PARLIAMENT OF VICTORIA

PARLIAMENTARY DEBATES (HANSARD)

LEGISLATIVE COUNCIL

FIFTY-SEVENTH PARLIAMENT

FIRST SESSION

Tuesday, 6 December 2011

(Extract from book 19)

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By authority of the Victorian Government Printer

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The Lieutenant-Governor

The Honourable Justice MARILYN WARREN, AC

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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

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FIFTY-SEVENTH PARLIAMENT — FIRST SESSION

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Mr G. JENNINGS

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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
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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
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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, 6 DECEMBER 2011

Tuesday, 6 December 2011

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

ROYAL ASSENT

Messages read advising royal assent to:

29 November

Independent Broad-based Anti-corruption Commission Act 2011
Justice Legislation Further Amendment Act 2011
Mines (Aluminium Agreement) Amendment Act 2011
State Taxation Acts Further Amendment Act 2011
Victorian Inspectorate Act 2011

6 December

Liquor Control Reform Further Amendment Act 2011
Public Interest Monitor Act 2011
Sex Work and Other Acts Amendment Act 2011.

NATURAL DISASTERS: THAILAND

The PRESIDENT — Order! I will briefly read to members of Parliament a piece of correspondence I have received from the Royal Thai embassy. It begins by calling me 'Excellency'; I think I have been promoted there:

> The Royal Thai embassy has received Your Excellency's letter dated 9 November 2011 with much heartfelt appreciation. I am writing to inform Your Excellency that the two letters, one to the President of the National Assembly of Thailand, and the other to the Prime Minister of the Kingdom of Thailand, together with the resolution agreed on 8 November 2011 by the Legislative Council of Victoria, have already been forwarded, back to Bangkok, to their respective destinations.
>
> The flood has been the most devastating in the recent Thai history, with more than 500 casualties and billions of baht worth of physical damages and losses. In addition to the supports and kind offers of assistance from the Australian government, the Thai communities and 'Friends of Thailand' throughout Australia, including in the state of Victoria, have expressed their sympathy and shown their strong supports; together they have been able to raise significant amount of funds to be donated to those suffering and adversely affected by the flood. Given Thailand's resilient nature, combined with the help of its friends, I am positive that Thailand will soon recover from this unfortunate event.
>
> Accept, Excellency, the assurances of my highest consideration.

The letter is signed by the chargé d'affaires of the Royal Thai embassy.

QUESTIONS WITHOUT NOTICE

Planning: Williamstown development

Mr TEE (Eastern Metropolitan) — My question is to the Minister for Planning. I refer to his decision in relation to the woollen mill site in Williamstown and to the independent panel recommendation that a contribution of $900 per dwelling be paid by the developer toward the cost of a bus stop, foot and bike paths, landscaping and access to the railway station, and I ask: why has the minister not implemented this recommendation?

Hon. M. J. GUY (Minister for Planning) — I thank Mr Tee for that question. As Mr Tee should be aware, the details of a DCP — a development contributions plan — are worked out by the responsible authority. As Mr Tee would know, the advisory panel's report was that I should be the responsible authority; however, consistent with the Baillieu government's management of planning as opposed to the previous government's management, I have made the council the responsible authority. The details of the DCP should be worked out by the council, which I have now given responsible authority status over this project and which I believe is best placed to be the responsible authority and thus should be able to determine the scope of the DCP.

Supplementary question

Mr TEE (Eastern Metropolitan) — I thank the minister. The responsible authority, the Hobsons Bay City Council, says that because of the minister's inaction it has no power to compel the payment of the development contribution. I ask: will the Victorian government compensate the local community for this lost infrastructure, which is a direct result of the minister's decision?

Hon. M. J. GUY (Minister for Planning) — Mr Tee's question is not correct. It is the permit condition put forward by the responsible authority which will manage the developer contribution. In this case, as I have said — —

Mr Tee — See what the council says.

Hon. M. J. GUY — I am sorry, Mr Tee, but this is fact. Mr Tee can believe in fact, or he can believe in the

magical beanstalk. He can take his pick. The fact is that the council is the responsible authority. I have given the council the responsibility to manage the permit conditions, which will include developer contributions for that site. The council will manage that appropriately. Unlike the previous government, which rezoned that site without a skerrick of feedback from the council, this government is making that council the responsible authority, and the council will no doubt request and get developer contributions as part of the permit conditions.

Health sector: enterprise bargaining

Mrs KRONBERG (Eastern Metropolitan) — I direct my question to the Minister for Health, who is also the Minister for Ageing, the Honourable David Davis. I ask: can the minister inform the house of recent developments in EBA (enterprise bargaining agreement) negotiations between Victorian health services and the Health Services Union?

Hon. D. M. DAVIS (Minister for Health) — I am pleased to answer this question from Mrs Kronberg, noting her interest in the hospitals in her electorate of Eastern Metropolitan Region. I can inform the house, whilst not giving precise details of the negotiations between Victorian health services and the Health Services Union, that a heads of agreement has been reached between health services and the Health Services Union east branch. I am informed that last Thursday there were two meetings of members that supported the heads of agreement. There is obviously a process to go through to see that completed into a formal EBA. That will require a ballot of those who are eligible, and it will also require Fair Work Australia to tick off on such an arrangement.

But I can indicate that the Health Services Union has been prepared to negotiate with health services, and for those in the house who do not know which — —

Mr Lenders — Are you talking to the unions now?

Hon. D. M. DAVIS — Of course I am talking to unions, Mr Lenders. I am always prepared to talk to unions and others. I make the point that in this case the Health Services Union has been prepared to reach an agreement with VHIA (Victorian Hospitals Industrial Association) and the 86 Victorian health services. That will establish the steps towards an EBA that will provide an additional payment of $35 a week in some cases and $25 a week in others, or a minimum of 2.5 per cent, I am informed. That will provide additional payments for those who are covered by the Health Services Union, and that includes cooks, cleaners, allied health staff and others within hospitals across the state. It is an important union, a union that has been prepared to negotiate with VHIA and with the health services.

I think that shows the government and health services are prepared to reach sensible agreements and outcomes on behalf of workers in the health sector. We are prepared to do that in good faith. These negotiations have been conducted in good faith, and they have proceeded successfully in terms of the heads of agreement. It is a good outcome for health workers, it is a good outcome for hospitals, and it is a good outcome for the Victorian community.

Obviously there are further steps to go through in the process, as I said, where there will be a ballot and Fair Work Australia will be required, as is the normal procedure, to examine the agreement and ensure that it complies, but this is an important step. It shows that VHIA and the health services are prepared to work with health sector unions to reach outcomes that are mutually beneficial in the interests of the community, in the interests of health workers and, most importantly, in the interests of patients, and to achieve these outcomes without strike action, without bed closures and without impacting on the safety of patients. This is a good outcome, a very good result, and we will see how it progresses through the further steps without prejudging the decisions of those participating in the ballot.

Planning: growling grass frog protection

Mr BARBER (Northern Metropolitan) — My question is for the Minister for Planning, Mr Guy. On *Nine News* on 29 November I observed the minister make the following statement in relation to the growling grass frog:

> I don't know if the frog is endangered. The federal government thinks it is, the former Labor government said it was, although I'm advised it's in large numbers throughout growth areas.

The document *Sub-regional Species Strategy for the Growling Grass Frog*, which has been released as part of the minister's responsibility for meeting federal government environmental requirements, says on page 3:

> Growling grass frog is listed as 'endangered' in Victoria … and 'vulnerable' nationally under the EPBC act …

Has the minister read this document, because I would like to ask him some questions about it?

Hon. M. J. GUY (Minister for Planning) — I thought Mr Barber was asking me a question about it.

He is welcome to ask me anything he likes. As he quite correctly pointed out, there are different listings between state and federal. I understand that the material he has just quoted is correct.

The PRESIDENT — Order! I suggest that such a question as the substantive question could cause Mr Barber some trouble in framing a supplementary question, so he might be fairly careful. No doubt he has considered this.

Supplementary question

Mr BARBER (Northern Metropolitan) — Arising directly from the minister's answer, which confirmed that the species was endangered, there is really only one of two possibilities: either the minister can protect the species for the benefit of the federal act in which 'protect' means protect; or alternatively, the minister can scrap this process and require that individual land-holders go back to making their own applications to the federal minister every time they intend to develop a piece of land. Is it the minister's intention to scrap this strategy and go back to the original process, or will he continue with these guidelines as prepared in the draft for public consultation?

Hon. M. J. GUY (Minister for Planning) — The corridor plans which have been issued have obviously been issued for a reason — that is, because the government stands by them. We put them out for public comment, and we intend to follow them through.

Higher education: federal funding

Mrs PETROVICH (Northern Victoria) — My question is for the Minister for Higher Education and Skills, who is also the Minister responsible for the Teaching Profession, and I ask: has the government made an assessment of the impact of recent announcements by the federal government affecting Victoria's education system, and if so, will he share that information with the house?

Hon. P. R. HALL (Minister for Higher Education and Skills) — I thank Mrs Petrovich for her question. Recently two announcements have been made by the federal government which will have some impact on education and training in Victoria. One was a positive announcement and the other was a less than positive announcement.

Firstly, I will talk about the positive announcement, which is more in line with my disposition. In the *Herald Sun* this morning I read an article headed 'New deal for young tradies'. It referred to comments from Senator Chris Evans who said he expected to announce today a new government plan 'to slash red tape and establish a national apprenticeship training system'. I will look at that announcement with great interest, because in recent months I have discussed with Minister Evans the need to look at the way in which apprenticeships are structured here in Victoria and nationally. I have encouraged Senator Evans to follow up many lines of pursuit covering this topic.

We should be looking not only at apprenticeships but also more broadly at trade careers and trade pathways. We should be talking not only about young tradies but also middle-aged and older tradies, encouraging people to train in those areas of vocational need. Potentially there is scope to expand the opportunities for all people of all age levels to embark upon a trade career and to meet the needs of industries in this state. I welcome further details about that being announced today. I will be working positively with the federal government to achieve results in respect of that reform agenda.

Not so encouraging was the announcement by the federal government last week of its midyear economic and fiscal outlook. What we saw in that particular document was a figure of $1.2 billion being taken away from education nationally, and Victoria is going to bear a disproportionate share of those cuts. I am concerned about some of those cuts, particularly the scrapping of vital reward funding for Victorian universities. We have done well with student satisfaction and course progression and have earnt those reward payments, and the cutting of $240 million from those areas will result in Victoria getting a disproportionate share of that.

Also of particular concern to me was the increase in the higher education contribution scheme (HECS) funding arrangement for maths and science students who are studying at degree level. Members of this house will know that in the last budget the Baillieu government announced funding in excess of $20 million for improving maths and science education in this state and ensuring that we have the specialists to go out there and share that maths and science knowledge with our young people. This special exemption for higher education contribution scheme payments was originally put in place to encourage more people to pursue a career in maths and science. I have grave fears that this increase is going to have a detrimental impact on the future supply of maths and science teachers in the state of Victoria.

I also want to mention that over $260 million has been cut nationally from income support for rural students, and this is at a time when the Baillieu government is expending record amounts of money on programs to encourage rural students to improve their participation

rate in higher education. This particular change runs counter to that, and we are concerned. These are matters which I intend to take up with Senator Evans because Victoria is going to be hard-hit by the cuts announced last week by the federal government.

Housing: Frances Penington Award

Ms MIKAKOS (Northern Metropolitan) — My question without notice is for the Minister for Housing. Can the minister advise the house what plans she has in place to honour the contribution of Frances Penington?

Hon. W. A. LOVELL (Minister for Housing) — Yes. The Penington award is being finalised at the moment. The winner will be announced on 14 December.

Supplementary question

Ms MIKAKOS (Northern Metropolitan) — Thank you for that answer, Minister. Given that the Frances Penington Award is traditionally given during Housing Week to a public housing tenant who has made an outstanding voluntary contribution to their community, can the minister advise whether she has managed to set a date for Housing Week yet?

Hon. W. A. LOVELL (Minister for Housing) — I believe we have been through this before in the house. Housing Week was something established under the Kennett government, and it had lost its way. The department advised me that it was not providing the best opportunities for promoting good things that happen in public housing.

We are currently reviewing Housing Week. We have an opportunity coming up, with next year being the 75th anniversary of the passing of the Housing Act 1937 and the following year being the 75th anniversary of the establishment of the former Housing Commission of Victoria, to actually turn it into something that is meaningful for tenants and to promote the good things that happen in public housing. This year we have celebrated all the events that normally happen in Housing Week. We just did not have an actual date set for Housing Week, because the department had advised that it was past its use-by date, it had become stale and it was not providing good outcomes.

Manufacturing: regional and rural Victoria

Mr P. DAVIS (Eastern Victoria) — I direct a question to the Minister for Manufacturing, Exports and Trade, and I ask: can the minister advise the house of how the Baillieu government is continuing to attract significant investment for regional Victorian manufacturers?

Hon. R. A. DALLA-RIVA (Minister for Manufacturing, Exports and Trade) — I thank the member for his question and his ongoing interest and commitment to the economic strength of regional Victoria. The Baillieu government is committed to ensuring that there is substantial ongoing investment in state-of-the-art manufacturing in regional Victoria. The Victorian government obviously understands the important role our regions play in the economic success of Victoria, in particular when it comes to the agriculture business. We recognise the excellent capabilities of many of our regional businesses and especially those in the food industry.

That is why I was up in the Sunraysia region on 25 November with some fantastic news for the people of Mildura. I was very proud to be with my parliamentary colleague the member for Mildura in the Assembly, Peter Crisp, to announce that Olam Orchards Australia would be proceeding with a $60 million almond processing plant. The Baillieu government is pleased to provide financial support and assistance through the Business Flood Recovery Fund to establish investment and jobs in flood-affected regions. Mr Crisp, who understands the positive implications and significance of this large investment, said that this investment:

> … is a major jobs boost and will strengthen Mildura's international reputation as a producer of top-quality food products.

On top of that, the processing plant will generate 90 new, direct jobs for the people of Sunraysia. But that is not all. It will also generate downstream employment and economic activity along the value chain in construction, packaging, waste recycling, transport, logistics and storage.

Importantly this new facility will be one of the largest and most efficient plants of its kind in the world. It will be capable of processing 40 000 tonnes of almond kernels annually, making it one of the biggest almond processing plants outside of the United States. Equally important for those opposite is that by 2013 it is projected that this new facility will result in over $100 million worth of exports, and by 2015 we are looking at an estimated $150 million in exports. This will double our export of almonds from Victoria and make Victoria the second-largest almond grove, processor and exporter in the world.

This government will continue to support companies that are export focused and intent on positioning

themselves to compete with the best in the world. Once again, the Baillieu government is putting its words into action and working to ensure that our regional economies remain strong and resilient.

Dandenong: Little India precinct

Mr TEE (Eastern Metropolitan) — My question is to the Minister for Planning. Traders from the Little India precinct in Dandenong protested on the steps of Parliament House today. They say that a lack of compassion and support from the Baillieu government means they and their staff are suffering financially and emotionally. Businesses are closing down, life savings are being lost, and at least one person has been hospitalised with a medical condition that has been exacerbated by this stress. Will the minister, in good faith, agree to the dispute being independently mediated? A mediator can find common ground and can report publicly on options for a way forward in those areas where agreement cannot be reached. Will the minister agree to mediation as a way forward?

Hon. M. J. GUY (Minister for Planning) — I accept the fundamental premise of Mr Tee's question, but it is worth noting why we have this problem today. It is because Mr Tee and a number of his colleagues have been in this chamber in the last seven months gloating about the success of the Revitalising Central Dandenong initiative. Indeed Mr Somyurek, who sits next to Mr Tee, was questioning me in the local media not 10 months ago about the government's commitment to the outstanding Revitalising Central Dandenong initiative.

Mr Viney — It's our fault, not your fault, is it?

Hon. M. J. GUY — It is your fault, Mr Viney. Let us get one thing clear: every one of the compulsory acquisitions occurred under your watch. Every single one of them. The Labor Party is asking me today whether I will agree to a mediation process to fix up a mess that it created and that its members have been whipping up in the community in central Dandenong by suggesting that somehow we are not listening to people. We have been asked, on the three times that I have met, about a number of clear points.

Mr Viney — They're all grown-ups. They can make up their own minds.

Hon. M. J. GUY — Calm down, Mr Viney. I know you suffer relevance deprivation, but the rest of us just want to hear this, so just calm down.

Hon. M. P. Pakula — Just so arrogant.

Hon. M. J. GUY — You are just a thug, so just calm down. We have been asked for better signage, which has been put in place, and an advertising campaign in the media, which has been put in place. We are working with traders on a number of parking issues. This is not up to the state government, as members might know. It is council parking which we are trying to talk to Mr Somyurek's council about fixing.

If it means we have to sit down with all parties in a room — the new urban renewal authority Places Victoria, the traders and me — I have offered to do that and I will do it. I offered that some time ago, and I will do it again. This is a mess that the previous government created and that I want to clean up.

Outside of those issues, the principal point that has been put to me is the need for rate relief and rent relief. The compulsory acquisitions that occurred under the previous government now mean that that involves the land monitor, it involves a long process that sets a precedent, and it is one that will take a long time to fix. It is one that we have had with my department and the Treasury for some time, and it is not going to be solved overnight. It is not going to get a quick fix.

If people want a genuine, open solution to the Little India problem in Dandenong, which we have been asked on a number of occasions to try to assist with — we are doing our best on signage, on which I have had half a dozen or more meetings with VicUrban and Places Victoria to try to solve — we will, to the best of our ability, try to repair the mess and the uncertainty that was created by members opposite when they were in government, and I might add when not a single member opposite raised these concerns — ever!

Supplementary question

Mr TEE (Eastern Metropolitan) — While the minister has been having months and months of meetings and putting forward tokenistic efforts, these businesses have been closing down and these people have been becoming unhealthy. The minister will not agree to mediation. Is there anything that he will do today, is there any concrete thing that he will offer today, as a way forward to resolve this issue? Is there any hope that he will give this community before this cherished, iconic part of Victoria is lost forever?

Hon. M. J. GUY (Minister for Planning) — Let us just talk about this cherished and iconic part of Victoria in the language of the Labor Party just a few months ago:

> Land acquisition and timely delivery of critical infrastructure — the acquisition and amalgamation of these sites within the CAD —

the central activities district, was necessary —

> … for infrastructure improvements and to produce parcels for private sector development and seed projects.

Mr Tee cares so much about this part of Victoria, but not 12 months ago he wanted to acquire sites, kick people out, throw them out on the street. He could not care less. Jude Perera, the member for Cranbourne in the other place, never raised it. Mr Somyurek never raised it. Mr Tee could not care. He only raised this when his party went into opposition. People can see through Mr Tee's transparency. This government will meet with anyone to try to solve this issue. I have met them more times than Mr Tee. His transparency is shameless. He should be ashamed of himself for putting people out of business.

Melbourne Airport: John Holland Aviation Services

Mr FINN (Western Metropolitan) — My question without notice is directed to the Minister responsible for the Aviation Industry, and I ask: can the minister inform the house of any new opportunities for the Victorian aviation maintenance, repair and overhaul sector?

Hon. G. K. RICH-PHILLIPS (Minister responsible for the Aviation Industry) — I thank Mr Finn for his question and for his interest in a matter that goes to the heart of his electorate — Melbourne Airport and the operations at Melbourne Airport.

Mr Finn asked about developments in the maintenance, repair and overhaul (MRO) section of the aviation industry. Maintenance repair and overhaul is an important part of the Victorian aviation industry, and Victoria enjoys around 40 per cent of total MRO operations in Australia. MRO operations relate to the heavy maintenance undertaken on airline aircraft in Australia.

Here in Victoria we are very fortunate to have companies such as Qantas Engineering, Lufthansa Technik LTQ, and also John Holland Aviation Services, which is the only independent MRO operating in Australia providing heavy maintenance. John Holland currently provides line maintenance and mid-level maintenance for aircraft at Melbourne Airport operating out at the old Ansett maintenance facility on the southern apron at Melbourne Airport.

I am pleased to inform the house that last month Boeing commercial aircraft in the United States decided to designate John Holland at Melbourne Airport as a provider of the new GoldCare service. GoldCare is a new turnkey product that Boeing is offering with respect to its new 787 aircraft and the new 737 next-generation aircraft. Basically this product will allow Boeing to offer a direct maintenance product to its airline customers. Increasingly, these new aircraft require — —

Hon. M. P. Pakula interjected.

The PRESIDENT — Order! Mr Pakula is sitting directly behind Hansard staff and is having a conversation across the chamber which is not relevant to the answer being given. He is making it very difficult for them.

Hon. G. K. RICH-PHILLIPS — Increasingly, MROs are required to offer original equipment manufacturer skills. It is significant that John Holland has now received a designation from Boeing to offer those skills with respect to the 787 and the next-gen 737. As we move to composite aircraft, in the case of the 787, the ability to offer skills from the manufacturer specific to aircraft type will become important, so it is significant that John Holland at Melbourne Airport has received this GoldCare designation from Boeing.

Boeing sees enormous potential for increasing its aircraft fleet operating in the Asia-Pacific region. More than 150 of the 787s have been ordered for the Asia-Pacific. For John Holland at Melbourne Airport to have been designated as the only Asia-Pacific provider of GoldCare is very significant to its expansion plans. The Victorian government looks forward to working with John Holland to make the most of this opportunity. We expect that it will be a significant next-generation fleet in the Asia-Pacific. John Holland at Melbourne Airport is perfectly positioned to provide those services for the Asia-Pacific region. The government looks forward to working with it to realise the potential of this new designation from Boeing.

Housing: Bentleigh electorate

Ms MIKAKOS (Northern Metropolitan) — My question without notice is to the Minister for Housing. Can the minister advise the house how she reconciles her government taking credit for new social housing developments in the Assembly electorate of Bentleigh when prior to last year's election she actively participated in a fear campaign against social housing

by attending rallies and signing petitions against social housing in Bentleigh? What has changed since then?

Hon. W. A. LOVELL (Minister for Housing) — As the member who asked the question would well know, I have always been in favour of well-balanced, good social housing projects. I never opposed one single housing project under the former government. I did raise community concerns about some of the planning processes, but the opposition cannot even get its facts straight. It tried to raise this issue with a journalist a couple of weeks ago by saying that I had visited the development that this particular petition is about, but the opposition is wrong. The housing project that I visited is a project behind the Kingston town hall. It is part of an existing planning permit for an apartment building that was approved by the Kingston City Council.

The project across the road at 973 Nepean Highway was a call-in project — the Minister for Planning called it in to approve it. The community raised concerns about that and that is what the petition raised — the concerns of the community. It was not opposing the project, but there was concern that there was no local input into the planning process. There was concern about the fact that this particular site is at the corner of the Nepean Highway and South Road, two extremely busy roads, and it is also bounded by a railway line. This housing project was to be for women with children and the community was concerned that there was nowhere for those children to play. It was concerned about the planning process and parking in the local area.

I raised the community's concerns because the community could not get the former government to listen to it. Because the community could not get the former government to listen to it, it came to the then opposition to raise its concerns. I did attend their meeting and I listened to the community's concerns, and I raised those concerns with the former government which failed to listen to them.

Supplementary question

Ms MIKAKOS (Northern Metropolitan) — The petition which bears the minister's signature makes no reference to issues about process; it talks about poor planning and a concentration of social housing in Bentleigh. Does the minister still believe that a four-storey project, which delivers 49 units of housing for low-income Victorians and which is immediately opposite a train station and close to jobs and community infrastructure, constitutes so-called poor planning and should be rejected?

Hon. W. A. LOVELL (Minister for Housing) — The member is right: it is about process — poor planning is planning process. The community had concerns; the community wanted to raise those concerns. The former government would not listen to their concerns and the then opposition, now government, raised their concerns with the former government, but the former government failed to respond to them.

Housing: Norlane development

Mr KOCH (Western Victoria) — My question without notice is to my colleague the Honourable Wendy Lovell, the Minister for Housing. I ask: can the minister update the house on further developments following her announcement of the very well received new Norlane public and affordable housing initiative in Geelong?

Hon. W. A. LOVELL (Minister for Housing) — I thank the member for his question. Our announcement of the new Norlane housing development in Norlane has been well received. Unlike the former government's plan, which was to do a call-in process to build multistorey apartments, which the community did not support — a $30-million plan that was not supported by the local council and not supported by the local community — we have announced an $80-million redevelopment of Norlane that has been received with resounding applause from the local community.

Yesterday, together with a member for western province, David Koch, who chairs our — —

Mr Lenders interjected.

Hon. W. A. LOVELL — With a member for Western Victoria Region, David Koch, who chairs our community advisory committee, I had the pleasure of presenting the keys to the first two families to move into the first of the 14 houses at new Norlane that will be completed between now and March. These families were delighted to be moving into their new homes. The Shaheen family — Laila Shaheen and her three children, Ramy, Dany and Farah — moved into their new home yesterday. Ramy, who is hoping to get into a career in IT, Dany, who is in year 11 at North Geelong Secondary College, and Farah, their younger sister, were all terribly excited to be moving into their new home in time for the new year.

The other young family who also moved into their new home has an effervescent five-year-old boy, who was very excited and wanted to show us his new bedroom,

and also a 17-month-old girl. They were delighted they will be able to spend Christmas in their new home.

These are real Geelong families, and we have created real opportunities for them to build better lives for themselves. These homes represent 2 of the first 14 publicly owned homes that are nearing completion. There will be a total of 160 public housing properties and also 160 affordable private homes built at new Norlane.

A tender to secure Geelong-based builders to construct the homes is currently under way. Unlike under the former government, our development will be low density with improved streetscapes and the intermixing of public and private housing to provide better outcomes for the community.

QUESTIONS ON NOTICE

Answers

Hon. D. M. DAVIS (Minister for Health) — I have answers to the following questions on notice: 338–9, 350–1, 372, 385–6, 397–8, 419, 431–2, 438, 443–4, 453, 464–5, 476–7, 486, 627, 789, 793, 2271–2, 2425–6, 2940–2, 3565, 4019–20, 4022, 4030–3, 4035–9, 4041–3, 4045–56, 4059, 4063, 4065, 4565, 4919–5014, 5016–5111, 5784–5879, 8143–6, 8161.

PETITIONS

Following petitions presented to house:

Dandenong: Little India precinct

To the Legislative Council of Victoria:

This petition of certain citizens of the state of Victoria who are traders, friends, customers and supporters of the Little India precinct in Dandenong draws to the attention of the Legislative Council concerns that:

1. the Little India precinct, which is recognised throughout Victoria as an iconic hub of Indian culture and business and is an example of Victoria's vibrant multicultural community, is under threat;

2. there has been major and ongoing disruption to the Little India precinct caused by the Revitalising Central Dandenong project undertaken by VicUrban;

3. this disruption and uncertainty has led to a significant downturn in business, causing financial and emotional hardship to the business owners, their staff and families;

4. the traders of the Little India precinct have, over many months, unsuccessfully asked the Baillieu government to take the action needed to ensure the ongoing survival and viability of the Little India precinct.

To ensure the ongoing viability of the Little India precinct, the petitioners call upon the Baillieu government to:

1. publicly confirm their support for small businesses in the Little India precinct and recognise their important contribution to the economy and to multiculturalism in Victoria;

2. provide an extensive and ongoing publicity campaign to promote the Little India precinct and to mitigate the impacts of the disruption;

3. ensure sufficient signage is erected which directs people to the Little India precinct;

4. provide immediate and ongoing rent relief, until the disruption and uncertainties caused by the Revitalising Central Dandenong project are resolved;

5. provide additional car-parking spaces within the precinct to replace those lost due to construction works; and

6. immediately cancel road closures that disrupt customer access in the lead-up to the Christmas season.

