister for Public Transport. Mr Lenders seeks an explanation of the priority for grade separations at level crossings. I will convey that question from Mr Lenders to the Minister for Public Transport.

Mr Elsbury raised a matter for the Minister for Environment and Climate Change concerning Jack's Magazine, a historic heritage building on the Maribyrnong River. It sounds like an excellent facility. Mr Elsbury is keen to see it used for a variety of potential community purposes and implores the minister to respond quickly once Parks Victoria has possession of the building. I will convey that request to the Minister for Environment and Climate Change.

Ms Pulford raised a matter for the Minister for Public Transport regarding car parking and amenity matters at Melton railway station. Again, I will convey the urgency of that matter to the Minister for Public Transport on her behalf.

Ms Hartland raised a matter for the Minister for Corrections regarding funding to Melbourne Citymission for a program which assists women leaving prison to gain employment, which sounds like a very worthwhile program. I will convey that request to the Minister for Corrections.

Mr O'Brien raised a matter for Minister Walsh in his multiple capacities as Minister for Agriculture and

Food Security and Minister for Water — and probably other capacities as well. This matter is about the broiler farm industry and water availability to maximise the potential of that industry. I will convey that matter to Minister Walsh.

Ms Tierney raised a matter for the Minister for Sport and Recreation. She strongly advocated that support be given to Golden Plains Shire Council for the development of a community playground facility for people of all abilities. I will convey her request that favourable consideration be given to an application for that project, which she strongly supports.

Mr Finn also raised a matter for the Minister for Sport and Recreation, this time concerning the Albion Football Club. Again he expressed his strong advocacy for some funding support for defibrillators to respond to potential needs — which I hope are never realised. Nevertheless, defibrillators are very important pieces of medical equipment that would be useful if they were on hand for such occasions. Perhaps the Albion Football Club should be encouraged to make sure the games are not too close, which would cause some flutters for members there supporting the club. I will pass that request on to the minister.

Mr Leane raised a matter for the Attorney-General regarding the Youth Referral and Independent Person program, in particular for a change to the way in which costs incurred in delivering that service are being recompensed by the department. I will convey that request to the Attorney-General.

Finally, my colleague Mr Drum raised a matter for the Minister for Community Services seeking an explanation from the minister about how she might work with local regional staff on the implementation of some of the Ombudsman's recommendations regarding child protection. That is a request which I am more than happy to convey to the Minister for Community Services.

**The PRESIDENT** — Order! The house stands adjourned.

**House adjourned 10.30 p.m.**

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Mr Wayne Tunnecliffe
Clerk of the Legislative Council
Parliament House
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Dear Mr Tunnecliffe

**Order for Documents – Deloitte Review of the *myki* Ticketing System**

I refer to the Legislative Council's resolution of 31 August 2011 seeking the production of the review of the *myki* ticketing system undertaken by Deloitte.

The report sought by the Council's order was prepared for the purpose of submission for consideration by a committee of Cabinet. As such, the Council does not have the power to require the production of this document.

The Government has carefully considered this matter and determined that it is not appropriate to provide the report to the Council.

Yours sincerely

11/10/11

**KIM WELLS MP**
**Treasurer**