By Mr TEE (Eastern Metropolitan) (735 signatures).

Laid on table.

Trams: conductors

To the Legislative Council of Victoria:

The petition of certain citizens of the state of Victoria draws to the attention of the Legislative Council:

the unpopularity and ineffectiveness of using authorised officers to address fare evasion; and

the effectiveness of tram conductors in:

lessening fare evasion and vandalism;

improving public safety; and

providing assistance to passengers.

The petitioners therefore request the Legislative Council to urge the Baillieu government to reintroduce tram conductors.

By Mr BARBER (Northern Metropolitan) (662 signatures).

Laid on table.

Ordered to be considered next day on motion of Mr BARBER (Northern Metropolitan).

SUPREME COURT OF VICTORIA

Report 2010–11

Mr DALLA-RIVA (Minister for Employment and Industrial Relations) presented report by command of the Governor.

Laid on table.

COUNTY COURT OF VICTORIA

Report 2010–11

Mr DALLA-RIVA (Minister for Employment and Industrial Relations) presented report by command of the Governor.

Laid on table.

ECONOMY AND INFRASTRUCTURE REFERENCES COMMITTEE

Primary health and aged care

Ms PULFORD (Western Victoria) presented report, including appendices, together with transcripts of evidence.

Laid on table.

Ordered that report be printed.

Ms PULFORD (Western Victoria) — I move:

That the Council take note of the report.

I would like to make a few brief remarks. This is the first report from one of the Legislative Council standing committees established in late 2010. This committee has a very broad remit, with responsibility for matters concerned with agriculture, commerce, infrastructure, industry, major projects, public sector finances and transport. On 5 April the committee, by resolution of the house, was asked to inquire into, consider and report on the measurement of primary health and aged-care services and outcomes, including budget measures. In particular the committee inquired into whether there ought to be mandatory requirements for the provision of a range of data, including the actual rates of provision for residential aged-care and community care alternatives; whether hospitalisations could be avoided in some circumstances; and whether unnecessary or avoidable hospitalisations of patients in residential care could be taken as a surrogate indicator for poor care.

The committee sought expressions of interest and received submissions from 30 organisations, five of which expressed an interest in attending a public meeting. Representatives of those organisations attended a day of hearings on 2 November 2011. Committee members have been flattered by the confidence that the Minister for Health has shown in our ability to resolve these questions around how data relates to the interactions and best provision of health and aged-care services for people not just in Victoria but indeed throughout the commonwealth. We certainly gave it our best shot.

The work of this committee has occurred during a time of significant activity in this area; there has been a significant Productivity Commission report as well as the rollout of arrangements the commonwealth government is putting in place — some on its own initiative and some as outcomes of negotiations with the states — throughout the commonwealth, including the e-health and Medicare Local initiatives among others. The committee has been considering these issues and there has been a great deal of movement since it received its terms of reference in April.

The committee heard of the significant and growing prevalence of diabetes and cardiovascular disease in the community, which is certainly something that will be of no surprise to members, and the impact this has on quality of life. This is a considerable burden on the health budget. It is an area where a great deal is known about preventive measures that can help. We have made some recommendations, and we have some findings that are detailed in the report.

I would like to take this opportunity to indicate that in some respects the committee has been doing its work with one arm tied behind its back. There was a moment when the committee was advised that it would be unable to advertise to call for submissions because of a lack of funding, and indeed it was very late in the piece that the committee was provided with a research officer.

A great many of our considerations have occurred when we have met on a Wednesday evening following a Tuesday late-night sitting. The government's legislative program is indeed the government's business, but on four occasions we have met after having sat the previous night until after midnight — on a number of those occasions it was well past midnight — so while we have tried to do our best, I am not sure how we went with that; there were certainly some challenges.

Given that this is the first report to be published under the new committee structure, I would urge the government to consider the arrangements for committees that are detailed in the standing orders and the way in which the government legislative program has created a tendency to sit very late on Tuesdays. We have had meetings while bells have rung constantly in the other place, and we have attempted to ignore that noise while dealing with our work.

I would like to thank the organisations that made submissions and presented, I thank my fellow committee members and most of all, perhaps, I would like to thank the staff of the committee, who have done a tremendous job in assisting us on a very difficult matter, and they were very ably led by committee secretary Robert McDonald.

Mrs COOTE (Southern Metropolitan) — I, too, would like to speak on this first report from the standing committees of the Legislative Council. I would like to reiterate much of what Ms Pulford has said, but I would especially like to put on record my praise for the committee itself and how cooperatively members have worked and are working together, because I think we got some very good results out of the work that we did. I would particularly like to put on record my thanks to Robert McDonald and his staff, because they did a superb job. It was a very broad reference and a very interesting one, as it turned out.

It would seem on paper that it would be expected that there was a united collection of data for both primary health and aged care across the country. As we found out, this is not the case. The people we spoke with and the submissions that we received indicated that it is a very good idea and it should be done. Most responses laid much of the responsibility for the collection of data on the federal government. Many said they thought it was vital that this happens. In this day and age with respect to the collection and productive use of data, it would seem that there is a clear indication to the federal government of the need to put some parameters in place in order to do this vital work.

I praise the people who presented to our committee, because many organisations across Australia and indeed in Victoria are doing some very good work in data collection. As per the minister's request at the outset, if we are going to make policy changes in this state and into the future on some of the most major health issues such as diabetes and the increasing number of those requiring aged care, it is imperative that we build those policy decisions on proper empirical data — data we can trust, data we can work with and data that will give us safe and honest opinions so that proper policy can be created. I hope the federal government reads our report.

Mr BARBER (Northern Metropolitan) — I wish to endorse the remarks made by my fellow committee members, and I look forward to future references and inquiries by this committee in relation to the portfolio areas that it covers. I look forward to them being carried out in the efficient and cooperative manner we achieved in our first effort.

Ms BROAD (Northern Victoria) — I wish to make some remarks on this inaugural report of the Legislative Council Standing Committee on Economy and Infrastructure References Committee on its inquiry into primary health and aged care. I add my thanks to the committee staff and to all the individuals and organisations that made submissions, in particular those that made submissions during the public hearings of the committee.

This is a particularly notable inquiry and report for the fact that it is an inquiry into primary health and aged care notwithstanding the fact that the committee is the Economy and Infrastructure References Committee and that members who signed up to this committee did so expecting that they would be inquiring into matters or things concerned with agriculture, commerce, infrastructure, industry, major projects, public sector finances and transport, and I made some remarks on this at the time the reference was made. Notwithstanding that, all members of the committee made their best endeavours to address themselves to this subject and to provide this report to the Parliament, and I certainly hope that it will be of assistance to the Minister for Health. Members of the committee are looking forward to future references, particularly those which address the matters I have previously listed and which are in the province of the Economy and Infrastructure References Committee.

Motion agreed to.

SCRUTINY OF ACTS AND REGULATIONS COMMITTEE

Alert Digest No. 15

Mr O'DONOHUE (Eastern Victoria) presented *Alert Digest* No. 15 of 2011, including appendices.

Laid on table.

Ordered to be printed.

PAPERS

Laid on table by Clerk:

Architects Registration Board of Victoria — Minister's report of receipt of 2010–11 report.

Coroners Court of Victoria — Report, 2010–11.

Interpretation of Legislation Act 1984 — Document pursuant to section 32(3) in relation to Statutory Rule No. 128.

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

Greater Bendigo Planning Scheme — Amendment C151.

Greater Geelong Planning Scheme — Amendment C127 Part 2.

Hobsons Bay Planning Scheme — Amendment C86.

Melton Planning Scheme — Amendment C84 Part 2.

Moyne Planning Scheme — Amendment C35 Part 2.

Murrindindi Planning Scheme — Amendment C29 Part 1.

Port Phillip Planning Scheme — Amendment C73.

Whitehorse Planning Scheme — Amendment C94.

Yarra Ranges Planning Scheme — Amendment C107.

Special Investigations Monitor —

Report 2010–11, pursuant to section 131T of the Fisheries Act 1995.

Report 2010–11, pursuant to section 74P of the Wildlife Act 1975.

Statutory Rules under the following Acts of Parliament:

Police Regulation Act 1958 — No. 130.

Residential Tenancies Act 1997 — No. 129.

Supreme Court Act 1986 — Nos. 132 and 133.

Transport (Compliance and Miscellaneous) Act 1983 — No. 131.

Subordinate Legislation Act 1994 —

Amendment to the Keno Technical Standard made under the Gambling Regulation Act 2003 and related documents under section 16B.

Exemption from section 65A(1) of the Road Safety Act 1986 for persons participating in the Valvoline Shepparton Springnats 2011 and related documents under section 16B.

Documents under section 15 in respect of Statutory Rule Nos. 126, 127, 128, 129, 130, 131, 132 and 133.

Proclamations of the Governor in Council fixing operative dates in respect of the following acts:

Education and Training Reform Amendment (School Safety) Act 2011 — Part 1 and section 5 — 24 November 2011 (*Government Gazette No. S379, 22 November 2011*).

Farm Debt Mediation Act 2011 — 1 December 2011 (*Government Gazette No. S379, 22 November 2011*).

Justice Legislation Amendment (Protective Services Officers) Act 2011 — 28 November 2011 (*Government Gazette No. S379, 22 November 2011*).

PRODUCTION OF DOCUMENTS

The Clerk — I have received a letter dated 6 December from the Minister for Education. Accordingly I table a copy of that document.

Letter at page 5865.

Ordered that document be considered next day on motion of Ms HARTLAND (Western Metropolitan).

NOTICES OF MOTION

Notices of motion given.

Ms MIKAKOS having given notice of motion:

The PRESIDENT — Order! In respect of the last notice of motion, I have asked the clerks to check the wording of this notice of motion against previous notices of motion on the same subject. My recollection is that the house has had an opportunity to debate this matter, at least in the context presented by the first paragraph of this motion. I recognise that there are some other component parts to this motion. I suggest that it may need to be reworded a little to ensure that we do not track over the same area. Nonetheless, the clerks will investigate it. I do not think we need a debate now as to whether it is or is not the same as previous motions, including one on the notice paper, but I indicate that I may ask Ms Mikakos to work with the clerks. In fact I do not think I was given the courtesy of a copy of this motion prior to today's proceedings, so that makes it fairly difficult for me to make a judgement.

Ms Mikakos — On a point of order, President, this is a substantially different motion in that it addresses two new points, including the listing of the closure of specific programs that have not been addressed in previous motions and also the issue of cost shifting to local government in that a number of councils that I

refer to in the motion have now taken up the cost of this program. It is significantly different.

The PRESIDENT — Order! I understand that, but from my point of view part of the motion's structure has been the subject of previous debate. I do not see that the motion will be ruled out, but its wording may well need to be reworked somewhat to pick up the emphasis Ms Mikakos has just suggested to me. I would probably not have been concerned if I had had an opportunity to look at it earlier and compare it with the other motions I have referred to. Other members may also take into account that it is a valuable courtesy to the Chair in terms of being able to carry through with proceedings appropriately.

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, 7 December 2011:

(1) order of the day 18, resumption of debate on motion noting the contents of the Office of Police Integrity report tabled on 27 October 2011;

(2) notice of motion 229 standing in the name of Ms Hartland relating to the introduction of the Accident Compensation Amendment (Fair Protection for Firefighters) Bill 2011;

(3) a take-note motion of the tram conductors petition tabled this day by Mr Barber;

(4) order of the day 17, resumption of debate on motion condemning the Minister for Health in relation to nurse numbers;

(5) notice of motion 178 standing in the name of Ms Pennicuik relating to the production of certain Australian Grand Prix Corporation documents;

(6) order of the day 23, resumption of debate on motion relating to the Victorian families statement 2011; and

(7) notice of motion 227 standing in the name of Mr Barber relating to feed-in tariffs.

Motion agreed to.

MEMBERS STATEMENTS

Victorian certificate of applied learning: funding

Ms BROAD (Northern Victoria) — Last week I visited a number of providers of the Victorian certificate of applied learning (VCAL), including the Mildura Senior College and the Echuca campus of the Bendigo Regional Institute of TAFE. It is fair to say that the concerns of communities, schools and TAFEs in my electorate of Northern Victoria Region are undiminished following the Baillieu-Ryan cuts of $12 million per year from the budget for coordinators of the VCAL program. It is equally fair to say that support for VCAL is undiminished in the face of government cuts because communities see the real value of VCAL where the government does not.

In Echuca there is concern that students who have become disengaged from classroom-based learning and who have chosen to do VCAL at TAFE because it has a hands-on approach to learning are likely to find themselves spending more time in classrooms because of the government's cuts. These same students are likely to find themselves in larger classes because of the cuts. In short these students are likely to find themselves trying to learn in an environment that looks more and more like the school classroom that did not work for them in the first place.

In rural and regional Victoria these cuts are particularly unfair because students already face greater hurdles to complete school and to find jobs and further education and training opportunities. On behalf of school communities in northern Victoria I call on the Baillieu-Ryan government to do the right thing and reinstate funding of the VCAL program.

Tatura and Shepparton Racing Club

Mr DRUM (Northern Victoria) — On Sunday, 4 December, I had the opportunity to go to the Tatura and Shepparton Racing Club for its Italian Plate race day. It was an outstanding day. Thousands of people were there enjoying catching up with family and friends. I also had the opportunity to catch up with my parliamentary colleague the Minister for Racing, Denis Napthine. The minister is warmly received everywhere he goes in Victorian racing circles at the moment, and the Tatura race club was no different. The racing industry understands it is getting exceptional leadership under Minister Napthine, and this is true whether it is at the Italian Plate day at Tatura or at Bendigo, where recently unprompted the president and the master of ceremonies for the day warmly acknowledged the

support their club is getting from the Minister for Racing.

Whether it be support for jumps racing, support for jockey welfare or the support the minister is pushing through for the breeding of racehorses, I want to thank the minister for what he is doing for the industry at the moment and for the leadership he is showing. I ask him to continue to lead the industry in the way he is leading it.

Rail: Altona loop service

Ms HARTLAND (Western Metropolitan) — Last night I hosted a meeting in Altona to put forward solutions to the problems that residents using the Altona loop train service have experienced since the government cut the timetable in March this year, giving residents a 22-minute-interval service in peak times. One hundred and twenty people attended the meeting, and the problems were clear, such as cancelled trains. It can take between 1 and 2 hours to get home from Flinders Street station, because the Altona loop train is often cancelled.

I finally have a response from the Minister for Transport, Minister Mulder, on cancellations: the Altona train service was cancelled 54 times in three months. People who are old or disabled are having to change at Laverton station. There are no ramps at Laverton station, and the lifts often break down — in fact 47 times in three months. I note that it took almost six weeks for this answer to come, from wherever it came, into this house.

It was clear by the end of the meeting that the problem was not engineering or that there is a single line but that there is no political will to give residents in Altona, Seaholme and Westona a reliable train service. The Minister for Public Transport is clearly happy to announce a fare increase today, but I urge him to meet with the residents of Altona — not just a small delegation — to talk about what is going on and to come up with a bit of political will to fix the situation.

Lambis Englezos

Mr TARLAMIS (South Eastern Metropolitan) — On Sunday, 13 November, I was honoured to attend the Greek Orthodox Community of Melbourne and Victoria function in honour of Lambis Englezos, AM. At the event he spoke passionately about his research and advocacy work relating to the Australian soldiers of the Great War buried in Fromelles, France, for which he received the Order of Australia for service to the community.

For a long time he got the officialdom run-around from British and Australian authorities that doubted his research, which was eventually found to be correct. His research showed that Allied soldiers were buried in mass graves at a site in a field on the edge of a small wood on the outskirts of Fromelles. It resulted in the Australian government undertaking a geophysical survey and the eventual recovery of the missing Australian and British soldiers who had been killed. The Allied soldiers had endured one of the worst 24 hours in Australian military history. In one night 5533 men from the Australian 5th Division were killed, wounded or reported missing in the Battle of Fromelles between 19 and 20 July 1916.

The research and advocacy of Lambis Englezos resulted in Australian soldiers missing since the Great War being carefully exhumed and re-interred with full military honours at the Fromelles military cemetery. Most importantly, this has provided comfort to the many families of the missing soldiers that their relatives have a final resting place and the dignity of a known grave — a place to visit, and a place to commemorate and honour their service and sacrifice. I am sure that I speak for many when I say that Mr Englezos's honour is a fitting recognition of his passion, advocacy and research, which has brought closure to families of the missing men of the 5th Division. I congratulate Mr Englezos and wish him well with his ongoing efforts in this area. I look forward to working with him to advance the work of the Lemnos-Gallipoli commemorative committee.

Avoca Shire Turf Club

Mr RAMSAY (Western Victoria) — Like my colleague Mr Drum, I also enjoyed the hospitality of a racing club recently. In my case it was the Avoca Shire Turf Club last Sunday, where I was hosted by the Minister for Racing, Denis Napthine. I concur that he was well received by the racing fraternity of Avoca, the beautiful little town in the Pyrenees which provides a lot of love and winemaking for its district.

Ararat: prisons

Mr RAMSAY — This afternoon I want to talk about jails. I had the pleasure — and I might add not Her Majesty's pleasure — of visiting jails in the Ripon electorate last week, one old one and one new one, both having an estranged relationship. J Ward outside Ararat was built in 1862 with a gallows. Decommissioned in 1991, J Ward was turned into a museum in 1997. Made of beautiful bluestone and housing governor's and single men's quarters, the former prison attracts over 12 000 visitors a year. The City of Ararat made a wise

investment in purchasing the jail for $200 000 in 1993, and that vision turned a jail steeped in history into a museum.

I also visited another jail. In the company of the Minister for Corrections, Andrew McIntosh, I went to Ararat for the renaming of the Ararat Prison as the Hopkins Correctional Centre. This new industry in Ararat is creating a modern state-of-the-art corrections centre, with an increase in capacity of 350 beds and over 160 full-time staff, which in itself will create 150 new jobs in the Ararat region. The contrasts are huge: an old jail is now a museum steeped in history — —

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

Mr RAMSAY — And a new jail is providing economic development in Ararat.

The ACTING PRESIDENT (**Ms Pennicuik**) — Order! Mr Ramsay should not continue once I have said his time has expired.

Crime: prevention

Ms PULFORD (Western Victoria) — The Baillieu-Ryan government has in no small part been elected to office on the back of a law and order campaign. In the last 12 months there has been unprecedented meddling in the police force, a divisive round of pay negotiations and extensive clarification required so that Victorians might understand what parts of the government's protective services officers on train stations policy will be implemented, how and when. The state government's sentencing survey results have now been published in the *Herald Sun*. Some 18 500 respondents shared their thoughts on the subject, and it certainly made for interesting reading.

It is timely in this context to note that in my electorate of Western Victoria Region there are some concerning trends. There is a 10 per cent increase in the number of crimes in the Southern Grampians and increases in Geelong, Horsham and Ballarat. The government has talked tough about law and order, but some of the latest statistics might cause us to question the gulf between campaign rhetoric and reality. The government is now in office and needs to begin to do something to match the strong law and order rhetoric that we saw during the election campaign.

Victorian International Teaching Fellowship

Mrs PEULICH (South Eastern Metropolitan) — In my role as Parliamentary Secretary for Education it is my very great pleasure to get out and about around the state of Victoria, supporting various stakeholders in the education community. Recently I had the pleasure of hosting the farewell for the Victorian teaching fellows who were departing for exchange and also those who had served here in Australia. As a former international teaching fellow I had great pleasure in attending this event, which coincided with the 40th anniversary of the Victorian International Teaching Fellowship program, which was the brainchild of Dr Lawrie Shears, a former director-general of education and patron of the Victorian branch of the International Teachers Association, which is the VITF's alumni society.

It is a wonderful program. Again, having been a personal beneficiary, I know it provides a wonderful learning opportunity and an opportunity for professional development and learning outcomes for the teachers and school leaders who are involved in it. I would like to wish all those Victorian teachers who are going abroad the very best of luck.

Teachers: language assistants

Mrs PEULICH — On a similar note, recently I had the pleasure of attending the Victorian language assistants recognition ceremony. We farewelled and recognised the contributions of assistants from three language groups, including the Assistants to Teachers of Chinese program, the Assistants to Teachers of Japanese program and language assistants from Europe and the United Kingdom. They are multiskilled, and it is a fantastic program. I thank all those assistant teachers and their relevant embassies for their support.

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

Charter of Human Rights and Responsibilities: community forum

Ms MIKAKOS (Northern Metropolitan) — On 29 November I was pleased to attend and participate in the Darebin Ethnic Communities Council's forum on the Victorian Charter of Human Rights and Responsibilities at the Darebin Intercultural Centre. The forum provided an opportunity for local community members to share in a discussion about the future of Victoria's charter of human rights. It was the Labor government, of course, that in 2006 pioneered this human rights protection for Victoria, the first state in our country to do so. Given the current Attorney-General's previous statements on the charter, the community has every reason to be concerned about the charter's future. I commend the Darebin Ethnic Communities Council for facilitating such an important

discussion and recognising the charter's contribution to strengthening and supporting our democracy.

Living Longer Living Stronger: funding

Ms MIKAKOS — On 1 December, together with the member for Ballarat West in the other place, I visited the Ballarat Community Health centre in Sebastopol, which runs the Living Longer Living Stronger program. Many of the participants spoke highly of the benefits that the program has given them in allowing them to keep active and connected to their communities. It is extremely disappointing to them that the Baillieu government has not recommitted funding for this program, and I urge it to reconsider that.

Darebin Community Legal Centre

Ms MIKAKOS — Also on 1 December, with the member for Northcote in the other place, I attended the opening of the new offices of the Darebin Community Legal Centre by my federal colleague the member for Batman. This centre has been providing free legal advice, assistance and advocacy to the Darebin community for more than 20 years. I commend all the staff and volunteers on the many hours of time, energy and hard work they have invested in assisting their local community, and I wish them all the best in their new location in High Street, Thornbury.

CITY OF MELBOURNE AMENDMENT BILL 2011

Second reading

Debate resumed from 24 November; motion of Hon. G. K. RICH-PHILLIPS (Assistant Treasurer).

Mr TEE (Eastern Metropolitan) — I welcome the opportunity to say a few words on the City of Melbourne Amendment Bill 2011, which enables the implementation of a review that is being conducted by the Victorian Electoral Commission, which follows a referral from the Minister for Local Government. The bill effectively provides the government with the opportunity to implement the recommendations of the review without the requirement for any further legislation. Having said that, the bill prescribes quite strictly the range of matters that can be determined without reference to the Parliament. The review is of the current electoral structure, the appropriate number of councillors for the municipality and whether the city should be divided into wards.

On the number of councillors, the bill provides that there will be not fewer than 3 and not more than 10, excluding the Lord Mayor and deputy lord mayor. The review will not consider the method of election of the Lord Mayor and deputy lord mayor.

A number of other changes are technical in nature. They relate to the time by which certain things must be done, including requests for names to be grouped, the holding of a ballot to determine the order of names and an application to register group voting tickets. All those times have been changed from 4.00 p.m. to noon.

Finally, the other issue that will be considered in the review is whether councillors will be elected at large or to represent wards and, if required, the location of the boundaries of those wards. As I said, the bill allows for the recommendations from the review to be implemented to the extent provided by the bill. The opposition will not oppose the bill.

Mrs PETROVICH (Northern Victoria) — I am very pleased to speak on the City of Melbourne Amendment Bill 2011. This bill represents the fulfilment of a request to amend the City of Melbourne Act 2001 to enable the recommendations of electoral representation reviews of the City of Melbourne to be implemented by orders in council. At the request of the government and with the agreement of the Melbourne City Council, the government has appointed the Victorian Electoral Commission (VEC) to undertake a review of the electoral representation of the council in preparation for the October 2012 elections. It is likely that that review will have been completed by early 2012.

Historically, since its establishment in 1842, the Melbourne City Council has seen many electoral structures. In 1842, 12 councillors were elected to represent four three-member wards. That was done in one of the local hotels, cited as the Royal Hotel in Collins Street. For most of its history Melbourne had structures of three-member wards. That changed in 1996, when a completely new structure was introduced. That structure was changed again in 2001, when the current arrangements were put in place. That was the first time that a Lord Mayor was elected directly by the voters of Melbourne. Melbourne City Council now has seven councillors, elected from the entire municipal district and using Senate-style voting, plus a Lord Mayor and a deputy lord mayor, who are elected as a team and represent the entire district.

The electoral representation reviews are of the electoral structures of councils. The three major matters considered in a review are: how many councillors are appropriate for a municipality, what electoral structure is suitable and where ward boundaries should be

located if wards are required. Until 2003 councils conducted their own electoral representation reviews. Currently all such reviews are conducted independently by VEC. The City of Melbourne has been excluded from this process previously. Unlike other councils, its electoral structure has been prescribed in detail under the City of Melbourne Act 2001. Electoral representation reviews of each council are required to be undertaken before at least every third general election. In this case the minister can require that a review be conducted at any other time.

The review includes the following statutory processes: the electoral commission gives public notice of the review; people are invited to make preliminary submissions; the electoral commission prepares the preliminary report, with the preferred option and usually with alternative options also; people are invited to make submissions in response to the preliminary report, and people making submissions may request to speak on their submissions; and the electoral commission submits its final report to the minister.

VEC is currently undertaking a review of the election of councillors at the City of Melbourne at the request of the minister and with the agreement of that council. The review, as I said earlier, is expected to be completed early in 2012. The minister requested this review following a request from the council to have a review similar to other councils. The Local Government Amendment (Electoral Matters) Act 2011 was also passed this year to amend the City of Melbourne Act 2001 to allow the subsequent reviews for the Melbourne City Council.

The electoral representation review for the City of Melbourne is limited to the election of ordinary councillors — I think it is important to stress this point — and it does not consider the positions of Lord Mayor or deputy lord mayor, which would remain subject to legislation, and they remain the same. The timetable for the review is quite extensive. There will be time for public consultation processes, preliminary public submissions, the release of preliminary reports and also public hearings. The final report is, as I said earlier, to be completed early in 2012.

This bill will enable any recommendation of VEC following the electoral representation review to be implemented by orders in council in the same way as for other councils. The orders in council will be able to specify the number of ordinary councillors to be elected, which must be at least 3 and not more than 10 — currently there are 7 ordinary councillors; whether the councillors will be elected to represent wards or to represent the whole municipal district — currently they represent the district; the location of ward boundaries, if required; and whether a Senate-style or above-the-line voting system will be used. It is a timely process. It certainly puts Melbourne City Council in step with other councils, with the exception of the positions of the mayor and deputy mayor.

I am not sure whether we are going into committee or not. We could probably work through the provisions of the bill. I could go through that now, but I think they are self-explanatory and they have been covered in my basic presentation today. If there are any questions, I am sure we will address those at the committee stage. I commend the bill to the house.

Mr BARBER (Northern Metropolitan) — I am following up from the previous two speakers who described what the bill allows for and what it does not allow for. As anyone with a keen interest in the Melbourne City Council would know, and that includes aspiring politicians and also every one of the citizens of the area, there has been a long-running debate on the method of election and ultimate outcome of elections at Melbourne City Council. In a previous debate on the Melbourne City Council the necessity for a review of the council's voting system was put forward quite strongly by a number of speakers in this Parliament. Thankfully the new Minister for Local Government has initiated a review, and the purpose of this bill is to ensure that the outcome of that review can be implemented in law. However, we are still waiting to deal with some of the major issues where Melbourne City Council is treated as a unique species compared with every other council in Victoria, and there are in fact some novel features that I am not even sure exist in any other council in Australia.

The review will effectively look at how many councillors there should be in the Melbourne City Council. With this legislation prescribing it, it would be not less than 3 and not more than 10, and the review will also be given the freedom to make recommendations as to the internal ward structure, if any, by which those ward councillors would be elected. This is completely separate to the issue that the bill will not be considering — that is, the method of electing the Lord Mayor and deputy lord mayor. They are currently elected by a different method. Effectively they are elected as a pair — two for the price of one — and they are elected as if the entire Melbourne City Council area was one big electorate. I believe that is the method of election that the City of Greater Geelong is heading towards, but we do not know yet. We will have to wait and see, but it is quite possible that we will end up with a very similar outcome in Geelong.

The other issue not dealt with here, and not adequately addressed by the bill, and the one which the Greens and large parts of the city of Melbourne community continue to advocate on is the question of who gets to vote and the method by which they are placed on the electoral roll and sent their postal ballot papers. In this respect Melbourne City Council is unique because it currently takes the names of all occupiers of rateable property and compulsorily enrols them through a methodology set up by the Kennett government.

That is interesting because a piece of legislation before the previous Parliament established an idea that I thought was not particularly controversial — the idea that 18-year-olds could be compulsorily enrolled for the first time through their student registration and therefore be put on the roll in time for an election rather than a situation where they would perpetually miss out as first-time voters. That proposition sent the coalition, then in opposition, into something of a frenzy. In this house Mr Rich-Phillips said that it was a key area of concern in relation to that bill, and in the Assembly the member for Malvern was even more outraged and said that automatic enrolment was turning 150 years of democratic practice upside down. He said that even if you did not know about it or had not been told about it, or had moved away, you would be put on the roll whether you liked it or not, whether you knew about it or not, and you were then under a requirement to vote.

As I said, that proposition outraged the Liberal Party, but it is exactly what happens with Melbourne City Council elections. The double standard is that it was introduced by the Kennett government in order to get the maximum number of businesses, or what the then government thought were business-friendly votes, onto the roll. That is not to suggest that those people who have been enrolled by that method are particularly keen to vote. There is a very low turnout in Melbourne City Council elections, and although it has been some years since I saw a breakdown of which particular enrolment method produced the lowest turnout, I can recall that resident voters, who are in any case on the state electoral roll, have a reasonable turnout, whereas occupiers of rateable property put on the roll by a peculiar method have a very low turnout.

Let me be clear: all occupiers of rateable properties have the right to be enrolled and vote in their council elections in every part of Victoria, but only at Melbourne City Council are they compulsorily enrolled, whether they like it or not, through a method that sets up a number of traps. It is worth bearing in mind what we are talking about. The city of Melbourne has within it mobile phone towers, strata-titled properties of all types, boat moorings and electricity substations buried away in basements. Any of these inanimate objects by virtue of being an occupier of a rateable property is given not only the right to vote — it is the council's job to go out and rate them — but under the Kennett model, fully endorsed by the previous government for the last 11 years and now left intact and not considered under this review, it is forced to vote.

That leads to a quite ridiculous situation where the CEO of the Melbourne City Council has to produce a list of human beings who are the designated voters for these inanimate objects. The mobile phone tower at the hockey centre in Royal Park is owned by SingTel, a multinational megacorporation. The requirement of the CEO is to work out who the secretary, CEO or relevant person is at SingTel, which just happens to be a Singaporean national who is running a multimillion-dollar corporation, and register her as the designated voter for the mobile phone tower, and so on and so forth.

There is a ridiculous set of examples that we have been through before in this house, creating at the end of the day the closest thing you will ever see to a rotten borough consisting of people who are not really people and who do not vote anyway, but who get fined if they do not. The previous government discovered that some entrepreneur was out there strata titling inner city car parking spaces and selling them off individually on realestate.com. It then had to rush in some amendments to deal specifically with strata-titled city car parking spaces, but in all other aspects it left the system intact. Despite the fact that we do not have a lot of information about these different categories of voters on the electoral roll and the rates of return of their ballot papers, we know that last time around 2700 ballot papers were returned from 97 000 or so voters.

In that context a number of questions have also been raised about postal balloting. It is by no means the case that every signature on the back of the postal ballot paper is individually checked against a reference signature. A small level of sampling goes on, but because in many cases we are dealing with passive investors in all sorts of properties, dozens of ballot papers are being posted to that one nominee company or real estate manager. I saw the electoral roll when I ran the Greens campaign for Melbourne City Council where people from Orchard Road, Singapore, or the posh bit of Kuala Lumpur were the voters using a local real estate agent as their representative. Although the Victorian Electoral Commission says it has not detected any fraud, it is of great concern when large numbers of postal ballot papers are being posted to the one address. Those ballot papers belong to persons who will never even know there is a Melbourne City Council election on.

The Greens had a simple solution to get out of the farcical situation we found ourselves in, and that was to delete section 9D of the City of Melbourne Act 2001 — the section that Jeff Kennett created, that Steve Bracks and John Brumby continued and that continues to this day. That provides for the unique proposition that occupiers of rateable property are forced to be enrolled, and when they do not show up it is the responsibility of the CEO of the Melbourne City Council to track them down using perhaps Australian Securities and Investments Commission records or some other source. This is all to prop up purportedly business-friendly votes for the preferred lord mayoral candidate, who brings a second vote on the day they are elected — their loyal deputy.

Of course if you win the lord mayoral and deputy mayoral election — which means you are either a millionaire or are backed by millionaires — you inevitably bring two more councillors with you on your councillor ticket and then all you really need to do is to get one more vote and you run the Melbourne City Council for the next four years, all off the back of, effectively, one exercise propped up by a voting system that does not exist anywhere else.

You will be heartened to know, Acting President, that against all odds the Greens have done pretty well in Melbourne City Council elections. In fact up against former Lord Mayor, John So, we made it into the two-candidate-preferred position, and up against Robert Doyle last time we also made the two-candidate-preferred spot and came fairly close to winning the election.

If it was anything like the typical franchise for a local council area or even the residential population of Melbourne, I predict we would already have a Greens Lord Mayor, and in any case one day I am sure we will. Unfortunately though, because of the narrow scope of this bill, I am not in a position to move my amendment to remove the offending provision. Last time I did it I got absolutely no support from any party in this chamber, with the notable exception of Mr Kavanagh of the DLP, living up to his title as a member of the Democratic Labor Party. He supported the Greens proposition. He knew something about the politics of the City of Melbourne, and of course the Labor and Liberal parties close ranks on this one. They want a candidate regardless of that candidate's particular provenance. They know they will be backed by the big end of town. That is the group that Labor and Liberal back in every Melbourne City Council election — John So went to the election with Lindsay Tanner and Bronwyn Pike, the member for Melbourne in the Assembly, endorsing him.

You will never see an open system of election as long as this is the type of minor tinkering that our Liberal and Labor counterparts allow us. Nevertheless, the constituents with the most at stake in this area continue to agitate. The constituents with the least at stake — those who simply own shares in a company that happens to have a mobile phone tower — get two votes up against an ordinary natural person's one vote, but that just means we have to redouble our efforts to bring democracy to the Melbourne City Council and encourage a proper balance of interests in the things the city does.

Mrs COOTE (Southern Metropolitan) — I have a great deal of pleasure in speaking on the City of Melbourne Amendment Bill 2011. At the outset I would like to say that this does affect part of my electorate because part of the city of Melbourne is within the electorate of Southern Metropolitan Region, notably the area along the south of the Yarra. In fact from the tennis centre to the West Gate Bridge down the middle of the Yarra River constitutes the boundary of Southern Metropolitan Region. Therefore it is important for me to see this bill debated in the house at this time.

The parts of my electorate that are also affected are South Wharf, Southbank, Fishermans Bend, South Melbourne, the Shrine of Remembrance and the Royal Botanic Gardens. They all come within the ambit of this bill. I would like to thank the Minister for Local Government, Jeanette Powell, for introducing this bill, and I remind the chamber that Minister Powell has a long-running understanding of the challenges of local government, having first been elected to the then Shire of Shepparton in 1990. She is a life member of the Australian Local Government Women's Association, so we are dealing with a minister who knows what she is presenting to the Parliament and who has a depth of association with local government.

This bill is the second step in the reform process that began with the passage of the Local Government Amendment (Electoral Matters) Act 2011, which passed the house earlier this year and allowed for electoral representation reviews to be carried out by the Victorian Electoral Commission (VEC) for the City of Melbourne. This bill allows the recommendations of those reviews to be implemented by the government. This may include such measures as how many councillors shall represent the City of Melbourne, whether they are elected at large or whether they will represent wards, and if they are to represent wards, the location of the ward boundaries. It also may determine whether above-the-line voting may be used in council elections — an option that does not apply to other municipalities in Victoria.

This will bring the City of Melbourne into line with other municipalities throughout Victoria which are subject to electoral representation reviews by the Victorian Electoral Commission. VEC is currently undertaking an electoral representation review on behalf of the minister, and this review is likely to be completed early next year. The bill makes other minor amendments such as the time by which candidates for election must lodge their nomination forms, and this will also bring the City of Melbourne into line with other councils.

I would like to take a moment to remind the chamber about magnificent Melbourne, because this is what we are dealing with here, and it is no accident that the Economist Intelligence Unit has yet again declared Melbourne to be the most livable city in the world. It received an overall rating of 97.5 per cent. As we know, Melbourne has beautiful boulevards and avenues with canopy trees such as St Kilda Road, which is in Southern Metropolitan Region. We have the Shrine of Remembrance, we have the Victorian Arts Centre spire, the State Library and Flinders Street railway station. We have the National Gallery of Victoria, and we even have *Chloe* at Young and Jackson's.

Crown Casino is also in my electorate, and the casino recently put out figures which talked about the numbers of people employed at Crown. It is very important to note just what a huge employer Crown is. From memory I think about 6000 people are on the payroll in total.

Mr Lenders — It is 8000.

Mrs COOTE — Thank you, Mr Lenders — 8000 people are permanently on the payroll and there are an additional 3000 contractors. It is a huge employer and it is in Southern Metropolitan Region, which Mr Lenders and I both represent. We also have a whole range of other activities such as the Boxing Day cricket test, the AFL grand final, the Spring Racing Carnival and the Australian Open, and we have just hosted the President's Cup golf tournament.

The term 'Magnificent Melbourne' started in the 1850s with the gold rush, and here we are again representing magnificent Melbourne and all it has to offer, and much of that is in Southern Metropolitan Region. The bill we are debating today tidies up the management of the way business and elections in the City of Melbourne can better perform so that representation in our wonderful city can be more efficient.

I would like to speak about Mr Robert Doyle, our Lord Mayor, because not only is he a friend of mine and a wonderful person but I actually worked for him when he first became the member for Malvern in the Assembly a very long time ago. I would have to say that as our Lord Mayor he has been exemplary. He was elected to city hall in 2008, and since then he has done a whole range of things. But just to put it into context, he served as the state member for Malvern from 1992 until 2006, and he served as the Parliamentary Secretary for Human Services and the shadow Minister for Health before being elected as the Leader of the Opposition in 2002 — a position he held until 2006.

He has been on the board of the Royal Melbourne Hospital since 2007, and he is a trustee of the Shrine of Remembrance. It is important to understand all of these aspects of our current Lord Mayor because they show that he has a deep understanding of our city and of the electoral process in terms of what happens in elections, and that is important to understand. Just as Jeanette Powell understands about local government, so too does Robert Doyle, our Lord Mayor, understand the parliamentary and the electoral process well, and he has a much better idea of the broader issues that affect Melbourne.

We have some challenges ahead in Southbank, and it is important to understand that the last government did not put the proper infrastructure into Southbank. We are going to, as the Minister for Planning, Matthew Guy, has said, develop Fishermans Bend into a new suburb, and I know that Minister Guy has said in this place and elsewhere that the first step is going to be to put in proper infrastructure. Schools, transport and a whole range of things are going into Fishermans Bend, things that were neglected at Southbank, which was a great concept, but ill-thought through and not properly funded for the people who were going to live there. Where are the libraries, where are the schools, where is the infrastructure? It is not there. We are not going to make the same mistake when we look into Fishermans Bend.

This bill will ensure that the outcome of the review by VEC can be implemented by the government. This will help to ensure that Melbourne will continue to thrive, as it has in the past, and continue to be magnificent Melbourne.

Motion agreed to.

Read second time; by leave proceeded to third reading.

Third reading

Motion agreed to.

Read third time.

DOMESTIC ANIMALS AMENDMENT (PUPPY FARM ENFORCEMENT AND OTHER MATTERS) BILL 2011

Second reading

Debate resumed from 24 November; motion of Hon. G. K. RICH-PHILLIPS (Assistant Treasurer).

Mr LENDERS (Southern Metropolitan) — The opposition does not oppose this piece of legislation, the essence of which is a result of a coalition election commitment to bring in this legislation.

The main features of the bill were outlined in the minister's second-reading speech and, from the point of view of the Labor Party, by our lead speaker in the Legislative Assembly, the member for Macedon, Joanne Duncan, who spoke at some length about the provisions of this bill. I will not go through those details again in speaking to this bill.

It is interesting to observe a few features of this bill that are probably worth the house looking at. We all know that part of the election commitment was a significant increase in penalties for puppy farms. Of course it is not just canines — there are also felines in this as well — but for the purposes of this, let us just call them all puppies. The penalty increases are all in there, and they are fairly consistent with what was put into the election commitment, in fact down to very strange numbers, and we have penalty units to match the commitments. The Labor Party has no issue with that.

It is also interesting to reflect on what an election commitment is, and I will use this bill as an example of why we on this side of the house, in goodwill and good faith, will support this bill despite not all of the matters in it reflecting completely what was in the election commitment. I am pleased that Mr Hall is in the chamber because I know Mr Hall has previously talked about the Hall doctrine. While we are not suggesting this bill be referred to one of Legislative Council legislation committees — I am not about to suggest that — I will just refer to where carrying out the government's election commitment has correctly gone into areas that were not foreseen when the coalition made this announcement on puppy farms before the election.

This bill deals with a definition of what a puppy farm is — three or more breeding dogs — and all the exemptions to it. I have been satisfied with the briefings from the minister and his office, who again on this have been very courteous. Hypothetical examples like, 'What if a family on the outskirts of Kerang or Swan Hill', or Benjeroop, heaven forbid, to name a few communities in Mr Walsh's electorate, 'were to have some animals and put up a sign outside the milk bar saying, "Puppies for sale, $1 each" or whatever' were considered. They would technically be in breach, but I am confident that because these are penalties put in place by a court common sense would prevail, so we do not have any particular issue on this and I will not take Mr Hall into a committee stage to ask him that. The advisers certainly dealt with that.

What I want to seriously deal with is a number of things that the coalition put in its election policy and which could not be done when it came to the crunch of getting parliamentary counsel to draft this bill. There is nothing inherently wrong with that. It was an idea the then opposition, now government, put up, and in good faith it has tried to put it into place in this bill. There was a provision that the funding for some of the organisations that deal with lost animals, for example, would come out of asset confiscations. Clearly the advice that the government has from the department is that it would be a very lumpy amount of money that would come through, so the government correctly, as the minister said in his second-reading speech, will put a sum of $400 000 aside and that will then be dispensed.

That is good policy, but I guess what I say, through you, Acting President, to Mr Hall is that when he next talks of the Hall doctrine about an election mandate, the election mandate was to allow the proceeds of asset confiscation to be distributed to organisations. What I say to Mr Hall is that the mandate is not always reflected in legislation, which changes for good reason. So the lumpy flow of money from the asset confiscation quite clearly has been replaced by something which in a policy sense is more orderly and which the opposition supports, but so much for the mandate where there is a change.

Similarly, there was no mention of body corporates in any of Mr Baillieu's original announcements. Some of these areas have been correctly picked up in the legislation in a commensurate manner with the penalties for natural persons. I make the point while Mr Dalla-Riva is in the chamber — he likes to talk about the mandate — that sometimes what is announced is very different to what actually comes forward in legislation. We have no intention of seeking to refer this legislation to a committee for further scrutiny because it is fairly clear-cut and the answers that have been given by officials and the minister's office have addressed our concerns. But I reiterate that a claim of a mandate does not pick up on the two particular instances that went unmentioned when Mr Baillieu made the original announcement.

Joanne Duncan eloquently went through the issues in the bill when she dealt with it in the Assembly. I am pleased that the coalition, particularly the Liberal Party, has embraced this issue, because there was a long period of silence from the Liberal Party when a former member of both this house and the Assembly, Dr Ron Wells, ran his infamous puppy farms around Ballarat. The party was very silent on that; to my knowledge it never criticised him for it. This was during the time of the Kennett government. Dr Wells was a member of that government and it relied on his vote in this house. No action was taken against him. I am therefore pleased to see that this has been addressed.

I take this in good faith. This was an election commitment made by Mr Baillieu and a genuine belief. It has been carried through in legislation during the government's first year in office, and I am supportive of that. Lest any of those opposite crow too much about the great achievements of this government, it is worth reflecting on the deafening silence during the sad time when Ron Wells was doing some strange things and yet was not disowned by the Liberal Party.

We have before us a piece of legislation which seeks to implement election policy; it does that. It strays into other areas that are logical for it to stray into. Any concern over what this may mean for people who inadvertently sell dogs and cats without realising those sales are in breach of the law is addressed appropriately by the fact that a magistrate will have the discretion to deal with this. There are no mandatory sentences. I will save that debate for another day when undoubtedly that issue will come into this house. From the Labor Party's point of view, we do not oppose this bill and wish it a speedy passage.

Mr RAMSAY (Western Victoria) — I rise to also support the Domestic Animals Amendment (Puppy Farms Enforcement and Other Matters) Bill 2011. From the outset I congratulate Mr Lenders and the Labor Party on supporting this bill. I have strong and passionate views about cruelty to animals, certainly with respect to puppy farming. I have formed that strong and passionate view due to my background working with and caring for animals and also my leadership of the Victorian Farmers Federation, during which I spent a considerable amount of policy time developing codes of conduct for different stakeholders to protect animals of all types.

It is also important that the Baillieu government be acknowledged for being proactive in amending and reforming legislation that in this instance reduces cruelty to animals, which, as I said previously, I am very passionate about. The bill amends the Domestic Animals Act 1994 to increase the penalties for various offences concerning non-compliant domestic animal businesses. It is also important to note that as part of this amendment bill there is provision for the establishment of an Animal Welfare Fund. There will be payments into the fund which will then be used to provide grant money to animal welfare organisations.

I am pleased to see that the bill allows the courts to extend the range of orders that can be imposed on those businesses that are non-compliant. It is also pleasing to see that the bill provides a definition that allows the community foster care network to arrange for foster housing of animals. The timing of this amendment bill is important because traditionally over the Christmas period we see an increase in unwanted and neglected animals. Unfortunately it is those care agencies that are put under significant financial strain in providing hospitality for those animals.

Anyone who takes a trip down to the animal welfare centre or the Royal Society for the Prevention of Cruelty to Animals compounds and sees the number of animals that have been neglected or uncared for and which are put down as a last priority, particularly during the holiday period, would find it quite appalling. Anything we can do in either of the two houses of Parliament to try to reduce the housing of unwanted animals and to impose significant penalties on those animal owners or carers who are cruel to animals should be supported and applauded.

This bill also amends the Prevention of Cruelty to Animals Act 1986 to increase the penalties for the offences of cruelty and aggravated cruelty, and it amends the Confiscation Act 1997 to provide for the confiscation of assets for certain breaches of the act. This is important because there is nothing like a financial penalty to change the behaviour of certain people who are disposed to treating animals cruelly.

In layman's terms, this bill will deliver on the government's election commitment and public announcements to get tough on rogue puppy farm operators. The Premier is quoted in that respect in the *Sunday Age*. The important part of this reform is to weed out rogue operators and give greater support to councils in defining a domestic animal breeding business that is to be run at a profit. The legislation will provide that a breeding establishment will now be deemed a domestic animal business if it has three or more fertile dogs or three or more fertile cats and that business sells dogs or cats. If the business owner is a member of an applicable organisation, the business will not be deemed a domestic animal business until it has 10 or more fertile cats or dogs, or sells the same.

The bill, importantly I believe, increases penalties significantly, from 10 to 246 penalty units for some offences; in money terms that is up to about $30 000. The offence of conducting a domestic animal business on unregistered premises will increase from 10 to 164 penalty units; and the offence of selling a pet shop animal from anywhere other than a registered premises will triple to 30 penalty units for an individual and will be 150 penalty units for a body corporate. There will be quite severe financial penalties for non-compliance, and that is the way it should be.

The bill also allows for a court to ban or impose conditions on the ownership of cats or dogs or on operating or working in a domestic animal business. It also provides for recovery of maintenance and disposal costs from owners, and for court orders for bonds or security to be paid by owners of seized animals to cover the costs of their care, maintenance and transport.

In relation to registration it is worthy to note that authorised officers of local councils or of the Royal Society for the Prevention of Cruelty to Animals can seize animals. I will quote a good friend of mine from my Victorian Farmers Federation days, RSPCA Victorian president Dr Hugh Wirth, who said:

> This is exactly what we've been asking for years — proper legislation and real enforcement. It's a huge change and we've got the expertise and the manpower to do the job.

Dogs and cats being advertised for sale will be permanently identified with a microchip, and that number must be part of the advertising. If it is a registered business, that registered number will have to be displayed as part of the advertising. The important thing for us is to make sure that once this legislation is passed those carers and owners of dogs and cats are informed of their responsibilities and of the penalties that will be incurred for non-compliance. When and if this legislation is passed, I understand that information will be provided to councils and to the RSPCA by seminars across their different agents and fields and by direct mail to animal owners, given that councils are the registration authorities.

In summary, this amendment is an important reform of the Domestic Animals Act 1994 which will now protect animals to some degree. As I said at the outset, I have been appalled by the free licence that dog owners or carers had under the previous legislation to create an industry such as puppy farming merely for profit. I hope if passed this amendment will go some way to curbing that activity by placing a significant restriction on those who want to engage in that activity for profit and providing for heavy penalties to be incurred by those who are non-compliant.

Ms PENNICUIK (Southern Metropolitan) — I am pleased to speak on behalf of the Greens in support of the Domestic Animals Amendment (Puppy Farm Enforcement and Other Matters) Bill 2011, which will amend the Domestic Animals Act 1994, the Prevention of Cruelty to Animals Act 1986 and the Confiscation Act 1997, and with its provisions crack down on the puppy farm regime that currently exists in Victoria.

It is estimated that there are around 100, maybe more, illegal puppy farms with up to hundreds of animals on them. This has been an ongoing concern for many members of the public, and there has been a campaign for the abolition of puppy farms, sometimes called puppy mills or puppy factories, in the state of Victoria and around the country. It has been spearheaded by the Royal Society for the Prevention of Cruelty to Animals, Animals Australia, and lately by the group calling for Oscar's law, which is named after a puppy which was rescued from a puppy farm and originally went back to that farm, but now is in the care of Deb Tranter, who set up the Oscar's Law group. I pay tribute to Deb Tranter, to the RSPCA, to Animals Australia and to the thousands of Victorians who have protested on the steps of Parliament and have written to their MPs, to all of us. It is really their pressure and action that has brought about this bill. I agree that the bill will fulfil the coalition's promise to crack down on illegal puppy farms or domestic animal businesses.

It is worth reminding ourselves why we are here and what puppy farms or puppy factories are. I quote from the RSPCA site, on which a campaign page is run about puppy factories. They are described as:

> … large-scale, commercial businesses that mass produce all kinds of puppies for sale. This includes purebred, crossbred and mixed-breed dogs. These puppies are then sold online and in pet shops. It's estimated that 95 per cent of puppies sold in pet shops are produced in puppy factories or by backyard breeders.

As I said, it is estimated that there are at least 100 of those in Victoria:

> Puppy factories are awful places, with poor conditions. Puppy factory dogs are viewed only for their ability to make their owners money. Puppies are often confined in crowded cages with no room to move. These puppies are rarely vaccinated, making them highly susceptible to infectious diseases, parasites and many acute and chronic conditions. Puppies that come from puppy factories can also develop behavioural difficulties due to the miserable conditions in which they're exposed.
>
> Once the puppies are sold, their mothers are left behind to endure endless cycles of producing litters in appalling conditions. It's not uncommon for female dogs as young as six months old to churn out as many as several litters a year for their entire lives. Under —

current —

> … state law, bitches are only permitted to have one litter in every 10 months. However, within these —

puppy farms —

> bitches are forced to have litters of puppies every six months and do not get the chance to recuperate. This often leaves them with serious ongoing health problems. When they're no longer able to breed, they're euthanased.
>
> On top of that, the mortality rate of the puppies is quite high because veterinary care is scarcely provided. Puppies that do survive and are sold often suffer from ongoing health issues that the new owners have to pay for.

This bill will change the landscape by providing that any establishment that has three or more breeding pairs of dogs — and it includes cats as well, which was not envisaged in the original promise by the government, but is welcome — will have to be registered and will have to abide by the code of practice. That is an important development, because in the past the code of practice was pretty well voluntary.

Under the current law there have not really been any repercussions for any of the puppy farms that have existed and that are not — currently, as we speak today — registered, and it has been very difficult for authorised officers from councils or RSPCA inspectors to do anything about them. Under this bill they will have to comply with the code of practice, and the penalties for non-compliance have been significantly increased.

The maximum penalty for conducting a domestic animal business not in compliance with the code will be increased from 10 penalty units to 246 penalty units, which is quite a jump — as Mr Ramsay said, it is up to $30 000 — and for a corporate offence it will be 600 penalty units. The maximum penalty for conducting a domestic animal business on unregistered premises will be increased from 10 penalty units to 164 penalty units, and for a corporate offence it will also be 600 penalty units. The offence of selling a pet shop animal other than from a registered domestic business, as I have previously described, or from a private residence is increased from 10 to 30 penalty units or 150 for a corporate offence. The penalty for the offence of cruelty to an animal is increased from 120 to 246 penalty units and for aggravated cruelty from 240 to 492 penalty units.

I am very happy that there are quite significant increases in the penalties for offences that have perpetuated this cruel and appalling situation for years in Victoria. As a person who raised this issue many times during the last Parliament and criticised the former government for failing to take the opportunity a couple of years ago to do something about it when it brought in changes to the Prevention of Cruelty to Animals Act 1986 and the Domestic Animals Act 1994 — when everybody knew about this issue — I congratulate the government for bringing this bill to us. It will go a long way to ridding the state of the appalling puppy farms that we know exist.

I have a lot of contact with animal rehousing services and with animal shelters. They tell me all the time about what is going on at this puppy farm or that puppy farm, and I try to follow it up. I tried to follow up one through the Hume council but was not able to get very far because the council does not want to give out much information about them. It is all sort of underground.

Mrs Coote interjected.

Ms PENNICUIK — I thank Mrs Coote. Puppy farms exist in many councils all over the state, and it is very difficult to follow what is going on because the councils really do not have the wherewithal, the tools or the personnel to do much about it.

Clause 5 of the bill will make it an offence for a person to advertise the sale of a dog or cat unless the microchip identification number of the animal or the council registered number for the domestic animal business is included in the advertisement notice. That is a good provision because animals need to be desexed once they are registered and microchipped with the council, and it will go some way to making sure that, as far as possible, companion animals are desexed if they are not going to be in registered and reputable breeding establishments.

I know that there are still concerns about this particular provision, and even yesterday there were discussions going on between the stakeholders and the department regarding the review of the code with which registered businesses will have to comply and the penalties they will be subject to. Concerns were raised in these discussions around whether this provision will result in increased traceability, because puppy farms operating at the moment can move their animals through brokers and pet shops and may pass on that requirement to them, and whether it goes far enough in ensuring that all puppies and kittens that are sold are registered, microchipped and traceable, and come from a registered business.

I have also had conversations with Deb Tranter. Again I pay my respects to her because she has been a tireless campaigner on this issue for years. The campaign to abolish puppy farms really took off with the rescue of

Oscar and the calling for what is known as 'Oscars law'. It became a lightning rod for the community because people could understand what 'Oscars law' meant. It called for three things: the abolition of factory farming of companion animals, the banning of the sale of companion animals from pet shops or online and the promotion of adoption through rescue groups, pounds and shelters. Those three points also form part of the Greens' longstanding policy; the Greens are the only party with an actual animal welfare policy which calls for those things and has done for many years.

We remain concerned despite the fact that this bill goes a long way. We are very happy to see it and think it is going to be a watershed change in the operation of how domestic animals and companion animals are bred and sold in the state of Victoria. We hope it will reduce the number of animals that are abandoned and end up in animal shelters and pounds. The Greens say that it should not be possible to buy pets in pet shops. People should only be able to buy through registered breeders after they have negotiated and discussed the type of companion animal that fits their family's requirements. People should be very reassured that the particular animal they choose has come from a reputable place where it has been treated well, has not been removed from its mother too early, has had the necessary veterinary care and has been microchipped and registered.

The reason we say this is that pet shops facilitate and encourage impulse buying, and we do not need that with pets. It should not be easy to buy an animal. It should not be possible to walk into a pet shop and buy a puppy; people should actually have to go through a few steps.

The 'Oscar's law' website features an excerpt from a pet shop business start-up guide which says:

> The scenario is simple: someone will walk by, fall in love with an animal and buy it. These sorts of impulse sales can add dramatically to your profits. Time browsers in a pet shop will not necessarily jump at the thought of spending $50 to $500 to bring a dog home … However, if your shop is accessible and your sales and service ability is convincing, it will not be long before you convert walk-in traffic into buying customers.

We are also concerned about the sale of animals online. That is more difficult to regulate, but the suggestion that microchipping be traceable back to the breeder is the best solution to that problem. We suggest that animals should not be able to be bought through pet shops or online. People should be encouraged to only buy animals from registered reputable breeders, or to get them from re-homing services and animal shelters.

I have spoken to stakeholders and people who have been pushing for this change to the law regarding puppy farms, and the issue of enforcement has been raised with me, particularly by Deb Tranter. There are only 17 RSPCA inspectors across the state. I am not sure whether they are going to be able to cope with the situation provided under this bill where they will have to identify where puppy farms are, go in and inspect them and, if necessary, seize the animals. They will also have to close down farms that do not comply with the code. That issue has been raised with me. This bill will succeed or fail based on whether it can be enforced.

The same goes for authorised officers in local councils. They will be under the pump and have a lot to deal with, and they may also find it difficult to enforce these new laws. Perhaps the minister in his summing up can go to those issues, because the bill will succeed or fail on the issue of whether it can be enforced and whether those puppy farms that have no regard for the welfare of the animals in their care can be closed down.

Statistics on the animals that have been abandoned in Australia are available on the Animals Australia website — for example, the website states that over 14 million cats and dogs have been destroyed in the last 50 years in Australia, that up to 95 per cent of abandoned cats are destroyed and that about 50 per cent of abandoned dogs are destroyed. These are perfectly healthy animals that just do not have a home. That is a tragedy, and it is something that we should not tolerate in Victoria. It is interesting to note that Australia probably has the highest incidence of pet ownership in the world, with 66 per cent of Australians owning a pet of some sort.

I am not sure if this bill can deal with the fact that there are too many stray animals and too many animals being destroyed, but it is a great step forward. As I said, it is a pity that the previous government did not take the opportunity to act on this. I congratulate the government on this bill. In particular I congratulate it on the establishment of a fund to assist with animal shelters and re-homing. That is also very welcome, because those animal shelters and re-homing services are run on a voluntary basis across the state and they do a fantastic job. There would be more animals needlessly destroyed if it was not for them, so that is a very welcome provision in the bill.

I still have some concerns about the issues of microchipping and the enforcement of provisions through the RSPCA and local councils. We will see how it works, but the government needs to put some funding into the initial enforcement of the legislation. With those words, the Greens will support the bill.

Ms DARVENIZA (Northern Victoria) — I rise to say that the Labor Party does not oppose the bill. I am pleased to see the Domestic Animals Amendment (Puppy Farm Enforcement and Other Matters) Bill 2011 come before the Parliament, because the issue of the treatment of all animals, particularly dogs, is very close to my heart, and I know it is close to the hearts of many other members of this chamber.

Like other members of this Parliament, I too have been lobbied hard and strong by many activists out there in the community who have worked tirelessly to bring to our attention the plight of dogs who are abused and very badly and cruelly treated at puppy farms. Those activists have worked hard to ensure that we have an understanding of these matters and that we make the necessary legislative changes to ensure that these terrible practices do not continue. My dear and longstanding friend Marie Dewar has been part of the campaign to bring the plight of animals at these farms to the attention of not only parliamentarians but also the community more generally.

I do not want to say a lot more than what has already been said by the opposition in the other place and by our leader in this house, John Lenders, except to say that the bill honours the commitments that were made prior to the election. It will bring about a number of positive changes. The definition of a puppy farm will now be an organisation that has three or four female breeding dogs and one that is involved in the selling and bartering of puppies, regardless of whether or not it is for profit.

Another positive aspect of the bill is that all puppies for sale will be required to be microchipped. It will not matter how they are being sold or advertised, whether it is by a notice put outside a football club, an advertisement in a paper or online; all puppies for sale will be required to be microchipped. That will ensure that authorities can check that puppies for sale come from registered breeders. The microchip number has to be part of the advertisement, so consumers who are looking for a puppy can be absolutely sure they are buying a puppy that has not been bred at one of those farms which abuse and maltreat dogs.

The bill strengthens the powers of inspectors — municipal, Royal Society for the Prevention of Cruelty to Animals (RSPCA) and some Department of Primary Industries inspectors — to get in and have a look at what is going on, and to bring about sanctions against those who are not operating within this legislation. Those powers will be reviewable by a magistrate. The penalties of infringement notices able to be given by inspectors have been significantly increased. The penalty for conducting business on an unregistered premises will be $20 000 and the penalty for non-compliance with an operating code will be $30 000.

The previous speaker from the government, Mr Ramsay, talked about what a motivating force the size of a fine can be. Fines of this magnitude will certainly make people think twice before they consider breaching the laws that will be introduced by this legislation. The regime of disposing of seized animals is also dealt with in this bill. Under the bill a vet will be responsible for destroying some animals, particularly those that have been badly injured or are diseased due to the time they have spent at these puppy farms, and the rest will be sent to animal shelters.

Again, many of the people who have campaigned so vigorously to bring attention to the plight of animals in these puppy farms are also people who take some of these abused animals into their care and become their owners. My friend Marie Dewar is one of those people, and she is now the owner of a number of dogs that had been used to breed at these puppy farms, so there are people out there who would be only too glad to take into their care animals that are not badly injured or diseased and provide them with secure and loving homes. Of course this bill also deals with how those animals that are beyond that are to be treated and euthanased if necessary.

This is a very good bill. In certain circumstances owners of illegal puppy farms will be forced by the courts to pay for the cost of animal care, which is another very positive aspect of the bill. This bill has been supported by the RSPCA and other important stakeholders. Like Mr Lenders, I wish this bill a very speedy passage.

Mr ONDARCHIE (Northern Metropolitan) — I rise today to speak on the Domestic Animals Amendment (Puppy Farm Enforcement and Other Matters) Bill 2011, and I commend the previous speakers on this bill because it is wonderful that in this last sitting week of the year, as we approach Christmas, we are all in agreement. This bill amends the Domestic Animals Act 1994, the Prevention of Cruelty to Animals Act 1986 and the Confiscation Act 1997.

As has been outlined, this bill will deliver on the government's election commitments and public announcements to get tough on rogue puppy farm operators. Currently for a dog or cat breeding establishment to be defined as a domestic animal business it must be an enterprise that is run for profit. A number of animal breeding establishments found to

exercise poor welfare practices have avoided prosecution because there was difficulty proving that the business was in fact selling animals for profit. When the time has come to prosecute, history has shown that only a few cases have ever been taken to court — five in 2009, two in 2010 and so far only two cases in 2011. Of those nine cases, four were struck out in court, one was adjourned, three resulted in fines and one resulted in a community-based order.

This bill will substitute the requirement that an enterprise be run for profit with a requirement that the enterprise simply sells dogs or cats. This will overcome the low prosecution rate, which has highlighted the frustration and concern of councils. The cases can be weak if it cannot be proved that these places were run for profit. The bill also changes the definition of a domestic animal business to capture breeding establishments with three or more fertile female dogs or three or more fertile female cats. This will apply to all breeders except members of an applicable organisation, who will still be able to have up to nine animals before needing to register.

The bill increases the penalties for non-compliance; there are massive increases in penalties, as has been outlined by previous speakers. The bill protects a private individual who wishes to sell a litter of puppies or kittens from home but prevents larger sellers from taking animals to markets or offering the animals for sale in car parks. The bill provides for new court orders to ban ownership or impose conditions on a person who has a track record with these sorts of things associated with puppy farms — no similar powers currently exist. The new ban can be for a period of up to 10 years and can be imposed if a person is found guilty of an offence associated with registration or the standard of conduct or operation of a domestic animal business.

Ms Darveniza talked about the authorised officers and inspectors. I do not intend to go over that again, because she put it to the house so eloquently a few moments ago. However, this bill provides for seizure of things that come from profits in specific circumstances. It provides for bonds of securities to be paid to councils by owners of seized animals to assist with the cost of maintenance, care, removal, transport and the disposal of dogs or cats.

Importantly the bill also establishes an Animal Welfare Fund to receive payments out of consolidated revenue, and payments will be made out of the fund to provide grants to organisations to do things such as provide for the welfare of animals, provide an animal shelter service, provide education programs on responsible ownership of animals, provide services as a community foster care network for companion animals, and provide animal relief services and the use of facilities to the community during emergencies. The bill defines animal rescue organisations as community foster care networks and excludes them from the act, as they register as shelters.

Quite simply this bill is about Oscar's Law, and I want Oscar's Law. I want to abolish the puppy factories. I take my hat off to Deb Tranter, who has been an advocate for this for some time. Who exactly is Oscar? Oscar was one of a number of dogs found on a puppy farm. Oscar required urgent veterinary care. His hair was severely matted. He had to be sedated so that his matted fur could be shaved, and he had skin infections, ear infections, gum disease and rotting teeth. After Oscar was repatriated by the vet he went back to the people running the puppy farm. I wonder how many Oscars are out there. This is a chance to do something about that.

The Royal Society for the Prevention of Cruelty to Animals reports that over 50 per cent of dogs purchased — from wherever — have come through this process. The Ondarchie family bought a little cocker spaniel, Benny, at a pet shop some time ago. Little Benny grew up with my family, and he was a fantastic dog, but I wonder if he came through this process. Fortunately he was a loyal companion, and he grew up with my children. Sadly he passed away not that long ago. It is something that we as a family are still having trouble dealing with because — and it is an appropriate time to mention this — dogs and pets are for life; they are not just for Christmas. That is an important message for the community at this time of year.

Under this law we will be able to buy pets from reputable breeders — and I encourage people to look at that — or from animal shelters. Not long after the passing of Benny I joined the Minister for Agriculture and Food Security at the Lost Dogs Home. At the conclusion of that day I had identified 40 dogs I would have liked to take home. I did not take any of them home, because we are still dealing with the loss of Benny, but nonetheless the Lost Dogs Home is a good place for Victorians to buy a dog. Pets are a blessing, and we should treat them as such. That is why I commend the bill to the house.

Mrs COOTE (Southern Metropolitan) — That was a lovely contribution by Mr Ondarchie. I encourage people to read it in *Hansard* because it spoke of the emotion we feel for pets, and that is what is important about the Domestic Animals Amendment (Puppy Farm Enforcement and Other Matters) Bill 2011. We can get emotionally bound up with pets, but when you go to a

pet shop it is important that you get what you think you are getting from a reputable breeder and that the dog has been bred in a proper way. Most people who go to pet shops would be absolutely and utterly horrified if they knew about puppy factories, about the bitches that continuously give birth to puppy litters — time and again — and about puppies like Oscar, which Mr Ondarchie spoke about eloquently.

This is yet another example of the Baillieu coalition government delivering on its pre-election promises. In a media release of September last year Ted Baillieu, now the Premier, promised to take strong action on illegal puppy farms. I would like to reiterate and remind the chamber of some of the details of that media release.

We promised to give Royal Society for the Prevention of Cruelty to Animals (RSPCA) animal inspectors the ability to enter puppy farm premises, which has been delivered. We promised to give inspectors the ability to inspect animals, equipment and structures on the premises; we delivered. We promised to crack down on illegal puppy farms and impose heavy financial penalties on rogue operators who breach animal welfare standards, including fines of $30 000 for rogue operators who are found to have committed acts of cruelty or who fail to comply with the code of practice, which is what we are discussing, and fines of $20 000 for operators who fail to register a domestic animal business or who operate illegal businesses; once again, this is being delivered.

By comparison, fines for these two offences were previously just $1195, and we understand that people just ignored them. It was too hard for councils to implement these fines. By the time councils went through the process of finding rogue operators, taking them to court and doing all those things, it was not worth it for $1195. Regardless of the compassion councils may have felt for the animals concerned, the procedure was so onerous that it was not worth doing. However, a fine of $30 000 is a different thing altogether, and that is important. It sends a clear message to rogue operators that the Baillieu coalition government means business. We are making certain that the fines and penalties reflect exactly how serious we are.

We also said we would establish an animal welfare fund, and $1.6 million has been put towards one. The RSPCA and various animal shelters around Victoria do an amazing job. At Christmas time we get a lot of publicity about abandoned animals, and it is pleasing to see positive messages on the television at various times of day about puppies that are at the Lost Dogs Home waiting for adoption. It is pleasing to see the great response they get from Victorians.

The coalition government is establishing the Animal Welfare Fund with $1.6 million, which will assist the community foster care network in continuing to care for mistreated and abandoned animals. Additionally the fund will provide education to pet owners throughout the community about how they can be more responsible in caring for their animals. I note that Ms Pennicuik spoke about microchipping, and the microchipping of cats and dogs has been exceedingly successful. I suspect that the fund will enhance the awareness of pet owners of the issue of tagging dogs and cats appropriately, and that will be important into the future.

In this bill changes to the Confiscation Act 1997 will make possible the seizure of profits, assets and property of illegal puppy farm operators and will make it economically unviable for rogue breeders to continue to operate outside the law. This, together with the substantial fines, means that the bill sends an important message. It is absolutely vital to understand that it will not be tolerated if people operate a rogue organisation.

Mr Ondarchie spoke about what has happened in the courts in the past, and it is important to reiterate that and see what has happened so far. In the past three years there have been only nine cases taken to court: five in 2009, two in 2010 and two in 2011. Of the nine cases that were prosecuted, four were struck out of court, one was adjourned, three resulted in a fine and one resulted in a community-based order. That is hardly a threat to someone who is in the business of farming puppies and abusing animals, so it is pleasing to see this bill before the chamber.

Some time ago Mr Walsh, the Minister for Agriculture and Food Security, brought up an issue with the federal government, and it needs to be addressed. Prime Minister Gillard needs to act on this. More needs to be done to shut down puppy farms, as we know, and on 25 October Minister Walsh urged the Gillard government to introduce tougher controls on the sale of puppies for export. In the chamber today we have discussed puppies and bitches being exploited, but we have not touched on the issue of the illegal export of puppies. It is something that needs to be brought up, and we have to urge the Gillard government to do more to toughen controls on the sale of puppies for export.

In October the minister noted that unlike for livestock there are no minimum standards for the export of puppies. He also noted that there are no minimum age and weight requirements for puppies being exported and that there is no requirement for the puppies to be

microchipped. The Victorian coalition government is cracking down on rogue breeders, but the Gillard government needs to toughen export laws and introduce consistent standards across Australia. We need to be doing this in tandem. Just as we are debating this bill between all parties in this chamber, it is important that we work closely with the federal government and that it does its bit to make certain this is wiped out.

In Southern Metropolitan Region we have many parks and dog parks, and it is pleasing to see people walking their dogs. We have spoken in this chamber about obesity and how important it is that we get proper exercise. From my electorate office in Port Melbourne we see people walking their children to school with their dogs. It is terrifically pleasing to see families engaging with their pets. We also see a huge amount of activity after work amongst people who live along the light rail in Port Melbourne. When they come home from work they get out with their dogs, and it is terrific to see people from the local neighbourhood coalescing around their dogs and enjoying their pets. This is responsible ownership, and it is to be encouraged. We know that walking a dog is a fabulous way to exercise, and it is no wonder that pet owners are frequently more healthy than people who do not own pets. That is something for all of us to note. As I said earlier, this bill honours another coalition election commitment. I commend the bill to the house.

Mrs PETROVICH (Northern Victoria) — I congratulate Minister Walsh, the Minister for Agriculture and Food Security, and the Premier, Ted Baillieu, on this initiative. It has been a long time coming. I know that Oscar will be eternally grateful, as will his now owner, Deb Tranter, who fought hard to rescue him not once but twice from the horrendous conditions that little dog had to live in. But he is not the only one; sadly there are many other dogs who are living in squalid conditions. There are sometimes up to 1000 dogs at these properties. These pets command high prices, and that is why people do this.

The new regulations around this industry will ensure a much better quality of life for these animals and ensure that there are proper controls over the way the animals live and are distributed. I have worked with people in Woodend in the Macedon Ranges. Oscar was a case that came out of the Macedon Ranges, unfortunately. We have some fantastic people in my local area who have worked very hard to ensure that animal rights are protected. Trish Burke at Pets Haven and her crew who rescue and foster animals not only in the Macedon Ranges but right across Victoria are to be commended, and I know they will be very happy with the passing of this bill today.

Coming up to Christmas we need to talk about the importance of purchasing animals and the fact that they are for life. There is a high incidence of animals finding themselves in the Lost Dogs Home or abandoned at Christmas time because people do not want to pay to house them at — I was going to say a pets holiday home, which is where my dogs go — a kennel or somewhere more appropriate. Dogs are very often left at home on their own, which is also not appropriate.

The bill will improve the way that animals are bred. The new penalties will make sure that people who are in the business of breeding pets will be held to account. The penalty for the offence of conducting a domestic animal business on unregistered premises will rise from 10 penalty units to 164 penalty units or 600 penalty units for a body corporate. The penalty for the offence of selling a pet shop animal from anywhere other than a registered domestic animal business or private residence will triple from 10 penalty units to 30 penalty units and the newly introduced corporate offence will have a penalty of 150 units. The penalty for the offence of cruelty to an animal, which I am very interested in because I have seen some terrible cases of cruelty, will increase from 120 penalty units to 246 penalty units and 492 penalty units for aggravated cruelty.

The bill allows for a court to ban or impose conditions on ownership of dogs and cats or on operating or working in a domestic animal business. Quite frankly there are some people who should not be able to own or be around animals. The bill also provides for the recovery of maintenance and disposal costs from owners and for court orders for bonds or security to be paid by owners of seized animals. It is a fair bill. It also introduces new powers of seizure from a breeding domestic animal business if the business is not registered or has had its registration revoked. People who work in animal welfare have been very optimistic about those provisions being introduced.

The bill provides for animals seized from breeding establishments to be forfeited and re-homed, which was a great sticking point for little Oscar. He was rescued once, given some treatment and then had to go back to filthy conditions. He was rescued a second time and now lives with Deb Tranter in much happier conditions. There is also the power, as mentioned earlier, to destroy an animal under the certification of a veterinary practitioner because of disease or on humane grounds. Hopefully, as this bill is rolled out and takes effect, those sorts of conditions will become less and less common, and animals will be treated well and not so neglected that they have to be put down. The bill provides for councils to require a domestic animal business to allow an inspection of the business before

registration or renewal. The bill provides clarity and guidance on the issue of a notice to comply, including setting out things that can be directed to be done under a notice to comply.

The creation of the Animal Welfare Fund is a really important part of the bill. The bill provides for payments from consolidated revenue to be paid into the fund. It also provides for money be paid out of the fund, on the recommendation of the Minister for Agriculture and Food Security, to organisations that provide for the welfare of animals or provide animal shelters. Many of these organisations operate on the smell of an oily rag. Money can also be paid to organisations that provide education on responsible ownership, community foster care networks and animal relief services. Many people freely give of their time, homes and money in order to buy food and provide shelter for animals in the interim period while the animals are being rehoused and relocated to families that will love them.

An important component of the bill is its recognition of the role that community foster care networks play in the re-homing of animals and the limiting of time spent by animals in a pound or shelter. The bill provides that a council can enter into an agreement with a person or a body relating to the giving of a seized dog or cat to a community foster care network on the proviso that the animal is desexed and microchipped. This will in effect mean that many animals which may have gone straight to the pound or straight to the vet to be euthanased will now have another opportunity and another lease on life.

The bill creates a new offence to allow traceability of sellers of dogs and cats. The new offence, which is infringeable, is created for failure to provide a microchip number in an advertisement for the sale of a dog or cat. This gives traceability and makes the breeders and owners responsible. There will be the capacity to follow the dog or cat throughout its life cycle and ensure that it is looked after in the appropriate way from start to finish. Another very important part of the bill provides for Royal Society for the Prevention of Cruelty to Animals officers to serve infringement notices for code offences. The bill extends the ability for RSPCA officers who are authorised under the Domestic Animals Act 1994 to issue infringement notices to a business that fails to comply.

The bill also allows for the confiscation of proceeds, which puts unethical people on notice and ensures that these animals are going to have a better life. We need to ensure that how these animals are bred is also about the people who purchase these animals as pets and who may purchase animals which have some congenital issues such as hip dysplasia or a heart murmur. It is very disappointing when you take a little puppy into your home and then find that the animal has not been bred appropriately, often with the knowledge of the breeder that that animal has a congenital problem. A process of vet's bills or ultimately euthanasing that animal is very expensive.

The bill is timely and it is wonderful that it will pass today as part of a bipartisan approach. It is a very good and happy moment for the Baillieu government.

Hon. P. R. HALL (Minister for Higher Education and Skills) — In reply, I thank the members who spoke in the debate and gave their support to the bill. They are Mr Lenders, Mr Ramsay, Ms Pennicuik, Ms Darveniza, Mr Ondarchie, Mrs Coote and Mrs Petrovich. I thank all those members for their positive and constructive contributions to the debate on this legislation.

I want to pick up just a couple of points. Mr Lenders made an appeal that common sense be demonstrated in the application of this law. I concur with his views. I expect that the application of the new provisions will take into account the fact that in some cases people might be ignorant of the changes to the law. During the course of his contribution I was reminded of the warning I was given some time ago for walking a dog in an area where she should have been on a lead. A quick wave of the wand over the dog's shoulder soon revealed the identity of the dog — not that I had any problem in giving that. In that particular case I was given a warning. It was appropriate that the law was applied in that way. As I said, that was some years ago. It was a timely reminder for me as a pet owner to ensure that I complied with those provisions. I hope the provisions of this law will be applied in a similar way.

I want to comment also on a couple of the points that Ms Pennicuik raised in her contribution and say genuinely that to have her support for this legislation is something I respect because of the way that Ms Pennicuik has consistently raised in this chamber issues of animal welfare. Her commitment to that is amply demonstrated, and having her support for this legislation is something I appreciate.

Ms Pennicuik raised some issues about the sale of cats and dogs from other than a registered business. She suggested that the government could have considered taking this legislation further by banning the sale of cats and dogs from pet shops or online or, in the case of other points of sale, allowing only desexed animals to be sold. They are all valid considerations to put on the record. As Ms Pennicuik said, the bill is a positive step forward. If in the future some of those additional

measures are deemed to be needed, they may well be considered by those in government at that time.

Ms Pennicuik also commented on the issue of enforcement and suggested that the success of this legislation will be dependent largely on the level of enforcement and how it is enforced. Again, I concur with those comments and point to the fact that the government acknowledges that enforcement will be important. Recently the Royal Society for the Prevention of Cruelty to Animals has been given some funding that will help in that regard. It will be important to follow up on the legislation and collate data on prosecutions and infringement notices that local councils hand out so that we have a better idea about whether enforcement has been effective in achieving the objectives of this legislation.

With those comments, I again sincerely thank members for their contributions to the debate on and support for this legislation. I am very pleased that this afternoon this bill will go through the Parliament with the unanimous support of members.

Motion agreed to.

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

Third reading

Motion agreed to.

Read third time.

EDUCATION AND TRAINING REFORM AMENDMENT (SKILLS) BILL 2011

Second reading

Debate resumed from 24 November; motion of Hon. G. K. RICH-PHILLIPS (Assistant Treasurer).

Ms MIKAKOS (Northern Metropolitan) — I am pleased to speak today on the Education and Training Reform Amendment (Skills) Bill 2011, which the state opposition will not be opposing. The bill addresses some minor technical issues and seeks to provide further legal clarity, but we do not consider that it makes any significant changes to the operations of our TAFE sector.

Technical and further education is an incredibly important sector in Victoria. Currently 14 TAFE institutes and four universities offer TAFE programs around Victoria. In 2009 the sector saw nearly 500 000 individuals enrolled in education and training programs in our state, and 88.4 per cent of 2009 TAFE graduates employed or in further study after training. The TAFE sector employs about 10 000 effective full-time staff, so it is also a very important employer. In 2009 a significant number of 95 000 apprentices or trainees were enrolled in Victoria. In terms of young people having various opportunities and choices available in the type of education or vocational education they may pursue, in 2009, 110 500 young people aged between 15 and 19 years participated in vocational education and training in Victoria. TAFE is a very important sector in our economy as an employer but also as a skills trainer for our future workforce.

On the importance to the Victorian economy, the TAFE sector also has developed strong links into the Asia-Pacific region. This bill seeks to enhance some of those links by making sure that there is legal certainty for arrangements made by Victorian TAFE in operating overseas and interstate. For those reasons, the state opposition will not oppose the bill.

At a time when we are in need of a more skilled workforce, particularly in the construction sector, it is quite alarming that recently the government has made some significant and deep cuts to the TAFE sector. In 2008 the then Labor government released the significant Securing Jobs for Our Future initiative and committed $316 million over four years to deliver broader training options for students and business. It was intended to secure an additional 172 000 training places for Victoria over four years. In fact as a result of this Labor initiative, the biggest number of additional training places will be provided this financial year; however, the government has chosen this year to make a series of deep cuts to the TAFE sector, and that is very disappointing.

There is a very large manufacturing base and retail sector in my electorate. In the last few years we have successfully worked with the local schools to secure trade training centres for the northern suburbs of Melbourne. With the support of the federal Labor government we were able to secure funding for a significant project at Northland Secondary College to train young people in advanced manufacturing skills, and we have a vibrant TAFE sector through the Northern Melbourne Institute of TAFE and Kangan Institute. Local TAFEs in my electorate have provided various educational training opportunities for young people — although not necessarily young people.

I am concerned that the Baillieu government is going to unwind a lot of the strident progress we have made in providing these opportunities to young people in my

electorate. The Baillieu government has left the Victorian TAFE sector reeling from massive funding cuts to the tune of $250 million. Those recently announced cuts come on top of the $481 million that has already been slashed from the education department's budget, and that has had dire consequences on Victorian certificate of applied learning (VCAL) programs and other programs that members have spoken about in this house in recent weeks. The cuts will significantly impact on the TAFE sector. I hope the government will reconsider those cuts and provide more support to this sector in the future.

According to the Victorian TAFE Association it appears that large metropolitan TAFEs will be $5 million to $8 million worse off each year, and regional TAFEs will be about $500 000 to $700 000 worse off each year as a result of these cuts — those are significant cuts in funding. The TAFEs and the training providers are currently in the process of finalising their budgets for next year, and they will have to make some difficult decisions about staffing levels, what facilities they will have to close and what courses they will have to discontinue as a result of the funding cuts.

It is estimated that as a result of the cuts up to 300 Victorian TAFE teachers may also lose their jobs and less young people will get the chance to undertake training to help them get a job. Less jobs and less incentives to provide jobs equals less opportunities for young people in the future. The government espouses its commitment to Victorian families, but the proof of the pudding is in the eating. The government has cut many programs that support Victorian families — for example, the scrapping of the school staff bonus will impact on 100 000 families. Promises about making Victorian teachers the highest paid in the country have been made and broken. Two hundred teaching and learning coaches, 45 literacy experts and 15 specialists to help Koori students have been scrapped. Many schools, particularly in my electorate, that will now miss out on infrastructure funding or redevelopment.

I have mentioned this before, and I will keep mentioning it; I found it absolutely galling that the coalition's election promises did not commit to redevelop a single school in my electorate of Northern Metropolitan Region.

Mrs Peulich — What did you do in 11 years? You did nothing. Hang your head in shame; you left it in ruins.

Ms MIKAKOS — A great deal, Mrs Peulich. I am very proud of the projects that we funded in my region. It has been interesting to follow Mr Ondarchie's tweets all week as he has been going around with ministers, cutting ribbons on projects that were all Labor projects, but it remains to be seen what ribbons they will have to cut next year in Northern Metropolitan Region, and probably in the western suburbs too, when those Labor projects are completed. The coalition will have nothing to show after a year and a bit in government.

It is concerning that these cuts are impacting on the opportunities for young people in my electorate. I am concerned about apprenticeship fees going up an estimated $200 a year on average, whilst employers have also had their assistance to employ an apprentice cut. This comes at a time when we have skill shortages and we need to train our future construction workforce. As the planning minister well knows, the housing sector has been a big driver of growth in the Victorian economy for many years, and it is important that we have the skills and workforce in place to keep that sector going strongly in the future.

There are many reasons a young person might decide not to pursue a Victorian certificate of education, certainly in working-class suburbs such as the suburbs in many parts of my electorate, but those young people might choose to pursue vocational education. I am proud of that, as the daughter of a tradesman. Many young people will decide to choose that course in life, and it is one of which I am very respectful.

We need to ensure that people have an opportunity to enrol in TAFE, that fees, including apprenticeship fees, are affordable, and that VCAL is available to young people and supported through our education system. It has been very disappointing to see the consequences of the VCAL cuts and hear the concerns expressed to me in my local community about the impact this will have on schools in my electorate. I urge the government to reconsider the cuts it has made to the education sector as a whole but especially in the TAFE sector during the course of this year.

Turning to the bill, it is very straightforward and essentially deals with two broad issues: the activities of TAFE institutions and adult community education providers which operate outside of Victoria, and the issue of work placement for students and in particular their coverage through the WorkCover system. In relation to TAFE operations outside Victoria, as I said, many TAFES have sought to expand their programs and relationships with not only interstate providers but also overseas ones. We encourage relationships that provide financial benefits to the education institutions themselves but also seek to enhance the very good reputation of Victoria's vocational education providers interstate and overseas.

The bill makes technical amendments to the Education and Training Reform Act 2006 to clarify the powers and functions of Victoria's 14 TAFEs and 2 adult education institutes in respect of their operations interstate or overseas. It is believed that there was some legal ambiguity around these powers and functions, and the bill restates those powers and functions through clause 4 to put this issue beyond any legal doubt. To this end the bill also provides for the validation of past operations so that TAFE institutes are considered to have always had those powers and functions.

The second issue addressed in the bill relates to WorkCover arrangements for students undertaking work placements. The bill amends the Accident Compensation Act 1985 in order to ensure that insurance cover through WorkCover is provided to students in respect of injuries that may occur from or in the course of student work placements. It is important that these amendments are made to ensure that senior secondary and vocational training work placements are covered through the WorkCover scheme. As I understand it, the changes do not apply to year 10 school work experience students, for whom the previous arrangements will continue to apply.

I have had a number of work experience students placed in my office over the years and it has been a rewarding experience for both me and the students involved, particularly where that period coincided with a parliamentary sitting week. I have always enjoyed the opportunity to bring young people here and show them how the Parliament operates in practice. I encourage members to avail themselves of opportunities to take on students through either year 10 work experience placements or perhaps those undertaking a TAFE course that requires practical work experience, to open up our offices and allow young people to see for themselves what members of Parliament do.

It is understood that students may be caught up in an unintended gap arising from the move to national registration for training providers from 1 July 2011. For this reason clause 5 of the bill allows the provision to operate retrospectively, therefore ensuring that students who have undertaken placements in the past are also deemed to have been covered by WorkCover. It is important that students, like anybody undertaking work, are properly covered for an accident or injury on a work placement and can access the WorkCover system.

We do not oppose the bill; it makes some straightforward, necessary legislative amendments that we are happy to see passed. I conclude by saying that we are debating this bill at a time when the TAFE sector is very concerned about the cuts announced recently by the government. The state opposition believes the TAFE sector is a very important sector that should receive more financial support from government.

Ms PENNICUIK (Southern Metropolitan) — The Education and Training Reform Amendment (Skills) Bill 2011 is a fairly straightforward bill that makes two sets of amendments to the Education and Training Reform Act 2006, or ETRA, and the Accident Compensation Act 1985. The amendments to ETRA will clarify that TAFE institutes and adult education institutions may deliver programs and services outside Victoria, whether that be interstate or overseas. It had been thought until recently that these powers already existed in the act, but, as Mr Hall advised me in the short conversations we had about the bill, that does not seem to be entirely clear, so this bill makes it clear.

The second set of amendments is to the provisions that authorise the conduct of practical placements and work experience programs for students of vocational education and training providers and work experience in structured workplace learning placements for students of secondary education providers to ensure that they are covered by WorkCover if they happen to be injured at work. As Ms Mikakos just said, that provision will operate retrospectively.

We do not always support retrospective legislation, but in this case it is important that students who may have been injured on a work placement are covered by WorkCover. That is very important. Again, I thought that was already the case, but if it needs to be clarified, we need to do that. As Ms Mikakos said, there was not an awful lot of consultation on the bill. In the second-reading speech the Minister for Education in the Assembly and Mr Hall in this house mentioned consultation with TAFE providers and so on but did not mention the Australian Education Union. We did consult with the AEU, which informed us that it did not have any issues with the bill.

That being said, I do echo the concerns raised by Ms Mikakos regarding the state of the TAFE sector. We know it has been the subject of a report from the Essential Services Commission, with which it has to deal, that there have been changes to the funding arrangements, including funding cuts. We have heard that some TAFE institutes are going to be forced to cut staff, which is concerning.

In regard to the Victorian certificate of applied learning (VCAL), which I have raised in this place before, a campaign has been running through the AEU and the Victorian Principals Association regarding $48 million

that has been taken out of the program. The minister will probably say something about that in his summing up, and he and I have gone to and fro on this matter, as I have with the Minister for Education with regard to questions on notice and adjournment matters.

The government on the one hand is maintaining that more money is going into VCAL, but the schools and the union on the other hand are maintaining that less money is being allocated, and certainly it appears that $48 million has been taken out. At the beginning of fourth term, which was only a few weeks ago, 120 principals and community leaders wrote to the Premier outlining their concerns about the withdrawal of funding for the coordination of VCAL. Those principals and school communities are concerned that they will either have to drop the coordination of VCAL or drop other parts of their curriculum or activities or programs to keep the VCAL coordination going.

Many school communities are actively lobbying the government about the lack of funding for VCAL coordination. They are saying straight up that they are not going to be able to continue the coordination of VCAL, and whether it is in a secondary school or another provider at a secondary level we know it requires a lot of coordination. It is not simply a matter of delivering a course. It requires a lot of coordination with workplaces, employers and with students, some of whom do have challenges. Many of the students who participate in VCAL — not all but a lot of them — have challenges in their home life and in their education, and require a lot of hands-on coordination by VCAL coordinators. What we are hearing, time and again, day after day, from school communities is that this is not being delivered and that the $48 million cuts are impacting greatly on their ability to deliver it now and into the future.

I take the opportunity that debate on this bill provides to raise that matter again as a serious issue. Funds have been taken out of the education budget at a time when we have a growing population. Education needs to be the no. 1 investment in the future for all our students to ensure that they can make the best of their years at school and indeed at TAFE, which is what this bill provides for. There can never be an argument for a reduction in education funding when you have a growing student population. With those comments on the record, I indicate that we will not oppose the bill.

Mrs PEULICH (South Eastern Metropolitan) — I would also like to make some remarks, firstly, on the bill, and secondly, to address some of the issues that have been raised by Ms Pennicuik and by members of the opposition both here and in the Assembly in terms of the broader issues that relate to some of the more topical issues.

First of all I would like to speak on the main provisions of the bill, relating to an amendment to the Education and Training Reform Act 2006. As previous speakers have said, the bill removes any doubts about the power of TAFE and adult education institutions to operate outside of Victoria. Obviously this is crucial in ensuring that our TAFEs are sustainable, and given their significant operations both interstate and abroad, it is absolutely imperative that any legal loopholes are closed and that their roles and functions are clarified.

The bill introduces amendments to overcome gaps in technical problems in the act concerning the authorisation of work placements and the provision of WorkCover protection for students engaged in these placements. This bill reflects the rich tapestry of technical and further education provision in the state and the need to have work placements and work experience happening fairly seamlessly. It is clearly intended to close any loopholes to make sure students are covered should any accident occur under WorkCover in any of those work settings.

This bill is, in a nutshell, fixing the problems. That was part of the slogan in our election campaign — ‘fixing the problems’ and then ‘building the future’. The Minister for Higher Education and Skills, Peter Hall, and his ministerial counterparts have identified some of the problems within their portfolios and departments and are methodically working through them to ensure that these problems are addressed. This bill is just another example. It might be a small bill, but it is an important one. We all recognise the importance of the TAFE sector in particular, not only in terms of skilling our workforce but also in providing export education. International education in particular is a most significant expert earner for Victoria. It is imperative that these issues are addressed so that they are sustainable and that our students are protected.

In terms of the TAFE overseas operating powers, the bill is a small but important facet of the Baillieu government’s commitment to vocational education and training (VET). By clarifying that TAFE and adult education institutions may deliver programs and services outside of Victoria, the Baillieu government is providing a legal framework for these institutions to continue existing overseas operations which are generally supported. In the climate of the Australian dollar being very high at the moment, and with the worldwide economic downturn, many international students are looking at cheaper options. In many instances they are looking at being able to access

internationally recognised and high quality education within their own countries. I am aware that many TAFEs not only have a presence in South-East Asia but also they are looking to increase that presence. Therefore it is imperative that those ambiguities are removed, and this bill does that.

Providing TAFEs and adult education institutes formal cover with which to conduct business overseas is vital for safeguarding a significant source of revenue for the institutes and also as a tool to promote the nation's best education system and the Victorian brand abroad. We are very lucky that we do enjoy a strong brand and this will only increase by improving the quality of the education that is taking place within it and making it more sustainable. Operating overseas is obviously an ideal method for Victoria, which is the knowledge capital of the Asia-Pacific region, to share its knowledge with the world, to showcase its TAFEs in a fashion that generates overseas interest not only in our world-class education and training system but also in many other industries within our great state.

The second part of the bill authorises the conduct of practical placement and workplace experience programs for students of vocational education and training providers, as well as work experience and structured workplace learning placements for students of secondary education providers. Vocational education and training students undertake practical workplace placements. This is the value of those particular non-academic streams, and students receive instruction and training in specific areas and specific occupational skills. These placements are a part of their vocational education and training programs, so I understand that there have been gaps in the coverage by WorkCover with respect to workplace injuries during those placements.

The current act provides that students of vocational education and training providers registered with the state regulator, the Victorian Registration and Qualifications Authority, can undertake practical placements, but on 1 July 2011 a new commonwealth regulator of vocational education and training was established called the Australian Skills Quality Agency, and it is estimated that about half of the vocational education and training providers in Victoria will be registered with ASQA. As a result, students registered nationally may fall outside the provisions of the state legislation that provides WorkCover protection, so that is the reason why this particular amendment and these provisions are required. I think that is something that is beneficial, and even though it is retrospective it does not engage the provisions of the human rights charter because it is something that is positive for those who may have been caught up in that gap.

I would like to quickly address some of the issues that have been raised in the Assembly as well as by Ms Mikakos and also in passing by Ms Pennicuik. First of all, they were talking about the state of TAFE education funding and relating that to job cuts. Trying to link that to the Victorian government's funding of vocational education and training exclusively is misleading, quite simply because we know that TAFEs are experiencing a period of change and many of those changes are externally driven.

I have just mentioned the increasing dollar and the tightening of the global economic circumstance, and indeed this is reflected in the number of international students who can access our TAFE system. Many of Australia's universities and TAFE institutes have obviously been impacted by a very significant decline in international student numbers — obviously very significantly due to the higher Australian dollar as well as the commonwealth government's application of highly restrictive visa arrangements for students wishing to study at TAFEs. There have been multiple factors contributing to this, none of which can be then singly parked at the door of the government or the minister; I think it is misleading and unfair.

In the last year, for example, international education enrolments in vocational education in Victoria have fallen by 16 per cent. That is going to be reflected in the amount of funding that can be available to the sector. Policy-driven changes implemented by the previous government and continued by this government have led to changes within the vocational sector and in particular have increased access to vocational education and training to record numbers of Victorians. Ms Pennicuik criticised VCAL (Victorian certificate of applied learning) funding, but of course there is growth funding in that, and we all know that all schools have the capacity to provide more broadly for a range of needs that school communities have. It might also include coordination, and if there is growth funding and if there is a greater capacity for a larger number of students to undertake VCAL, then there is obviously a critical mass where schools can devote additional resources notwithstanding the reforms that need to be made.

The policy changes have seen a major increase in the level of government investment in training in TAFE institutes, and they have grown their overall delivery on the back of that additional funding. In 2011 the Victorian government will make a record investment of around $1.2 billion in vocational education and

training, and this is expected to increase to $1.3 billion in 2012.

In the Assembly, Mr Herbert, the opposition spokesman, brought up the announcement from Victoria University (VU) that it was going to cut 30 staff due to massive funding cuts. This is the line. But what he fails to say is that Victoria University's international student enrolment in vocational education has declined by 25 per cent. It is very convenient to try to run a line, but we have to look at the reasons and be fair in our assessments.

Since the introduction of skills reform in 2008 Victoria University has reported a 12 per cent growth in government subsidised enrolments over the same period, and VU's revenue from the Victorian government increased by more than $13 million and its TAFE workforce increased by 127 full-time equivalent staff. TAFE institutes in Victoria are independent statutory authorities, and as the employers of all staff they are responsible obviously for managing their own workforces, including all decisions about employment matters. Their independence has been very important to ensuring that Victoria has the most responsive TAFE system in the country, and to suggest that these cuts have somehow been caused by changes to the Victorian government's funding of vocational education and training is definitely misleading.

Ms Pennicuik criticised the level of consultation on the bill. This minister in particular believes in transparency. All members of the Baillieu government believe in transparency, and we are progressing that agenda, but I am also advised that there has been extensive consultation with the sector when drafting the bill, including the Victorian TAFE Association and the Australian Council for Private Education and Training.

The opposition spokesman also raised potential concerns about undue influence of ministerial power to intervene and get information about TAFE activities outside Victorian borders. The power vested in the Minister for Higher Education and Skills relating to these activities will be used sparingly and properly, and I have every faith that the minister will honour that commitment.

A number of other concerns have been raised. I would just like to touch on the funding cuts to the TAFE sector raised by Ms Mikakos and Mr Perera, the member for Cranbourne in the Assembly.

Mr Koch interjected.

Mrs PEULICH — I was not aware that this was supposed to be a 5-minute speech, given that I am the first speaker for the government.

Mr Perera deliberately misled the Assembly when he stated that this government is determined to take 25 per cent of the consolidated funding to bigger TAFEs.

Hon. M. J. Guy — That is not an unusual event.

Mrs PEULICH — No. I can only assume that he was referring to the changes in VET fees and funding made in October last year by his party when it was in government. I would also like to emphasise that the former government introduced a market-driven system for vocational education but it did not necessarily put all the measures in place in order to achieve it. It was not unusual for the former Labor government to come up with ideas but then not actually implement them properly.

The former Labor government presided over uncontrolled growth in enrolments since 2008, with particular growth in low-cost courses, including a 94 per cent increase in business and clerical studies, a 50 per cent increase in finance, a 54 per cent increase in hospitality, a 45 per cent increase in property services, a 66 per cent increase in tourism, a 62 per cent increase in wholesale and retail and a 440 per cent increase in recreation courses. The number of providers receiving government funding soared by 30 per cent in three years from 561 to 730, and consequently expenditure blew out from $800 million in 2008 to an estimated $1.22 billion this year. The reforms were not well-received by the sector.

David Williams, the executive director of the Victorian TAFE Association, condemned the former government's approach when he said in an article in the *Australian* titled 'Victorian TAFEs "shocked" at cuts' that it produced 'rampant uncontrolled growth'. In an article in the *Age* he went on to add that the Brumby government was warned that this situation could unfold and that:

> Blind Freddy could see that this was going to happen when they opened the gates uncontrollably under the prior government.

The Minister for Higher Education and Skills has tried to get a handle on the situation. He asked the Essential Services Commission to examine the fees and funding of VET. A period of consultation has been undertaken, and I look forward to this government providing a sustainable future for our technical and further education sector. There are no easy solutions — there never are — but this government has a strong

commitment to the provision of educational services whether it be in schools, TAFEs or universities. With those few words, I commend the bill to the house.

Ms TIERNEY (Western Victoria) — I rise to make a contribution on the Education and Training Reform Amendment (Skills) Bill 2011. In doing so I reiterate the position Ms Mikakos took earlier in this debate, which is that the opposition will not be opposing this bill. As previous speakers have also mentioned, this is a fairly straightforward bill before the chamber this evening. It will essentially amend two pieces of legislation — the Accident Compensation Act 1985 and the Education and Training Reform Act 2006.

In relation to the Education and Training Reform Act 2006, the bill seeks to clarify the powers of Victorian TAFE institutions as well as adult education institutions and primarily the operation of those institutions with commercial activities interstate or internationally. It is believed that this will clarify what those powers are as there have been some questions raised in recent times by a number of stakeholders.

In relation to the Accident Compensation Act 1995, this bill will essentially provide WorkCover coverage for secondary students who are fulfilling student work placements. This is not with respect to work placements or work experience placements that usually take place in year 10; this is for senior secondary students who are undertaking vocational training work placements such as Victorian certificate of applied learning placements.

The opposition supports this aspect of the bill because we believe that providing WorkCover insurance to students undertaking vocational education in workplaces outside of schools is incredibly important. It is absolutely vital that students are properly and fully covered by accident and injury insurance while they are on work placements, just as employees are in their workplaces.

One of the situations that has given rise to the necessity of this aspect of the bill before us this evening is the recent national registration of training providers that occurred on 1 July this year. As a result of this there have been some unintended gaps in the legislative coverage in terms of insurance. This aspect of the bill will ensure that that protection is backdated to 1 July, which means that students who suffered an injury or were involved in an accident after 1 July this year will be covered for the second six months of this year.

I will now address the formal and technical aspects of the bill before us today. This legislation essentially intends to assist in the operation of vocational education in this state. As a result, the opposition supports the bill because the Labor Party, whether in government or in opposition, is a very strong supporter of vocational education and of making sure that we have everything in place to ensure that we skill up our workforce — not just existing employees and workers but also the future generations who come through our secondary schools as well as our TAFE and vocational sectors.

It is timely that we touch on the importance of vocational education. We understand that vocational education and training provides many benefits to both the individual and also the wider community. As members will know, there are hundreds of courses out there for Victorians of any age to study, creating pathways to new opportunities every day. It also provides direct preparation for employment and lifelong learning and builds community capacity. Tens of thousands of Victorians gain suitable skills to assist them in finding employment or to improve their employment prospects. For employers, vocational education is vital for skilling up their workforce. The Labor Party understands this, and it is important that vocational education is invested in in a sustainable way.

However, whilst the legislation before us tonight supports some infrastructure aspects of the sector, what Victorians have seen in recent times, particularly since the election of the Baillieu government, is the exact opposite. Victorians have seen the peeling back of vocational education through schools as well as at TAFE institutions. We have heard from a number of speakers this evening about the cuts to TAFE. Those cuts are untimely, particularly given the enormous skills shortages occurring right across the state. It is disappointing that this government has not taken that on board. In fact apprenticeship funding has been significantly slashed.

We have also heard from previous speakers that approximately $250 million has been cut from TAFE and vocational education providers. The impact of these cuts will obviously mean that student fees will skyrocket and providers will start cutting courses and cutting staff. Whilst other states in Australia are increasing funding for the training of skilled employees, those opposite are making it extremely difficult for the TAFE sector. I hear that time and again as I move around my electorate.

It is important for the record to again raise the issue of VCAL (Victorian certificate of applied learning) coordinators. This issue is not raised lightly by people. It is not a situation where a government just comes in and makes a change and everyone says, ‘Well, at the end of the day that’s the government’s decision’. The

issue of VCAL coordinators is raised by almost everyone I come across. They cannot understand why this government does not seem to understand the hard work and intense effort that is put in by VCAL coordinators. Theirs is a very hands-on, labour-intensive role. It is not about coordination by picking up the phone or shuffling paperwork on a desk; it is about physically taking students from point A to point B, having intensive dialogue with employers and making sure that parents are involved in the process inside and out. It is not something about which the government can say, 'Oh, well, it is a role that could have been performed during the bedding-in process of VCAL'. The role is so integral to the success of VCAL that it cannot be underestimated.

I know Mr Hall has been inundated by a huge number of people raising this issue. I cannot underline enough that if the position of the government on this issue does not change, it will be seriously making a conscious decision to jeopardise the success of VCAL. I do not think anyone — regardless of their political party, anyone in this chamber — really wants to see that.

In conclusion, I say that the opposition does not oppose this bill, as it simply makes some required technical changes in relation to WorkCover and the commercial operation of TAFE and adult education institutions in this state. Whilst there might be some flow-on in terms of a financial gain as a result of the first set of amendments, it will be an absolute drop in the ocean and will do nothing to balance out what this government is doing by taking money out of the system and turning back the clock in relation to the vocational education and training sector in this state.

Mr ONDARCHIE (Northern Metropolitan) — I rise this afternoon to speak to the Education and Training Reform Amendment (Skills) Bill 2011. As a former school council president and occasional guest lecturer at some of our higher education institutions and — this might surprise people — a former student as well, I have been delighted to work alongside Minister Hall, and he knows my commitment to further education and training in this state.

The bill proposes urgent amendments to the Education and Training Reform Act 2006 as it affects two issues in the higher education and skills portfolio. Firstly, the bill will clarify that TAFE institutes and adult education institutions may deliver programs and services outside of Victoria, whether interstate or overseas. There had been some thought that this was already permissible under the principal act because a number of TAFE institutes and adult education institutions conduct substantial operations outside Victoria, which include maintaining campuses, delivering educational services online and undertaking other ventures on a commercial basis. However, recently some doubts have arisen as to whether this is permissible under the current wording of the act and whether the act is technically sufficient to allow these activities to continue. The bill therefore makes minor amendments to put beyond doubt the ability of TAFE institutes and adult education institutions to operate outside Victoria.

The bill will close the gaps in the coverage of students undertaking practical placements under WorkCover with respect to workplace injuries sustained during those placements. Lately I have talked to students at Whittlesea Secondary College about their desire to get more work experience in the TAFE area; this will simply protect them as they go about what they need to do. I have also visited the Northern Melbourne Institute of TAFE and Kangan Institute. This is a no-brainer; it fits easily into their ability to grow their footprint, and we encourage them to do that. Let us face it: we want Victorians to optimise their skills and education. Equally, we want these institutions to be able to optimise their revenue so they can provide the sorts of things we are looking for.

As I said, the bill deals with work experience placements undertaken by secondary students enrolled in TAFE and TAFE divisions. It provides certainty for those students placed in the workplace as part of their general secondary education. While most secondary students are enrolled at schools, there are a number who complete their final years of secondary education with TAFE providers or other education providers that are not schools. The bill therefore aims to ensure that secondary students of TAFE providers can undertake work experience in the same way as their contemporaries enrolled at schools. It will also ensure that students of non-secondary education providers are also covered under WorkCover.

The bill contains a number of validation provisions designed to validate past actions of TAFE institutes and adult education institutions in conducting their operations outside Victoria. Although these validations relate to matters in the past, they are designed to legitimise actions that were carried out in good faith at the time in the belief they were authorised under the legislation.

The bill will make necessary changes to state law to enable students to undertake placements with WorkCover protection, and it complements the commonwealth regulations that may be necessary for this to be fully effective. This bill, as other speakers have said, allows us to grow education in Victoria and

enhance the skills development of our students and our workforce. I commend the bill to the house.

Ms CROZIER (Southern Metropolitan) — I also have great pleasure in rising to speak on the Education and Training Reform Amendment (Skills) Bill 2011. As other members have pointed out this evening, the purpose of this bill is to amend the Education and Training Reform Act 2006 in relation to vocational education and training, to make related amendments to the Accident Compensation Act 1985 and for other purposes.

There are a number of adult education institutions in Southern Metropolitan Region, including Holmesglen in Chadstone and Moorabbin and Swinburne University; Swinburne's main campus is in Hawthorn but it operates a TAFE college in Prahran. The bill is of particular importance to those institutions. The bill clarifies TAFE's powers to operate interstate and internationally and also updates legislation as far as WorkCover provisions are concerned.

The bill does two things: it will clarify that TAFE institutes and adult education institutions have the power to operate outside Victoria, and it will overcome the gaps and technical problems in the Education and Training Reform Act 2006 that authorises work placements to ensure WorkCover protection for students and their host employers. Despite the technical issues that have been highlighted by previous speakers and some of the aspects the opposition has raised, I can state that this government places a high priority on education. As we would all agree, education equips people to further their careers and it exposes them to opportunities. Despite what Ms Tierney said, the Baillieu government has done much to invest in vocational education and training in schools. As was stated in a media release of May this year:

> The Victorian coalition government will invest $32.8 million to provide vocational education and training as part of the 2011–12 budget …

As the Minister for Higher Education and Skills, Mr Hall, commented during question time, apprenticeships and vocational training provide for trade careers and pathways which give people greater opportunity. The Baillieu government is undertaking this support in many areas in relation to higher education and skills training. This has the additional positive effects of meeting the needs of industry, as well as the needs of those students, and it will go a long way in assisting in skills shortages in this state, as it will do in other parts of the country. I am pleased the minister mentioned in his contribution this afternoon that he was speaking with the federal government to achieve the support required for this area of great need in education, which will benefit not only the students but also the institutions and industry as a whole.

We have heard about this industry, which is a significant industry to Victoria. In her contribution to the debate Mrs Peulich spoke of education as being a large exporter for Victoria, and we must do what we can to support it. This bill will address many of those issues that have not been dealt with, and it will enable those institutions and adult education facilities to deliver programs and services, both interstate and overseas, with clarity and certainty.

South-East Asia has been mentioned. I can say that I have recently been exposed to education institutions in South America which have huge numbers of students who are coming to Victoria and using our TAFE and adult education institutions. They have particularly strong relationships with Box Hill TAFE, and I know they are developing relationships with other institutions in Victoria. This bill is of great interest to them and to Victoria.

As I said, this bill will make minor amendments to alleviate any doubt about the eligibility of these institutions to legally operate outside Victoria. The other part of the bill relates to eligibility claims for WorkCover in the event of a student being injured or becoming ill whilst on placement outside Victoria. It is important to provide that certainty for both host employers and students.

I conclude by saying this bill aims to address those issues. It will ensure that students on placements, whether they be at a secondary institution or TAFE, will be afforded protection under WorkCover should they sustain a workplace injury with their host employer, and they will not be caught up in the technical oversights of the previous act. As I said at the outset, this bill affects many institutions and facilities, as well as students, within my region. It will provide certainty that those institutions and their boards are operating legally. I am pleased the opposition is not opposing this bill. I commend the bill to the house.

Hon. P. R. HALL (Minister for Higher Education and Skills) — I wish to make a couple of comments in reply to the debate. First of all, I thank members for their sincerity in their contributions to the debate this afternoon. While the opposition and the Greens claimed they are not opposing this bill, essentially their comments were supportive of the provisions in this bill. I guess the opposition conclusion came about because of commentary on other aspects related, but not

particular, to this bill. I thank members for the manner in which they have raised issues this evening.

I will again clarify what has been echoed by members in their comments to the debate — that essentially there is nothing new in this piece of legislation. It covers two main areas and, as members have come to the correct conclusion, it simply clarifies issues surrounding the substantial focuses of the bill — that is, the ability of TAFE institutes to operate beyond Victorian borders and the provision for accident compensation arrangements for students undertaking work experience or work placements.

In regard to the former, we have all recognised that the ability of our TAFE institutes to operate internationally and interstate has been in place for a long time. It is a substantial component of the operation of many of our TAFE institutes, and so the provisions of the bill provide legal clarity for that practice. It is the same with the accident compensation arrangements, and this is due to the fact that there have been changes in the way in which organisations are now registered, some with a national register instead of a Victorian register. Because of changes to the school leaving age and because of matters associated with the way in which work programs and work curriculums are structured at the senior secondary level, there is a need for clarity in regard to coverage of matters related to accident compensation. These are summarised on page 3 of the explanatory memorandum of this bill.

I might pause to reflect on the decision of the Scrutiny of Acts and Regulations Committee to compliment the department on the way in which the explanatory memorandum has been framed. In particular I want to give thanks to both the staff of Skills Victoria and my own staff for their contribution to the framing of this piece of legislation, and that has been recognised by SARC with those comments. I thank those involved in the construction of the legislation.

I want to dispel a couple of misconceptions raised made by members of the opposition, and to a limited extent by Ms Pennicuik, when they spoke about cuts to TAFE funding. What bemuses me in respect of this claim is that if you are funding training in Victoria to the level of $1.2 billion currently and you expect to fund it to the tune of $1.3 billion next year, how does that translate to a cut? More particularly, how does it translate to a $250 million cut? Where does the figure of $250 million come from? It seems to me that that is something the opposition has dragged up as a figure that might be appropriate to bandy around and that the figure has stuck. There is no substantial basis for that. When government is funding $1.2 billion and increasing funding to $1.3 billion, how does that translate to a cut?

The problem we are grappling with is that funding for training in this state is no longer on a fixed purchase-type basis. It was the previous government that implemented a demand-driven entitlement funding arrangement for training in this state. Consequently there is no known end point to that point of funding. There is a memorandum of understanding between Skills Victoria and Treasury that says they will fund this demand-driven training system. That is why we expect to meet an additional cost in the years ahead for training. Training is growing in this state, both in numbers and in cost, and consequently I fail to understand how people can interpret any actions as being a cut in funding.

It is true that we need to manage the growth in the funding system that we have — that is, the growth in that student entitlement system. When you have a funding level that went from $800 million in 2008 to $1.2 billion last year and will go to $1.3 billion next year, then somebody has to pay. Let us realise that somebody has to pay for that growth. As a public purse, the Parliament of Victoria has the responsibility to ensure that public money is spent wisely. Consequently we need to manage that training system. At the end of the day we need to make sure that the public money that is being spent on training matches employment and social and personal benefit in a balanced way.

Some members have raised the issue that there has been a 440 per cent increase in fitness instruction under this new funded training model. Is that an appropriate use of government funds? Some people would question that. In the last week of sitting I highlighted that training programs delivered by a particular provider were handing back $1500 of that training money by way of incentives to sponsorship for sporting and social clubs as well as a cash-in-hand repayment to individuals. There was a $1500 take coming out of a single enrolment in a training program that was being handed back by way of a donation to either a person or a club. Is that a wise use of public funding as well? Other cases of that are currently being investigated.

What we have with a demand-driven entitlement system is a system with some very positive outcomes — we all concede that — but there is not appropriate architecture to give good oversight of that particular model, and so it is that some of the changes that are already being implemented and some of those being contemplated by the government will address that particular issue. A demand-driven entitlement market can never be interpreted as representing cuts to the

funding system when you are actually increasing funding. It is a new concept. We are all dealing with this. There is a new concept in dealing not with a fixed amount but with a demand-driven entitlement market, and that is something we all need to come to grips with.

That having been said, there are aspects of commentary that could probably take us through the entire evening. I will not impose on the courtesy of the house by extending my time in reply, but again I thank members for their contributions and for the way matters were raised. One thing that we all share is a commitment to training in this state, and that is why I welcome the non-opposition of this bill and the support for the measures that are contained in it.

Motion agreed to.

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

Third reading

Motion agreed to.

Read third time.

CRIMINAL PROCEDURE AMENDMENT (DOUBLE JEOPARDY AND OTHER MATTERS) BILL 2011

Second reading

Debate resumed from 24 November; motion of Hon. G. K. RICH-PHILLIPS (Assistant Treasurer).

Hon. M. P. PAKULA (Western Metropolitan) — It will be a challenge for me to see if I can wrap up at around 6.30 p.m. I think that would be good for everyone.

The opposition will not be opposing this bill, but the Parliament needs to give it very serious consideration and scrutinise it very closely, because what we are doing today is effectively interfering with a principle that has existed for 800 years in the criminal law of those countries that have adopted the British justice system. It is a tenet of criminal law that has survived many upheavals, including the removal of the British monarchy and the Restoration. It has survived the birth of this nation, Canada and other countries. Obviously it has been changed in some of those jurisdictions as well, but it is a fundamental protection of the citizenry against the power of the state.

That is why the double jeopardy principle is in place. It is a recognition that the state and the state alone has the capacity to deprive free people of their liberty. It puts an appropriate limitation on the ability of the state to do just that. That limitation is that once you have been tried by the state and acquitted by the state, the state should not be able to continue to pursue you over and over and in effect cause you to never really be free of the allegation or the taint that you might be guilty of a crime. Double jeopardy has been an important part of the judicial system of this country, as it has been an important part of the judicial system of the UK, Canada, the USA and other Western nations.

Having said that, to effectively allow double jeopardy it is the case that the bill arises out of a series of conversations between members of the Council of Australian Governments going way back to 2003, which reached a resolution of sorts in 2007. The bill is specifically based on the double jeopardy law reform model that was agreed to by COAG in 2007. It is also correct to say that some two and half months before the election the now government put out a media release indicating that, if elected, it was its intention to reform the double jeopardy law. Again, unlike some other changes that the government intends to bring to the Parliament which became a subject of discussion only during the final days of the election campaign, this was the subject of a media release and some discussion some two and half months prior to the election. That is a factor the opposition cannot ignore in framing its response to the bill.

It is also worth noting that in this country — in New South Wales, Queensland and South Australia — models similar to the one proposed by the government have been adopted. It is my understanding also that Western Australia is in the process of passing a bill providing for double jeopardy reform. It is somewhat different in Queensland in that the Queensland legislature has indicated that there can be no retrospectivity in regard to double jeopardy, but that is not the case in the other jurisdictions I have referred to. It is also the case that in both the United Kingdom and New Zealand some double jeopardy reform law has been enacted.

In all those circumstances it is not as though Victoria, in the consideration of this bill, is doing something that has not been considered and adopted in other similar jurisdictions. Victoria is not trailblazing in this regard; Victoria is following a path that has been somewhat well worn. In all the circumstances the opposition does not believe the change is inappropriate, but it is worth going through some of the safeguards that are contained in the bill, because they play a very important role in

the opposition forming the view that it can support the passage of this bill.

First of all the bill allows for a new trial where there is fresh and compelling evidence. That is applicable in a number of offences, including manslaughter, arson causing death, rape, large-scale drug trafficking and murder. Those offences are set out in detail in the bill. The bill goes to those offences quite overtly. There is no sense that a decision about what those offences are will be left to the discretion of a judge or anybody else. They are set out quite clearly in new section 327M(2), which lists those crimes in some detail — certain types of murder, manslaughter, arson causing death, trafficking in a drug or drugs of dependence in large commercial quantities et cetera. I understand the Assembly agreed to some amendments that added an additional offence, which I am sure the lead speaker for the government will go through in his contribution.

Mr O'Brien interjected.

Hon. M. P. PAKULA — Mr O'Brien has acknowledged that.

'Fresh' and 'compelling' are both defined. Fresh evidence means evidence that was not and could not have been adduced at the trial, even with the exercise of reasonable diligence. Compelling evidence means reliable, substantial and highly probative evidence.

It is worth pointing out that the Scrutiny of Acts and Regulations Committee made some comments on the fresh evidence provision because it is not necessarily the case that it has to be brand-new evidence that did not exist at the time of the trial. According to SARC, it seems that it can be evidence that was not admissible at the time of the trial but which has become admissible as a consequence of changes to the rules of evidence.

That is a point the Parliament should note. It means that there are circumstances somewhat different from those the community might expect would be the case, like the discovery of DNA evidence or the discovery of a weapon after an acquittal, where these provisions could apply. It could be something as mundane as a change to the rules of evidence, which means that evidence that was previously inadmissible becomes admissible at a subsequent trial. It could be the case that evidence could be ruled inadmissible in a trial and then the Evidence Act 2008 is changed as a consequence of that ruling and that leads to the requirements of a new bill being introduced and causing the acquittal to be set aside. That is an important point worth noting.

The second ground is where there has been a tainted acquittal. That would apply to an indictable offence where there is a penalty of 15 years imprisonment or more. Again, it is worth reflecting on what the Scrutiny of Acts and Regulations Committee has said about that. The situations where this applies do not necessarily have to be situations where the tainted acquittal is the result of an overt act by the accused or their counsel in an attempt to knowingly subvert a trial. Any act by any person that has the effect of tainting the acquittal can lead to grounds for the acquittal to be set aside, whether or not it is an 'orchestrated perversion of the original trial', as described in the statement of compatibility. The bill does not require that it be an orchestrated perversion of the original trial; it can be any act by any person that has the effect of tainting the acquittal. Again that is an important point for the Parliament to note, inasmuch as it is always better that we make changes with our eyes open to what the changes mean and where they may be used.

The third ground is that a new trial can be allowed for any indictable offence in the case of an administration-of-justice offence — that is, when it is not the original acquittal being set aside but a trial for a new offence based on some act during the original trial that amounted to an administration-of-justice offence.

It is important to note also some of the limitations embedded in the bill that are being placed on the ability of the state to continue to pursue a person who has been acquitted. First of all the police require authorisation from the Director of Public Prosecutions (DPP) to commence an investigation into someone who has previously been acquitted, except in cases where urgent action is required to prevent irrevocable prejudice to an investigation. Members can imagine what those circumstances may be. The police may be aware that someone is about to dispose of DNA evidence, in which case they may need to intervene to prevent that from occurring and to do so more expeditiously than would be possible if they had to seek approval from the DPP. In those circumstances interim approval could be sought from a senior member of Victoria Police. The Director of Public Prosecutions would need to effectively confirm the approval as soon as practicable. I will come back to that point later.

Once an indictment is filed the DPP has to make an application to the Court of Appeal for a new trial within 28 days. The opposition thinks that the role of the Court of Appeal as the arbiter of whether a new trial will be allowed is an important step — probably the most important step — in leading the opposition to not oppose the bill. The Court of Appeal has to be satisfied that one of the exceptions applies and that a fair new trial is possible. I am aware that Ms Pennicuik will at some point seek to add some words to that provision.

Rather than stealing her thunder, I will let Ms Pennicuik make those points during her contribution. I will then address them during the committee stage.

If the application to the Court of Appeal is lost, it is important to note — and this is based on advice from the department and on a proper construction of the bill — that the Court of Appeal has to permanently stay the application. The legislation imposes on the DPP the discipline of having to get the first application right, because it cannot bowl up to the Court of Appeal with a shoddy application, fail and then go back a week or two later with a new one. It cannot keep trying to get it right until it does. If the application is lost, the Court of Appeal has to permanently stay the application. There can be only one retrial. If you are acquitted a second time, it is clear in the bill that that is the end of the penny section, as it should be. It should not be possible for the Crown to continue to make application after application to retry someone who has been acquitted more than once.

It is also interesting to note that a retrial cannot be sought if an offender has been convicted of a lesser offence on the basis of the same facts. To put that in context, if you have been charged with murder but the court convicts you of manslaughter and then sometime later the prosecution believes it has grounds for murder — malice aforethought and the like — it cannot come back and have a go at you for murder if you have already been convicted of manslaughter on the same set of facts.

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

Hon. M. P. PAKULA — Before we went to the dinner break I was in the process of describing some of the very important limitations on the ability of the Crown to seek to have an acquittal set aside and to reprosecute. As we were going to the break I was just about to mention that a retrial cannot be sought where the acquittal has been on the grounds of insanity. This is because the new chapter created by the bill that provides a definition of acquittal describes an acquittal, for the purposes of the new chapter, as including a verdict of not guilty other than a verdict of not guilty because of mental impairment. If the Crown at some point in the future decides that it does not believe that the acquitted person was truly insane, it cannot seek to have the acquittal set aside on those grounds, given that it is not an acquittal for the purposes of this bill.

As there ought to be, there is a presumption, although it is a presumption that could be overturned, that bail will be granted in the event of a new indictment. That is important, given that the accused is somebody who has already been acquitted. At the new trial the prosecution cannot make any reference to the fact that the Court of Appeal has been satisfied at an earlier time that there is fresh and compelling new evidence or that there has been a tainted acquittal. That is important, because it would be highly prejudicial for the prosecution to make such a reference at any new trial and it might have the effect of influencing a jury in an inappropriate way.

Those are some of the key safeguards that are embedded in the bill. In those circumstances, as I have already indicated, Labor is in a position to support the passage of the bill. We believe it is important to allow for a second prosecution of an acquitted person if it is in the interests of justice that it occur. I know Ms Pennicuik will be moving some amendments that make it clear that the interests of justice need at all times to be paramount. If it is in the interests of justice that there be another prosecution, then this bill allows that to occur, and that is appropriate. Where it is the case that a person had clearly and provably, to use the vernacular, got away with murder, if there is a chance of justice being served, then justice ought to be served.

Having said all of that, the double jeopardy rule has served not just the community of Australia but the communities of the United Kingdom, Canada, the United States, New Zealand and other nations that have had their justice systems forged on the British model. It is not by accident that those jurisdictions have had the double jeopardy rule in place for hundreds of years. It has been an important safeguard against the excesses of state power. The double jeopardy rule has been an important safeguard of the liberty of citizens against the power of the state, and so it should only be overturned or rebutted in the most serious of circumstances. It is very important that a person who has been found to be not guilty be treated as such until such time as another verdict is brought in. For all of those reasons it is of the utmost importance that the powers that are being provided to the state in this bill be used most sparingly. Let us be clear: this is the Parliament providing to the state another power over the citizenry, over free people. In those circumstances that power should be used on very rare occasions.

One of the unfortunate elements of the debate around double jeopardy is that expectations about how this law will be able to be used and will be used have been raised, probably inappropriately. I am not suggesting that they have been raised deliberately, but there is an expectation that in certain high-profile cases, which I will not discuss by name, this change to the law will lead to retrials, to a chance of people who have not been convicted in the past being convicted.

The fact is that the evidence from other jurisdictions where changes have been made to the double jeopardy rule shows that this power is used exceedingly rarely because, as is appropriate, the standards that need to be met by the state to retry an acquitted person are high. Fresh and compelling evidence is a difficult standard to meet, as is a tainted acquittal. For the Court of Appeal to be convinced that a fair new trial is possible is also a difficult standard to meet. For all those reasons, in all those other jurisdictions it has hardly ever been the case that a person who has been acquitted has subsequently been convicted under new rules that limit the application of the double jeopardy provision.

Quite contrary to the expectations that have been raised, I would expect that in Victoria, as in all those other jurisdictions, it will in fact be very difficult for the Crown to establish circumstances where it will get new trials. I am not suggesting that it has never happened in other jurisdictions. It has happened but it has happened only very occasionally, and I expect that in Victoria it will happen only very occasionally. Clearly the bill has, quite correctly, been drafted to ensure that it happens only very occasionally.

I just hope that there are not members of the community, family members of people who have been the victims of crime, who now expect that there will be some sort of slam dunk, lay-down misère that there will be a new trial as a result of the changes that are being made in the Parliament tonight. It is possible but it is far from certain.

I make the point also that opposition members are wary. We raised a number of questions in our discussion with the departmental officers — whom I thank for the very fulsome briefing that they provided — about the circumstances in which the police can recommence an investigation without the prior approval of the Director of Public Prosecutions. We have been assured by officers of both the minister's office and the department that such circumstances will be very rare and that the DPP must be notified and must give approval at the first available opportunity and that in fact the failure of the police to seek the approval of the DPP at the first available opportunity will be grounds for whatever action they have commenced to be stopped in its tracks.

Members of the opposition will not be opposing the bill. We believe the interests of justice are best served if the Crown has an opportunity to go before the Court of Appeal and seek to have a second trial if someone has clearly got away with committing a serious crime and new evidence that could lead to a conviction comes to light or evidence comes to light that there has been jury or witness tampering. That is appropriate. The principle of double jeopardy has served Western democracies exceedingly well for 800 years, if you take it back to the time it first came into effect in England. It is a principle that we should discard very reluctantly and in only the most serious and clear-cut cases. The reason members of the opposition can take a position of not opposing the bill is that we believe the bill has been drafted with sufficient safeguards to ensure that in fact the law will be used in only the circumstances I have described.

Mr O'BRIEN (Western Victoria) — It is with great pleasure that I rise to speak on the Criminal Procedure Amendment (Double Jeopardy and Other Matters) Bill 2011. The purposes of the bill include amending the Criminal Procedure Act 2009 to provide exceptions to the rule against double jeopardy that would permit a person to be tried or retried in certain circumstances despite a previous acquittal. It also makes consequential amendments to the Public Prosecutions Act 1994 and the Appeal Costs Act 1998 and other minor amendments of a statute law revision nature.

The background to this bill is in a sense quite ancient if one looks at the principle of double jeopardy, which is said to be timeless or to go back in the mists of time. There has been reference to 800 years or the 1500s in English common law. However, certain academics, including those who have been quoted by former High Court Justice Michael Kirby, have said that double jeopardy reaches back to Roman times, and even biblical times, with the phrase, 'Not even God judges twice for the same act'. In that regard it has been accepted as a longstanding principle of the English common-law system, which was inherited by this state and this country.

Like all principles of the common law, it has been capable of change and has evolved over time by successive courts considering the interests of justice in individual cases and also by parliaments in the laws that they make, including the laws relating to our criminal law procedure. Most of those more significant changes to the double jeopardy rule with which the bill is in keeping have been made in common-law jurisdictions in the past decade or so.

Simply stated, double jeopardy — or autrefois acquit, as it is referred to sometimes — is the principle that a person who has been acquitted of an offence cannot be brought to trial for a second or subsequent trial no matter what new evidence may be said to have come to light or howsoever the original trial may have been tainted. It is those two strong tenets of the rule — namely, that there cannot be a second trial

notwithstanding new or fresh evidence, or that there cannot be a retrial in circumstances where the original trial has been tainted — that this bill seeks to modify within the limited and defined circumstances contained in the bill.

As explained in the statement of compatibility, the bill does not contravene the Charter of Human Rights and Responsibilities Act 2006, nor does it contravene any constitutional principle in this state. It is noted that in this regard Victoria and Australia differ from the United States of America, which has a constitutionally enshrined Bill of Rights. However, the Scrutiny of Acts and Regulations Committee has made observations in its detailed report, which was complimented by speakers in the other place, including Ms Hennessy, the member for Altona and lead opposition speaker on the bill. As a member of that committee, I would also like to extend my compliments to the chair, the deputy chair, the other members of the committee and the secretariat on the work done throughout the year on not only this bill but also other bills.

If you are seeking answers to some of the questions raised by commentators or others on the interpretation of the bill, the Scrutiny of Acts and Regulations Committee report provides a good summary. It also raised a number of questions for the Attorney-General. Those questions have been answered in a comprehensive letter from the Attorney-General which deals in part with one of the proposed amendments from the Greens — namely, the question about the interests of justice, which I will get to shortly.

In relation to the statement of compatibility and the section 26 right that is contained in the charter, the bill engages that right, but it constitutes a reasonable limitation of that right. That is a reasonable limitation in the circumstances that the bill limits the principle of double jeopardy to tightly defined circumstances and a limited number of serious offences. It does so with various important procedural protections which guard against the abuse of process by police or prosecuting authorities.

Most critically, the bill provides a single, limited opportunity upon application to the Court of Appeal to reopen a trial that would otherwise have been said to have been concluded with finality. Rather than a single bite of the cherry, as presently exists, there will be limited circumstances for two bites of the cherry but there will not be an opportunity for three. That is probably the most important limitation. The other significant limitation is the fact that the application needs to be made to the Court of Appeal, which is the highest court within the Victorian jurisdiction. It sits below the High Court in the federal system and in the constitutional and common-law sense. In that regard the Court of Appeal will provide the ultimate protection and safeguard in balancing the interests of victims as represented by the state, and the state itself is said to be affronted by crimes against an individual and those interests of the accused.

A number of important phrases ring through our common-law history — namely, it is better that 99 guilty people walk free than one innocent person be wrongly convicted. It is also said that the most important person in a courtroom is the person who is about to lose their case because the interests of justice always need to be directed to ensure that if they receive a fair trial, then our system is working to the best of its capabilities, notwithstanding human frailty and the inherent limitations within our criminal justice system.

It has been said by one learned commentator, Michelle Edgely, that double jeopardy is a rule which engages the key competing principles in our system — namely, truth and justice, which are said to be the fundamental principles of our common-law system. It is said that double jeopardy is an instance where the search for truth, or finding out what happened, gives way to another pillar of our justice system — namely, the value of finality and certainty in outcome. Were it not for the reforms proposed by the bill, double jeopardy would prevent, in these very serious cases, the reopening of a trial, notwithstanding that there was clear and compelling evidence that the trial was either tainted or that the fresh evidence was that the accused, who had been acquitted, was in fact guilty.

In those instances, under the existing rules procedural justice is said to be preferred over substantive justice or getting to the bottom of what happened, or however justice is defined. This is important in discussions about the interests of justice, because it is often a competing notion of various values in society. The search for justice is the core function of our legal institutions and sustains the capable and learned individuals who represent the various competing positions within those legal institutions, as well as the judges who then have to decide what is in the interests of justice. In the limited circumstances of fresh and compelling evidence or a tainted acquittal, it may be the case that the interests of justice will outweigh the need for finality, and truth, in a sense, will be said to triumph over the other competing interests of justice.

Nevertheless, as a principle of common law it is important that we tread carefully in seeking to redress this balance, as this bill seeks to do. Modifications sought to the present understanding of this principle, as

outlined in High Court cases such as Carroll or Walton, bear upon the need to adjust this balance very carefully. That is why this procedure has not, in Australian jurisdictions and even in UK jurisdictions, been rushed into or concluded without due consideration. It has in fact had a long series of reform through the Council of Australian Governments (COAG) recommendations and agreements since 2003. It has also been the subject of reform in the UK and other states and territories.

In providing some certainty, the bill will provide another important aspect of justice — namely, clarity in relation to this important aspect of what has been generally a common-law principle or res judicata. It has not always been clearly defined, and there have been instances in Victorian and Australian history where one might have thought justice, double jeopardy or res judicata would apply and it has not.

One compelling example of a case in which the accused were not able to avail themselves of double jeopardy was the infamous 1838 Myall Creek massacre of a number of Aboriginals. I understand it is the only massacre in Australia's sorry history that has been brought to successful prosecution. The first trial began on 15 November 1838 and the 10 accused were acquitted. The very courageous Attorney-General remanded them immediately and tried seven of the accused again. They were charged with a second offence in relation to an Aboriginal named Charley, and they were subsequently convicted and hung, notwithstanding a plea of autrefois acquit or double jeopardy.

It is interesting to note that in that instance the determination of whether it was double jeopardy was made by a jury, specially empanelled, and the reasons for that would obviously remain with the jury.

That is an important part of the protections of the principle — namely, that in the application to the Court of Appeal for a second trial, the Court of Appeal will not publish its reasons and that application, if successful, will not form part of the record for any second trial. What will happen is that the prosecution can seek an opportunity for a second trial, but for reasons of protection of and fairness to the accused, the circumstance of fresh or compelling evidence will not be able to be admitted. That and other important limitations are set out in the bill and were debated in the lower house, and I will touch on some of them in the time available to me.

It is interesting that the lead speakers for the opposition in the lower house and this house noted that the opposition was not opposing the bill and indicated that there was an electoral mandate, in the sense of a stated policy, that the coalition government would bring in this reform if elected. Notwithstanding the COAG agreements and the introduction of similar bills in other states and calls from the then opposition to consider the introduction of this reform in this state, the opposition lead speakers omitted to say that the former Attorney-General refused for a long time to introduce this reform to the Parliament in any form. In introducing the present bill I note that the opposition has in effect indicated by its non-opposition that the important safeguards contained in the bill are satisfactory and receive their endorsement, given the comments that have been made about the important limitations on the principle of double jeopardy.

This bill is a commendation for our courageous Attorney-General, who is prepared to do what may not always be politically correct but what is in the interests of all Victorians, including all victims of crime, where there has been an acquittal that is considered to have been tainted or capable of being revisited but there has not been that opportunity. I join Mr Pakula in saying that it is not helpful or instructive to talk about any particular case. Each case, in the limited circumstances that will apply upon application to the Court of Appeal, will need to be considered on its merits. I certainly would not wish to prejudice the outcome of such consideration. Mr Pakula categorised the test as 'difficult'. I say it is one that is limited, and appropriately limited, by the wording of the bill. One needs to have regard to the wording of the proposed legislation, to which I will turn shortly as I go through the bill, because the checks and balances are contained within those words.

In relation to the double jeopardy bill, there are three situations capable of allowing a limited retrial. The first situation is where there is fresh and compelling evidence. New section 327C(1), to be inserted by clause 17, defines evidence as being 'fresh' when:

> (i) it was not adduced at the trial of the offence; and
>
> (ii) it could not, even with the exercise of reasonable diligence, have been adduced at the trial …

This means the bill will not permit the reopening of an offence in circumstances where there has been, as it is called, sloppy police work — not that I am saying there is sloppy police work. A situation where reasonable diligence could have adduced that evidence will not be sufficient; it must be a situation of genuine fresh evidence.

'Compelling' evidence is defined in new section 327C(1)(b) as being where:

(i) it is reliable; and

(ii) it is substantial; and

(iii) it is highly probative in the context of the issues in dispute at the trial of the offence.

Similarly, the meaning of 'tainted acquittal', the second circumstance in which a limited application can be made, is defined at new section 327D as where:

(a) the person or another person has been convicted (whether or not in Victoria) of an administration of justice offence in connection with the trial resulting in the acquittal; and

(b) it is more likely than not that, had it not been for the commission of the administration of justice offence, the person would have been convicted of the firstmentioned offence at the trial.

It is in relation to tainted acquittals that some of the more protective commentators of the double jeopardy rule have acknowledged that in circumstances of a tainted trial there is a strong argument for supporting the limited reopening that will occur with this bill.

The third instance where a limited application can be made is defined in new section 327E and might be seen as a variation of the second circumstance. It applies to a broader range of offences where there is fresh evidence that an administration-of-justice offence has been committed in respect of the acquittal and the prosecution seeks to bring charges of that offence notwithstanding that acquittal.

The bill strikes an important balance between the rule of law and the rights of victims and the rights of the accused. It does so in three major ways. Firstly, new section 327E requires Victoria Police to obtain the written consent of the Director of Public Prosecutions before relaunching an investigation, except in limited circumstances of urgency; secondly, new section 327O requires the DPP to apply to the Court of Appeal for authorisation for the prosecution to proceed a second time; and new sections 327L, 327M and 327N set out the test the Court of Appeal must apply in such cases; and thirdly, new section 327R prevents the prosecution from referring to any finding in pursuant of sections 327L, 327M and 327N by the Court of Appeal in any new trial, and that is an important protection.

These important protections are also relevant to the Greens amendments to be considered in the committee stage, but which I understand will be opposed by the government. I will again refer very briefly to the SARC report, because the questions raised by the Greens, particularly in Ms Pennicuik's amendments 2 to 4, seek to insert an interests of justice test. A similar issue was raised in a SARC report in *Alert Digest* No. 14 of 2011, but the Attorney-General answered those questions when he indicated on page 9 of *Alert Digest* No. 15 of 2011 that the proposed legislation is close to the wording in the COAG model. This is set out in section 327M(1), where it says:

(d) it is likely that a new trial for that offence would be fair, having regard to —

(i) the length of time since the offence is alleged to have been committed; and

(ii) whether there has been a failure on the part of the police or the prosecution to act with reasonable diligence or expedition with respect to the making of the application; and

(iii) any other matter that the court considers relevant.

In effect they are the same matters considered in the COAG model. In case there is any doubt, the Attorney-General makes it absolutely clear, in relation to the breadth of the matters that might be considered, when he concludes:

> New sections 327L, 327M and 327N also specifically allow the court to consider any other matter that it considers relevant. This, and the requirement to consider whether a new trial would be fair, gives the court a broad discretion that encompasses considering the interests of justice.

In that regard, what the Greens are seeking to do by inserting a new phrase about the interests of justice would not be effective in clarifying the issue and in fact would confuse the issue, because taking into account any other relevant matter includes the interests of justice. Having regard to the matters I raised in my opening, the interests of justice can sometimes be competing and any other relevant matter is in that sense a broader term, which includes the interests of justice. The ultimate question of fairness is one to which the courts are capable of giving very careful and due consideration in the appropriate manner.

Having said that, we also commend the Scrutiny of Acts and Regulations Committee for picking up the amendment to the child homicide issue, to respond to Mr Pakula's question. That was picked up in the house amendments made in the Assembly, and we commend the Attorney-General for responding quickly so as to include that provision in the bill.

There are two other objectives in the bill which seek to streamline the criminal justice system and help cut court delays by introducing amendments to the Magistrates Court to require the prosecution to make basic information available to the accused's lawyer at the first mention of a summary matter. The second objective allows that a conviction which is the result of

an infringement notice, such as a drink-driving conviction, can be taken into account when a court is sentencing an offender.

Since the time of the Magna Carta the criminal law has continued to evolve to protect accused persons and the state and importantly victims. This bill has now come to pass as a result of the election of the coalition government, and in that regard I commend the bill to the house. I commend the Attorney-General and his staff for their work on this important bill.

Ms PENNICUIK (Southern Metropolitan) — It is not often that bills of such nature come before us in Parliament. This is at once a simple and also a complex bill. Given the way the bill has been approached by Mr Pakula and Mr O'Brien so far — laying out the provisions of the bill and what it seeks to achieve and the safeguards in it — it all seems very reasonable. However, as both of those speakers have said, it seeks to overturn what has been a cornerstone of the criminal justice system for 800 to 1000 years, and not only in criminal justice systems that base themselves on the United Kingdom system but also in the United States, in various states of Europe and in Asia as well.

In some of those states at the present time it would not be possible to introduce this bill because it would be contrary to their constitutions, as it is in the United States for example. It is quite a significant bill for that reason. In researching this bill I discovered that in 2003 — eight years ago — the United Kingdom introduced limitations or exemptions to the double jeopardy rule. New Zealand did the same a year or so ago, New South Wales brought in exemptions to the double jeopardy rule in 2006, Queensland in 2007 — it does differ from this model in that it is not retrospective — South Australia and Tasmania did so in 2008, and Western Australia did just last week.

That being said, it does not mean that we should not look at the whole issue ourselves and at the implications of creating exemptions to the double jeopardy rule which, as we all know, has been in existence for so many centuries. The reason it has been there, in a nutshell, is to protect the citizen, the ordinary person, who to all intents and purposes does not have a great amount of resources at his or her disposal, from being prosecuted more than once by the state, which has a lot of resources at its disposal, including the police force and the whole of the judiciary. Therefore it is to protect the citizen from being tried again for the same crime when they have been acquitted by a jury of offences which involve a jury trial, because we are talking about serious offences in this bill, not minor offences.

I do not wish to spend a lot of time going through the provisions in detail, because Mr Pakula and Mr O'Brien have done that and it has also been done in the other place. Suffice to say that this bill will allow exemptions to the double jeopardy rule on three grounds: if fresh and compelling evidence has been discovered since the acquittal; where the original acquittal was tainted, either by bribery of a witness or by perjury; or where there is fresh evidence of an administration-of-justice offence that affects the original acquittal.

The bill was introduced into Parliament only a month ago and passed through the lower house last sitting week. There has been a week in between, and here we are with the bill before us now. Mr O'Brien mentioned the Scrutiny of Acts and Regulations Committee, which produced quite a comprehensive report on the bill and raised a number of concerns. The committee suggested that it would write to the Attorney-General, and the Greens have been asking when the response of the Attorney-General to the issues raised by SARC would be available. Lo and behold, it became available this morning. I have not had a chance to read through what is six or seven pages of response from the Attorney-General to the several very significant issues that were raised by SARC on this bill. On a bill as important as this, I do not think that amount of notice is good enough. I have not had time to finish reading it, let alone to consider it and weigh up the response against the questions raised by SARC. But here we are, with the bill, and we are meant to just pass it without having the chance to consider those issues.

I do not think that is a good way to proceed with legislation. I have to say, as I have said many times in this place, that there is no rush with this bill. It does not commence until July of next year.

Mr O'Brien — We only got your amendments today too.

Ms PENNICUIK — Mr O'Brien talks about my amendments, foreshadowing them when I have not even talked about them yet, and he says that he only got them this morning. That is because I did not have time in the last week, and following the briefing I had with the department on Friday, to prepare them. Parliamentary counsel needs time to prepare them, and they do not work over the weekend, so that just compounds my argument that the bill is being rushed through and should not be. For example, a similar bill passed the West Australian Parliament last week, but over there they have a committee within their committee structure to deal with bills such as this which come out of the COAG (Council of Australian

Governments) process, as this one has, and as soon as they are presented in the Western Australian Parliament they automatically go to that committee which looks at the bill and reports back to the Parliament. It deals specifically with any of these COAG-type national bills.

We do not have such a mechanism here, but we do have our upper house committees, and I will foreshadow that after the second-reading stage of this bill I will once again recommend and move a motion that the bill be referred to the Standing Committee on Legal and Social Issues Legislation Committee for inquiry, consideration and report by 1 March 2012. I put that date bearing in mind that this is our last sitting week for this year and committees are not going to be meeting over January; put it that way. It gives the committee a chance to consider the bill over February and report back to the Parliament in March, and that will give it plenty of time to commence by July. I also say that because I have given this bill a lot of thought. It raises fundamental philosophical issues and fundamental issues about justice.

I have tried to ascertain whether other groups in the community — such as Liberty Victoria, the Human Rights Law Centre and the Federation of Community Legal Centres — have had any time to consider the bill, and my discussions with them have indicated that, no, they have not had time to consider the bill. Some of them are looking at it as we speak, and that is another reason I think it should go to the Legal and Social Issues Legislation Committee: so there is an opportunity for those groups, other members of the community and other community groups who would have an interest in this bill to make a submission to the committee and have some time to consider the bill, the report by the Scrutiny of Acts and Regulations Committee and the response tabled this morning from the Attorney-General to the questions raised by SARC. None of that has been possible. Just because the bill or versions of it — the various bills that have passed through the other states of Australia are all slightly different, even though they purport to follow closely what is called the COAG model, or the COAG principles, because it is not model legislation, it is just a set of principles — have been passed in the other parliaments does not mean we have to rush ours through without due consideration as to whether the provisions as they are drafted are as they should be and whether they raise issues.

I would like to go to the first part of the bill which has not been touched upon by the other speakers. There are other aspects to this bill, which is called the Criminal Procedure Amendment (Double Jeopardy and Other Matters) Bill 2011, and the 'Other Matters' dealt with in clauses 4, 5, 8, 12, 15 and 16 go to infringement convictions in criminal records. We were concerned about those provisions which allow infringements relating to driving offences to be raised in court, and we raised that with the departmental officers, who I would like to thank for their time and effort in giving us a very comprehensive briefing on this bill on Friday. That allows for appropriate sentencing in those driving offence cases where the penalty escalates if it is a second or third offence, and obviously in order to apply the appropriate penalty one would need to know whether in fact it was a second, third or even subsequent offence.

Part 3.2 of the Criminal Procedure Act 2009 deals with the procedure before summary hearings, and division 4 of that part deals with mention hearings, summary case conferences and contest mention hearings. Clause 6 inserts a new section 53A into division 4, and it provides for documents to be provided by the police at a first mention hearing. It provides that the informant must provide the following documents to the accused or his or her legal representative at the first mention: a copy of the preliminary brief or full brief, or either if both are prepared; a copy of the charge sheet and a statement of the alleged facts on which the charge is based if no preliminary brief or full brief has been prepared; and either a copy of the criminal record of the accused or a statement that the accused has no previous convictions or infringement convictions.

Our query, which I raised with the department, is that this appears to apply only to police members, and we asked: given the new powers that have been given to protective services officers (PSOs) where in fact they can be informants — and we had just in the last week another bill in the Parliament which allowed police prosecutors to act on behalf of PSOs — should this particular provision in fact apply to PSOs? We did not get an answer to that particular question. It is one I will raise in the committee unless the following government speaker is able to answer it.

Going back to the major purpose of this bill, clause 17 inserts a new chapter 7A into the Criminal Procedure Act 2009, which lays out the limitations on rules relating to double jeopardy. As I mentioned before, I will not repeat those because other speakers have laid them out, but I will talk about some issues that chapter raises — for example, the meaning of 'fresh and compelling evidence' is defined in relation to new evidence. It basically has to be evidence that was not available at the time of the trial or could not be adduced or found at the time and is also compelling, highly probative, reliable and substantial. As Mr Pakula raised

in his contribution, that could also mean evidence that was not available or able to be adduced at the time due to its not being admissible at the time, and changes to the Evidence Act 2008 may mean that evidence that was not admissible before is admissible now.

With regard to hearsay evidence, which was introduced into the Evidence Act 2008 during the last Parliament, I raised the issue as to whether this could be regarded as fresh or compelling evidence and also, if it could not be adduced at the trial, whether the Director of Public Prosecutions (DPP) by being involved in asking the Court of Appeal to set aside an acquittal would then be turning his or her mind to whether the fresh evidence was in fact able to be adduced at the previous trial when perhaps the investigation had not been conducted properly. That is one of the concerns that has been raised regarding these new exemptions to the double jeopardy law.

Certainly in speaking to people and reading pieces of evidence and opinions about the pros and cons of this particular legislation one of the issues that has been raised is that in some cases it may lead to police investigations being less stringent and robust than they could be. No-one is suggesting that this would happen quickly, but it is possible that a culture could arise where police prosecutors may overlook things when they know that the limitations of double jeopardy would mean that they could have another go somewhere down the track. That concern has been raised by many commentators as we travel down this road of making exemptions to the double jeopardy rule.

New section 327D to be inserted by clause 17 goes to the meaning of what 'tainted acquittal' means. It talks about an acquittal being tainted if a person is convicted of an administration-of-justice offence in connection with a trial resulting in the acquittal and it is more likely than not that, had it not been for the commission of the administration-of-justice offence, the person would have been convicted of the original offence at the trial.

The wording of that reflects the COAG principles, but I note that the Law Institute of Victoria recommends the relevant test be that if not for that tainted evidence the person would have been convicted. The law institute puts the argument — and I have a lot of sympathy for it — that the current wording and the wording in the COAG principles reflect a lower civil 'balance of probabilities' standard of proof rather than the higher criminal 'beyond reasonable doubt' standard.

In short this bill seems to direct judicial consideration to a lower threshold for setting aside an acquittal than we would want to support when we are talking about setting aside an acquittal in the context of overturning what has been a longstanding and fundamental tenet of the criminal justice system.

To that effect, I have prepared an amendment to this particular provision in the bill. I would be very happy to have the amendments circulated.

Greens amendments circulated by Ms PENNICUIK (Southern Metropolitan Region) pursuant to standing orders.

Ms PENNICUIK — My amendment would amend new section 327D(b) to remove the words 'it is more likely than not' so that the provision would read:

> … had it not been for the commission of the administration of justice offence, the person would have been convicted of the firstmentioned offence at the trial.

It makes it a much stronger bar or hurdle, if you will, that would need to be overcome in order to set aside an acquittal based on tainted acquittal.

New section 327E sets out when police can reinvestigate an offence after acquittal and includes a definition of 'reinvestigation' that includes the questioning and search of a person or the conduct of a forensic procedure on the person — for example, taking their fingerprints, searching property or a vehicle, using surveillance devices or the doing of anything authorised by a warrant under the commonwealth's Telecommunications (Interception and Access) Act 1979. It does not go to re-examining evidence that was presented at the original trial. Subsection (2) states that reinvestigation can only take place if the DPP has given written authorisation. Subsection (3) states that only the Chief Commissioner of Police, a deputy commissioner or an assistant commissioner may apply for that authorisation.

Subsection (5) states that a member of the police force can seek written authorisation from a senior member to conduct a reinvestigation if the applicant reasonably believes that urgent action is required. We asked questions about this because it appears to me that any member of the police force can begin a reinvestigation of a trial basically off their own bat where someone has been acquitted. However, we were told in our briefing that that would be the case only in a situation where it became obvious to that particular member of the police force that vital evidence which may come under the 'fresh and compelling evidence' definition was likely to be destroyed or lost and that therefore the member had to act urgently and then immediately seek authorisation from a senior police member. I also asked about what would happen if that authorisation were not given. The

answer to that was that nothing would proceed any further, so that would be the end of the matter. Disciplinary action may even be taken if required.

One of the other important provisions is new section 327G. It provides that if an accused is in custody when a direct indictment is filed under chapter 7A, the new chapter regarding the whole regime being put in place today, there is to be a presumption in favour of release on bail. This is regardless of the offence and pending the determination of the Director of Public Prosecutions application or discontinuance of the prosecution. The court would have a presumption towards bail so that a person would not be held in custody unless there were a compelling reason for that to occur.

The Scrutiny of Acts and Regulations Committee also noted, with regard to a fair hearing and the presumption of innocence under the Charter of Human Rights and Responsibilities, that there is nothing in the bill as to how disputes of facts will be dealt with in applications to the Court of Appeal in relation to an acquittal of rape where torture or serious injury, or threat thereof, is involved, and that a retrial can only occur where those aggravating factors are present. It said that the way of the court determining disputed facts is unclear, and that this is a very significant issue in criminal justice.

I have not had time to note how the Attorney-General may or may not have responded to that particular issue, which is of concern to me because I am standing here still asking that question. That is a question I will be raising in the committee stage of the bill.

New sections 327L to 327N go to the Court of Appeal determination of applications. This is where the court may determine an application regarding tainted acquittal, fresh and compelling evidence or administration-of-justice offences. This is where the Court of Appeal decides whether to set aside an acquittal and therefore to allow for a person to be retried for an offence they have already been tried and found not guilty or have been acquitted on, based on these three exceptions.

The Council of Australian Governments' principles suggest that the court should take into account whether a fair trial is likely in the circumstances, the length of time since the acquitted person allegedly committed the offence and whether any police or prosecutor has failed to act with reasonable diligence or expedition in connection with the application for the retrial of the acquitted person. The COAG principles suggest that the new trial has to be not only fair but also in the interests of justice. Being in the interests of justice is fundamental and one of the key safeguarding protections. The whole idea of overturning an acquittal and allowing a new trial to proceed must occur if it is in the interests of justice and not only if it is fair. It must be in the interests of justice. The provisions do not actually say that, and they should say that.

I had the time to go to that particular issue in the Attorney-General's response, which was mentioned by Mr O'Brien in his contribution. He suggests that the word 'fair' and what the Court of Appeal has to consider cover the interests of justice requirement, but I do not agree. I think the words 'in the interests of justice' should be in there, because one of the cornerstones of the whole reason for even going down this track is that it be in the interests of justice to do so. To leave that phrase out of what the court has to look at under those three provisions — fresh and compelling evidence, a tainted acquittal or administration-of-justice offences — seems to be leaving out one of the key reasons and safeguards for justice for all who may be impacted by setting aside an acquittal and allowing a new trial to proceed.

There is another important provision in the bill — that is, that it is retrospective. I mentioned that the COAG principles state that this should be retrospective, and it is in all Australian states that have introduced these exemptions, except in the Queensland jurisdiction. The fact that it is retrospective raises issues with many commentators and with me. The fact that it is retrospective means that the person whose acquittal is being set aside is being subject to a punishment, if you like — if you call a retrial a punishment — that was not in place when they were tried and convicted in the first place, so it was not available at the time. Usually the fundamentals of the legal system mean that you would not apply any penalty on a person retrospectively. That is one issue.

The other issue is that as there is no time limit on the retrospectivity we could see cases opened up that are 20 or 30 years old. One would have to be concerned, as many people are, as to whether that would allow for a fair trial or whether that would be in the interests of justice and about reprosecuting a trial in circumstances where witnesses may not even be around or may not be able to accurately remember events that took place so long ago. That raises a concern.

Another issue of concern I have with the bill is that it appears to also apply to children. I will be asking some questions in committee about that. There is not much guidance as to how setting aside an acquittal against a child and re-prosecuting a child for the same offence might play out in a practical way, given that the

fundamental principles of justice are different for children than they are for adults.

It is interesting that clause 21 provides for a cost indemnity for the accused. It allows the Court of Appeal to order that an accused in a case where their acquittal has been set aside and they are being retried does not have to pay costs. That is certainly a welcome part of the bill.

The bill sets aside longstanding fundamentals of the criminal justice system. I know that in the bill that was passed in the Western Australian Parliament last week a review provision was inserted to allow the Attorney-General to conduct a review of the operation of a new section five years after it is proclaimed. I will be moving such an amendment in committee, because there is not really enough time to go through all the implications and the what ifs and buts of the bill before us. It raises a lot of implications. Some of the wording is not as good as it could be, and that may not result in justice being done and being seen to be done. I think it would be wise for us to build in a review process in which after five years we can come back and consider how well the legislation has worked and whether it needs to be adjusted in the interests of justice.

I hope the Council will be able to support that amendment, given that, as I understand it, it was passed through the Parliament of Western Australia with the support of all parties. The government and the other parties supported a review of the legislation after a five-year period, and I think it would be wise to adopt that. It is important to make sure that we have got this right because, as I mentioned before, some of the provisions in this bill differ from those of the other states. I hope the government is prepared to consider that amendment to the bill. I think my amendments would improve the bill particularly in making it clear that the Court of Appeal must have regard to the interests of justice whenever it seeks to set aside an acquittal under the provisions that this bill will put in place.

It is also worth noting that the imprimatur for this bill was some uproar regarding a case in Queensland in which a person who had been acquitted then confessed to a crime. The introduction of the exemptions to double jeopardy in that state did not result in that person subsequently being convicted of the crime. Similarly, in New South Wales there has been one attempt under its legislation to set aside an acquittal and retry a person for the same offence, but that was thrown out by the Court of Appeal before it got past first base. I also note that the idea of tainted acquittals, of administration-of-justice offences and of new, fresh and compelling evidence is not new. There have always been tainted acquittals and there have always been administration-of-justice offences. They have not just come into being this century. They have been present for as long as we have had the double jeopardy law.

The Victorian Bar said in its letter — and I presume other members have read it; I certainly have — that it opposes the change to the double jeopardy law on the grounds that there is no urgency for the change because there is nothing new in what is being put forward as reasons for it. I know some people have said that new DNA evidence could make the difference, but I do not think any conviction of a person for a very serious offence, such as murder, manslaughter or attempted murder, would turn solely on DNA evidence; it would be only part of the evidence. I am still concerned that one piece of fresh and compelling evidence could be enough to overturn an acquittal; however, I do have faith that the Court of Appeal would not just rely on one piece of evidence to overturn an acquittal.

We need to be careful when we are overturning this fundamental principle. As I said, the bar association does not agree with it and the law institute has given it some qualified support since it reviewed what has happened in the other states. Everybody supports the Court of Appeal being the final arbiter on it, but we should not feel that it is all okay and everything is fine. We should all be very aware that what we are doing here is a serious thing.

Mr O'Brien mentioned something about victims of crime being satisfied and the families of people who have been subject to these serious crimes being satisfied, but I return again to what it should be about; it should be in the interests of justice in the wider sense and not in the interests of any particular parties, which is why I will move amendments to the critical sections of the bill to which the Court of Appeal will refer when determining whether or not to overturn an acquittal. With those few words, I look forward to the committee stage of the bill.

Mr ELASMAR (Northern Metropolitan) — I rise to make a few brief remarks on the Criminal Procedure Amendment (Double Jeopardy and Other Matters) Bill 2011. My colleague Mr Pakula has already indicated that the opposition will not oppose the bill. While Labor does not oppose this bill, I intend to speak briefly about what double jeopardy means to most people in the community.

The double jeopardy law, according to most movies and television programs, shows a guilty person being acquitted of a crime, usually murder, on a legal technicality. Because of this ancient British double jeopardy law, which goes back centuries, the guilty person cannot be retried for the same crime, so in essence a guilty person walks free.

The bill has safeguards built into the implementation and application of retrying an individual for a crime. The fresh evidence provision applies only to the most serious crimes, including manslaughter, arson causing death, rape and large-scale drug trafficking. Interestingly, in medieval times in Great Britain, a free man who committed murder could escape justice by not being captured by the authorities for seven years and one day. Thankfully that law was repealed.

Today we are dealing with the double jeopardy rule, and it is timely that we are doing so. This rule has allowed criminals to escape justice by providing legal loopholes and technicalities. Even if the police are able to uncover fresh, compelling evidence, it cannot be used to bring that person to account. Ridiculous though it sounds, murderers and hard-core criminals have been able to walk freely among us in the community because of this archaic law, and this legislation puts a stop to that.

In conclusion — although I do not want to repeat everything Mr Pakula has said — in 2007 the Council of Australian Governments agreed to a similar model together with New South Wales, Queensland and South Australia. It is now time for Victoria to reflect those standards already in place across Australia.

Mr FINN (Western Metropolitan) — I rise this evening to support this bill and to make the observation that justice is a very basic concept to civilisation as we know it. When justice is undermined by a lack of public confidence, we find ourselves in trouble as a civilisation. Here in 2011 in Melbourne, Victoria, we find ourselves very much in that situation, because I think the vast majority of Victorians look at our legal system and do not have the degree of confidence in it that they should.

Over 11 years they saw the system deteriorate to the point where that public confidence of which I spoke was shot to pieces. The Attorney-General in the former government, Mr Hulls, the member for Niddrie in the other place, was more interested in social engineering, more interested in stacking the judicial benches and more interested in appointing hacks to head the police force than he was to applying justice in this state. That is why we have to turn this around. I can only say thank God for Robert Clark, because the current Attorney-General is somebody who we can have confidence in; we can have confidence that he will strive for true justice in this state.

Almost every day we see on our televisions and in our newspapers people getting away with a variety of crimes, and we are sometimes seeing people who have committed heinous crimes getting away with just a slap on the wrist. Is it any wonder that the average Victorian is looking at our legal system and asking, 'What is going on there'? I use the term 'legal system' advisedly. I have said this before: what we have in this state now is not a justice system. As far as the average Victorian is concerned, what we have in this state is a legal system. If you ask anybody on the street in Melbourne, Geelong, Ballarat, Bendigo or down in Gippsland what they believe the legal system is about, they will tell you. They will tell you it is about lawyers making money. They will tell you that it is about something that is so far removed from their daily lives that they take no interest in it at all, and indeed they go to very great lengths in order to avoid it. I think that is a very sad reflection on a system that everybody should take extreme pride in.

This bill we are discussing tonight is something that will put public confidence back into our judicial system, because, let us face it, the guilty should be found guilty. If somebody has committed a crime, they should be found guilty. If they have got off on what amounts to a technicality and have gone out and patted their lawyers on the back, their lawyer has patted them on the back and they have gone off to the pub together, that might be a wonderful thing for the lawyer and for the person who has committed the crime, but it is no good for justice, it is no good for the people of Victoria, and this bill will give us all the opportunity to ensure that justice is done. The chap who regards himself as being extremely lucky that he has got off on a technicality, if further evidence is presented, will again find himself in the dock, we will see a guilty verdict and hopefully some degree of punitive measure taken against that individual in a way that we would expect a justice system to perform.

The community should be protected. I think there are a lot of people in our society at the moment who believe the legal system is not doing its job of protecting them and that it is not doing its job of protecting their families. This bill is a giant step toward ensuring that that public confidence is put back and that we see real justice injected back into the legal system in Victoria.

Motion agreed to.

Read second time.

Referral to committee

Ms PENNICUIK (Southern Metropolitan) — I move:

> That the Criminal Procedure Amendment (Double Jeopardy and Other Matters) Bill 2011 be referred to the Legal and Social Issues Legislation Committee for inquiry, consideration and report by 1 March 2012.

I move this motion for a couple of reasons that I touched on in my contribution to the second-reading debate. The first is that this is a significant bill coming through the Victorian Parliament that is overturning centuries of double jeopardy rule, which provides that a person cannot be tried more than once for the same offence if they have been acquitted. That raises a whole lot of implications that I have gone into and which I think need to be considered by the public of Victoria. The second is that there has been no time for the public of Victoria to do that. This bill was introduced into the Legislative Assembly on 8 November, passed on 24 November and here we are with it on 6 December — it has been in the public arena for just under a month.

As I mentioned in my contribution to the second-reading debate, several key legal organisations have not had an opportunity to consider the bill in order to give their views on it to members of Parliament or the government. Certainly ordinary members of the public who may have an interest in these matters have not had time to look at it. Also, the Scrutiny of Acts and Regulations Committee (SARC) raised several very significant issues regarding the bill, regarding the interests of justice, fair trials, retrospectivity and some other issues that it wrote to the Attorney-General about. Those questions were raised by the committee in *Alert Digest* No. 14. The committee also raised issues about the departure of some provisions of the bill from the Council of Australian Governments principles and departure in some provisions of the bill from similar legislation in other states. The legislation of those other states has already been passed. As I have stated, the Attorney-General's responses to the issues raised by SARC only appeared this morning. I have not been able to consider them and nor have any of the groups I have mentioned or any members of the public.

I think this bill needs further consideration by the Parliament and by members of the public, and so I am moving that it go to the Standing Committee on Legal and Social Issues Legislation Committee, which has been set up to do just that. I have included in my motion a reporting date of 1 March to allow for the January break, when obviously the committee will not be meeting. That will allow the committee to meet during the first two sitting weeks in February and at other times if we wish to hold hearings and report back by 1 March, giving the bill three months to go through the Parliament and comply with its commencement date. I hope in this instance that the government can agree to the referral and let the committee have at least one piece of legislation to deal with before we go into the next sitting year.

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — I thank Ms Pennicuik. We appreciate the Greens' suggested referral to the Legal and Social Issues Legislation Committee. For the record I remind those opposite and the broader community that there was a press release dated 14 September 2010, which was before the last state election, headed 'Baillieu government to reform double jeopardy law'. I again remind Ms Pennicuik that we made a very clear commitment. The first paragraph reads:

> A Victorian Liberal-Nationals coalition government will reform the law of double jeopardy so that a new trial can be held where new and compelling evidence becomes available that a person acquitted of a serious crime was in fact guilty.

It says further on:

> The legislation would be based on model legislation approved by the Council of Australian Governments (COAG) in 2007 …

It was very clear that this election commitment was in the public's mind. As I said, it was an election commitment, and the bill is based on the COAG model bill. The departures from that have been considered and are limited.

In terms of reasons to oppose what Ms Pennicuik is suggesting, the first point is that we went to the election with this; this was an election commitment. The bill is based on the COAG model bill. Secondly, the Scrutiny of Acts and Regulations Committee (SARC) questions have been answered by the Attorney-General. I know that that was discussed in the debate. It is fair to say that those matters have been dealt with. On that basis and given that it was a clear election commitment, given that the bill is based on the COAG model and given that there were sufficient SARC questions on the matter that have been answered by the Attorney-General, the government will not support the proposed referral as put by Ms Pennicuik.

Hon. M. P. PAKULA (Western Metropolitan) — The opposition will reluctantly oppose Ms Pennicuik's motion. I am probably more reluctant now than I was 2 minutes ago, and that is because of the ridiculous position put by the minister. As a matter of logic a press

release put out in September last year could not be a reason to refuse to send a bill to a legislation committee for review unless the press release contained all the provisions of the bill and went through it in some detail. I do not see how it can possibly be relevant that a press release some 15 months ago can in any way act as a rationale for not sending a bill which contains a great deal of detail to a legislation committee, so let me just reject the minister's principal reason: the mandate excuse. We are not disputing the mandate — in fact in our contributions I think both Ms Pennicuik and I gave it as a reason, at least in part, for why we were not opposing the bill — but it does not extend in any way to being an argument for why the bill should not undergo scrutiny.

The reason the opposition is going to support the minister's position despite the way in which it was put is that we accept the view that it is by and large a bill which is consistent with the Council of Australian Governments model. We accept that the departures from the COAG model are minor. We accept that most of the concerns that have been raised have been dealt with in the second-reading debate and can be dealt with further in the committee stage of the bill. Finally, we do not think it is appropriate to defer passage of the bill to the second quarter, or the late part of the first quarter, of 2012. Over the last year we have principally supported referral motions where there has been a short report-back period. That is not the position in this motion. If it had been to report back next week, we certainly would have supported the Parliament being recalled, but in these circumstances we will not be supporting the motion put by Ms Pennicuik, despite some of the spurious reasons given for opposing it.

Mr O'BRIEN (Western Victoria) — I rise to briefly respond to Mr Pakula's response to the minister. It is perhaps a misreading of the minister's response to say that just because this was an election commitment the bill is not being referred to the Legal and Social Issues Legislation Committee. The minister gave very clear reasons that were cumulative and were in essence the same reasons that Mr Pakula referred to — namely, that the bill is based on the Council of Australian Governments (COAG) model, which is the result of an extensive consultation. That is exactly what the minister said. This consultation process has been in place over many years, and it is something that the former Attorney-General refused to have any regard to. It is for this reason that there has been an extensive consultation process.

We accept Mr Pakula's contention that the modifications necessary to bring the COAG model bill in line with Victorian law are reasonable and limited, and we also accept and thank him for his further point, which was not made by the minister, that to defer it to 2012 would not be in the interests of justice in that justice delayed is justice denied. Given that one should consider cumulatively those reasons the minister gave — namely, that the press release announced that it would be based on the COAG model, that the COAG model has been around for a long time and that the Scrutiny of Acts and Regulations Committee report raised some questions which have been comprehensively answered by the minister — the motion to refer should be opposed.

Ms PENNICUIK (Southern Metropolitan) — I am disappointed that neither the government nor the opposition is supporting my attempt to refer the Criminal Procedure Amendment (Double Jeopardy and Other Matters) Bill 2011 to the Legal and Social Issues Legislation Committee. I note that at the government has not supported any of our motions to refer a government bill to a legislation committee. I agree with Mr Pakula that the issuing 15 months ago of a press release suggesting that the government would reform double jeopardy rules based on the Council of Australian Governments (COAG) principles does not mean that the bill before us — —

Hon. R. A. Dalla-Riva interjected.

Ms PENNICUIK — The committee would not be examining the press release, Mr Dalla-Riva. It would be examining the bill, the report by the Scrutiny of Acts and Regulations Committee and the response to that report, which was tabled by the Attorney-General only this morning and which no-one has had any time to consider and balance against the questions raised by SARC. The committee could also consider submissions and opinions from groups in the community that have a significant interest in the outcome of this debate and of this bill. There are departures from the COAG model; they may be small, but they should be considered.

That is what the committees are there for. As I mentioned, in Western Australia a committee went through this bill and then reported to the Parliament. Because we are in an unprepared state in which we are not able to consider all the issues before us, the bill should be referred to the committee. I do not agree with Mr Pakula that it could not go to the committee until March next year. They are all arbitrary dates. Everybody gets fussed about whether it is before Christmas, before New Year or after New Year, but it does not matter. To all intents and purposes the bill would not come into effect until it was proclaimed or 1 July, except that there are some provisions that are retrospective, so reporting back on 1 March would not

delay anything. It would not be justice delayed or justice denied; Mr O'Brien drew a bit of a long bow. I am disappointed. It is a perfect bill for consideration by the committee and by the wider public.

House divided on motion:

Ayes, 3

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

Noes, 37

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

Motion negatived.

Ordered to be committed later this day.

ROAD SAFETY AMENDMENT (DRINKING WHILE DRIVING) BILL 2011

Introduction and first reading

Received from Assembly.

Read first time on motion of Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations); by leave, ordered to be read second time forthwith.

Statement of compatibility

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

In accordance with section 28 of the Charter of Human Rights and Responsibilities Act 2006 (charter act), I make this statement of compatibility with respect to the Road Safety Amendment (Drinking while Driving) Bill 2011.

In my opinion, the Road Safety Amendment (Drinking while Driving) Bill 2011, as introduced to the Legislative Council, is compatible with the human rights protected by the charter act. I base my opinion on the reasons outlined in this statement.

Overview of bill

The bill amends the Road Safety Act 1986 to establish two new offences, namely:

(a) consuming intoxicating liquor while driving a motor vehicle; and

(b) consuming intoxicating liquor while accompanying a learner driver.

The bill will give members of Victoria Police the power to issue and serve a traffic infringement notice under that act with respect to these offences.

Human rights issues

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

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

Conclusion

There are no human rights protected by the charter act that are relevant to the bill.

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

Second reading

Ordered that second-reading speech be incorporated into *Hansard* on motion of Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations).

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

That the bill be now read a second time.

Incorporated speech as follows:

This bill amends the Road Safety Act 1986 (the act) to reinforce the road safety message to drivers in Victoria that they should not drink and drive.

The amendments introduce two new offences of:

(a) consuming intoxicating liquor while driving a motor vehicle; and

(b) consuming intoxicating liquor while accompanying a learner driver.

The Premier announced recently that the government would introduce changes to close the loophole under Victorian law that allowed people in Victoria to consume alcohol while they are driving a motor vehicle.

Drink driving continues to be a significant contributor to death and trauma on our roads. The substantial penalties for drink driving reflect the seriousness with which the community views this behaviour. This government is determined to reduce the damage to Victorian families by the reckless disregard that drink drivers have for the safety of others.

It is inconsistent with the road safety message to the community about drinking and driving that a driver can lawfully consume alcohol while driving a vehicle in Victoria.

It would also be anomalous to prohibit people from drinking alcohol while driving without also preventing those who are instructing learner drivers from consuming alcohol. The act currently requires a person providing instruction to a learner driver to be under the prescribed alcohol limit. Commercial driving instructors are required to be alcohol free while instructing a learner driver. This prohibition on instructors of learner drivers is consistent with the intent of the act that learner drivers receive instruction from people who are not impaired or distracted by alcohol.

Learner drivers also need a clear message not to drink and drive.

These offences will have a maximum penalty of 10 penalty units but if a driver receives a traffic infringement notice, the penalty will be 2 penalty units.

The government has moved to have these amendments in force before the Christmas-New Year holiday period commences. It is particularly important to reinforce the 'Don't drink and drive' message during the festive season when many Victorians will be driving to social engagements and holiday destinations. By reinforcing that message, we can help reduce trauma and save lives on our roads.

I commend the bill to the house.

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

Debate adjourned until Thursday, 8 December.

CRIMINAL PROCEDURE AMENDMENT (DOUBLE JEOPARDY AND OTHER MATTERS) BILL 2011

Committed.

Committee

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — I seek leave for Mr O'Brien to share the table with me during the 15 minutes available.

Leave granted.

Clause 1

Ms PENNICUIK (Southern Metropolitan) — I am raising the question I have under clause 1 because it is the major clause of the bill which sets out the purposes. The question is about exemptions to the double jeopardy rule with regard to children or minors. Children and minors are not mentioned anywhere in the bill. By inference, the bill applies to children because it does not exempt children. I went to this issue somewhat in questioning the departmental officers during the briefing, but I want to raise it in committee.

I refer to the example of a child or minor who has been acquitted of an offence. Members should remember that we are talking about a serious offence because the exceptions in this bill apply only to serious offences — those incurring a penalty of 25 years or over with regard to tainted acquittals and 15 years or more with regard to the administration-of-justice offences. We are talking about serious offences, many of which would probably not be committed by minors, such as presumably trafficking in large quantities of drugs.

However, my question goes to how it would work in practice. If a minor was acquitted of one of these offences, say, five years ago and at the time was 15 years old and is now 20 years old, is that person then retried in the Children's Court under a special provision or are they retried in an adult court? I understand in some jurisdictions there is a provision where the person can be tried in a children's court because even though they are now an adult, at the time the offence was committed they were a child.

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — I thank Ms Pennicuik for her question, which was whether the double jeopardy exemptions could apply to child offenders, and if the person was a child at the time that they allegedly committed the offence but is now an adult, in which court that person will be tried. The double jeopardy exceptions could potentially apply to child offenders. If a child offender is acquitted of an offence but later fresh and compelling evidence becomes available, the Director of Public Prosecutions could apply to have the case retried under the fresh and compelling evidence exception, provided that all the requirements of that exception are met.

Generally the criminal division of the Children's Court has jurisdiction under section 516 of the Children, Youth and Families Act 2005 to hear and determine charges against young people aged between 10 and 17 years at the time the proceeding for the offence was commenced. However, the Children's Court jurisdiction does not extend to certain serious indictable offences — namely, murder, attempted murder, manslaughter, child homicide, defensive homicide, arson causing death, or culpable driving causing death.

Such cases will be heard in the County Court or the Supreme Court as appropriate. This is the case for all trials involving children who have been charged with an offence, not just new trials held as a result of the reforms to double jeopardy in this bill.

The double jeopardy exceptions can only be triggered by filing a direct indictment. A direct indictment commences a proceeding afresh. Therefore if a child was acquitted of rape but fresh and compelling evidence became available 10 or 20 years later, the matter would be dealt with in an adult court. It would be inappropriate for a 30 or 40-year-old to be retried in the Children's Court just because the first trial was conducted in the Children's Court. However, the fact that the person was a child at the time the offence was committed would be a factor that the court could take into account in sentencing.

Ms PENNICUIK (Southern Metropolitan) — I thank the minister for that response; I think it was an issue that needed some clarification. I have one other matter to raise about clause 1. It goes to the retrospectivity of the legislation, which I understand is in the Council of Australian Governments (COAG) model provisions but has not been introduced in Queensland. In my research I read the New South Wales parliamentary library research service briefing paper 16/03, which is on double jeopardy. It recommends that one thing that could be considered is a limitation on how far back you could go. The research paper suggests 10 years. I wonder if the government has considered this issue in terms of how far back you could practicably go with double jeopardy. Would it be practicable and possible to go back as far as 30 years in the interests of justice, and would a fair trial be possible?

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — The advice I have is that there is no limitation in terms of the period that the new principle of double jeopardy can apply. Ms Pennicuik mentioned Queensland. My advice is that it was the first state to introduce the new double jeopardy principle after the Carroll case. There they were what you might consider more conservative, I guess. However, COAG accepted retrospectivity in its model, as have other states.

Ms PENNICUIK (Southern Metropolitan) — Just on that, has the government considered that that in effect can impose a penalty on a person when that was not the case when they were originally tried?

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — New section 441(4), which is inserted by clause 18, effectively provides that the new double jeopardy provisions will operate retrospectively. The statement of compatibility concludes that this is not incompatible with the Charter of Human Rights and Responsibilities Act 2006. This is because the double jeopardy reforms do not change criminal liability; rather they change the circumstances in which a person may be tried and convicted of an offence.

Clause agreed to; clauses 2 to 5 agreed to.

Clause 6

Ms PENNICUIK (Southern Metropolitan) — This is a question I asked the officers at the briefing: will clause 6, which currently applies to an informant who is a member of the police force, apply also to protective services officers (PSOs), given the extensive powers conferred upon them earlier this year by the Justice Legislation Amendment (Protective Services Officers) Act 2011?

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — I thank the member for her question. The first group of public transport PSOs are due to commence employment in February-March 2012. It will take some time before PSOs on the public transport system are informants in significant numbers. In practice, pursuant to section 328(c) of the Criminal Procedure Act 2009, it is envisaged that police prosecutors will prosecute the offences and that those prosecutors will have available in court copies of the relevant documents.

Victoria Police prosecutes more than two-thirds of all cases in the Magistrates Court each year. Victoria Police prosecutors are resourced and structured quite differently from other prosecutors, given their high volume of prosecutions. The legislative provision underpins a recent commitment by Victoria Police to provide information in accordance with this provision. Victoria Police is at the forefront of changes to improve summary procedures from the prosecution perspective. This change is designed to promote best practice. PSOs will provide copies of documents in court without any legislative requirement, as some police have done in recent times. Procedures in relation to prosecutions involving PSOs will be considered further ahead, with the rollout of PSOs in 2012.

Ms PENNICUIK (Southern Metropolitan) — That seems to me to mean that this clause will need to apply to PSOs at some stage, because in previous legislation they have been given the power to issue infringement notices et cetera — wide powers that heretofore have

been held by only the police. In a previous bill, the Justice Legislation Further Amendment Bill 2011, which was debated and passed just a couple of weeks ago, police prosecutors were given the power to appear on behalf of PSOs, so in fact they will have the same role as members of the police force. Given the minister's answer that practically there will not be many PSOs around until the middle of next year, can we look forward in the middle of next year to a similar amendment to this section of the Criminal Procedure Act 2009 to include PSOs?

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — The advice I have on the issue raised is that the procedures in relation to the prosecutions involving PSOs will be considered further ahead, with the rollout of the PSOs in 2012. The advice I have is that it would not seem reasonable to hold up this bill whilst we wait for those procedural matters to arise, but there will be some procedural changes.

Clause agreed to; clauses 7 to 16 agreed to.

The DEPUTY PRESIDENT — Order! The time for me to report progress under standing orders has now arrived.

Progress reported.

Business interrupted pursuant to sessional orders.

ADJOURNMENT

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

That the house do now adjourn.

Teachers: remuneration

Mr LENDERS (Southern Metropolitan) — The matter I raise on the adjournment tonight is for the attention of the Minister responsible for the Teaching Profession, Mr Hall, and it relates to the government's pre-election commitment to make Victoria's teachers the highest paid in Australia. When this commitment was made by the then opposition, now the government, both Mr Hall in this house and the member for Hawthorn in the Assembly, Mr Baillieu, as well as many others in the community, said our teachers needed to be the best paid teachers in the country. It was not an aspiration, it was a statement. In this house today Mr Hall, in response to a question without notice, referred to the shortages of maths and science teachers and he spoke about the various things the commonwealth and others could do to address this issue.

We know we have an ageing teaching profession. We are seeking to augment the teaching profession, there are particular skills shortages and the pressures on teachers are rising. As cuts are made to the education system, schools need to reallocate student resource packages to meet costs of things such as the Victorian certificate of applied learning, the Reading Recovery program and a range of other service delivery areas that are being cut. All that falls heavily on teachers in the state.

What we see is a raised expectation of teachers. When questioned the minister has consistently said that he does not talk about these matters because they are part of the EBA (enterprise bargaining agreement) negotiations, yet today the Leader of the Government in this house, Mr Davis, was quite happy to talk about an EBA regarding the Health Services Union of Australia — or perhaps I should say the HSUA union, which seems to be the new way to refer to trade unions.

The action I seek from the minister tonight is that he make absolutely clear to the teaching profession how his government will honour its commitments to make teachers in Victoria the highest paid in Australia. How will the minister do that with a budget that does not provide, at least on my reading of it, for the 8 per cent-plus pay rise that will be required to achieve this goal? Most importantly, the action I seek from the minister is that he reassure Victorian teachers that after one year of this government they have not been hoodwinked by spin and a false promise, and that this government aims to deliver on its commitment to make Victoria's teachers the highest paid in Australia.

Bushfires: preparedness

Mrs PETROVICH (Northern Victoria) — My adjournment matter is for the attention of the Minister for Environment and Climate Change, Ryan Smith, and relates to the forest fire danger and activity at this time of year. I understand the danger is at its lowest in 30 years, with the trend expected to continue until early January due to high levels of soil moisture over the past 18 months. The main fire risk is expected to come from fast-moving grass fires which could result from the recent rapid growth of grass. The planned burning program has been hampered by damp fuels. However, the Department of Sustainability and Environment (DSE) and Parks Victoria have taken every opportunity to burn, with over 27 000 hectares treated across 174 planned burn operations this spring. This is the largest area burnt in spring since the early 1990s. Both

DSE and Parks Victoria staff were well prepared and took advantage of early opportunities to burn, particularly during September and October. November was unseasonally wet in many areas of the state, with only about 3000 hectares able to be burnt. Many areas that were intended to be burnt remain wet, but they could be ready to burn later in the season.

The number of hectares treated this year, 27 074 hectares, is well ahead of the five-year average, which is approximately 15 600 hectares for this time of year, and that is a 73.55 per cent increase. The targeted results I have seen illustrate the DSE and Parks Victoria planned burn program performing well ahead of expectations for this time of the year and on track to deliver the 225 000 hectare planned burn target for 2011–12. We intend to keep it that way to protect the Victorian community and keep it safe.

There have been 66 new fires this season compared to a 30-year average of 145 for this time of year. The total area burnt is 114 hectares, which is considerably less than the 30-year average of 10 522 hectares. The support behind these statistics is that of DSE and Parks Victoria staff, who have worked constantly on preparedness, including recruitment, training and briefing. Media and stakeholder engagement with the community and partners such as the Country Fire Authority has been extensive. DSE has also been involved in flood recovery due to damage, but it has been hampered in its remedial works because of the ongoing wet.

The action I seek is that the minister provide a report to Parliament to illustrate the results of a concerted effort on the part of DSE and Parks Victoria, and I congratulate the employees and management of these organisations on having better prepared us for this year's fire season.

Buses: western Victoria

Ms PULFORD (Western Victoria) — My adjournment matter is for the attention of the Minister for Public Transport, who is also the Minister for Roads, Terry Mulder. It relates to a decision by his department to cease crucial bus services in the southern Grampians area. According to the Department of Transport the services affected are the Penshurst to Hamilton and the Hamilton to Mount Gambier via Coleraine and Casterton routes. The proposed cancellations will place tremendous pressure on individuals and families who will have to find alternative ways to get to their workplaces, schools, shops and, importantly, medical services.

The affected bus services cater for a population of around 30 000 people and play a significant role in reducing social and economic inequalities within their service areas. The cancellation of the services will place a heavy burden on the residents of Hamilton through to Casterton who need these services to live their daily lives. Australian Bureau of Statistics data indicates that Penshurst, Coleraine, Casterton and Hamilton have a high proportion of residents who are more than 60 years of age. Demand for public transport in this area will continue to increase as the lifestyle of this demographic requires it to seek alternative transportation. It shows that demand for public transport will naturally increase as the elderly become more dependent on public transportation. Any proposed cuts to bus services can only act as an impediment to the capacity of residents to travel around their community.

The proposed cancellation of the listed bus services significantly contradicts what should be three high-priority areas for government activity; firstly, the opportunity to reduce the affected area's environmental impact through increased usage of public transport. Second is the huge role that public transport plays in ensuring social and economic participation in communities. Without transport many individuals are physically unable to get the medical attention they need, and access to education and other important services, such as shopping and other businesses, are all compromised in Hamilton, Penshurst and Coleraine. The last contradiction is through the limitations placed on these listed regions to grow, as families and individuals perhaps seeking to relocate to this area will of course consider public transport and the adequacy of services as part of the mix of things in their decision making.

The proposed cancellation of these crucial bus services will create further social and economic disadvantage for people in my electorate of Western Victoria Region. Important links will be destroyed as a result of this cancellation. I seek that the minister urgently review this decision, indeed overturn it, and provide public transport certainty for people in this part of western Victoria.

Planning: urban growth boundary

Mr BARBER (Northern Metropolitan) — My adjournment matter is for the attention of the Minister for Planning, Mr Guy.

Mr Finn — A good man!

Mr BARBER — This will be a test! The minister has set up a process for the review of urban growth

boundary anomalies outside growth areas. He set out a nine-step process by which this is to occur where local councils wish to participate. The City of Greater Dandenong at its council meeting of 14 November put up a number of classic anomalies in the way the minister has previously described them: small parcels of land, in some cases with the urban growth boundary moving down the middle of them. It was the recommendation of the officers of the City of Greater Dandenong that those properties be put forward.

However, an amendment to the motion was moved by Cr Peter Brown. His proposition was that a piece of land bounded by Eumemmerring Creek, Frankston-Dandenong Road, EastLink and Harwood Road in Bangholme, an area covering more than 3 square kilometres, be put forward as an anomaly. This was moved, as I said, by a councillor from the floor of the council meeting without the usual public consultation and range of other steps required by the minister's process as set out in his letter to the council.

First of all, at point 3 the minister called for councils to:

> … provide an assessment against the published standards and efficient criteria for each property they proposed to be included within the urban growth boundary.

Further:

> … councils must seek the views of the owners of the properties proposed for inclusion and of all property owners that may be affected …

If that was done, it was done by the good councillor himself, certainly not as a structured exercise by the council, because it did not appear in the report to councillors.

Secondly, part 4 states:

> … the Department of Planning and Community Development will check all proposals received from councils for accuracy and consistency against the … standards.

Part 5 of the minister's process states:

> All property owners whose properties are being assessed as well as any property owner likely to be affected … will be notified by the advisory committee —

the one working for Minister Guy, and:

> No other submissions will be entertained.

The local council's decision has somewhat changed the flavour of the minister's process. He was talking about anomalies to the urban growth boundary. What we now have is a proposal to excise more than 3 square kilometres of the city of Greater Dandenong's urban growth boundary, almost to slice it in half, to reduce a significant proportion of the land. If that is the case, if what we are really doing — —

The PRESIDENT — Time!

Wallan-Kilmore bypass: route

Ms BROAD (Northern Victoria) — My adjournment matter is for the attention of the Minister for Roads. I refer the minister to a media release from the Premier's office of 10 May regarding the Wallan-Kilmore bypass, in which he is quoted as saying:

> The local community wanted a bypass, we promised a bypass, and we're delivering a bypass.

The Minister for Roads also referred to rejection of the former Labor government's plan to use existing local roads. Given that the Baillieu-Ryan government has now released route options for the Wallan-Kilmore bypass that utilise existing local roads, I call on the Minister for Roads to explain to the communities of Kilmore and Wallan exactly how a local road and a bypass can be one and the same thing.

Last week I spent several hours travelling on local roads within the township of Kilmore that are included as proposed routes for the Wallan-Kilmore bypass by the Baillieu-Ryan government. The inclusion of these local roads, which is causing enormous distress to affected land-holders and to the Wallan and Kilmore communities, is seen as an act of utter betrayal by these communities and is clearly at odds with the promise made to these communities by the Liberals and The Nationals prior to the last state election.

Accordingly, as well as calling on the Minister for Roads to explain to communities in Kilmore and Wallan exactly how a local road and a bypass are one and the same thing, I call on the minister to take the time to travel with representatives of local communities on these local roads to see how these communities will be affected if the government insists on going ahead with this act of betrayal by putting these routes through the homes and farms of community members and through nature reserves, and in the process affecting not only families by causing distress to the communities but also impacting on endangered species in routes which have been put forward by the Baillieu-Ryan government.

Royal Children's Hospital: awards

Mrs COOTE (Southern Metropolitan) — My adjournment matter is for the Minister for Health, and I have two quite interesting programs to talk about

tonight. I know that my friend the Minister for Health knows about them because he awarded the better health awards. One in particular was the Excellence in Health-care Outcomes through Person-centred Care Award, and it was awarded to the Royal Children's Hospital.

Another award, also awarded to the Royal Children's Hospital, was for early intervention in developmental dysplasia of the hip. It refers to a condition whereby an infant's hip fails to develop appropriately and early referral to a specialist paediatric orthopaedic service for management is critical, as a late diagnosis requires complex surgical correction for the child and can lead to problems such as osteoarthritis in adult life. Therefore the program the Royal Children's Hospital has developed is a particularly pertinent one for children who have been diagnosed with this condition, and it was pleasing to see the minister present the hospital with this better health award for excellence.

The other award the minister presented to the Royal Children's Hospital was for a program called 'Power to parents — Taking child warfarin therapy monitoring home' program. There are 130 children at the Royal Children's Hospital who are currently on warfarin for one reason or another. In the past they had to have blood taken from them by needle, which was quite traumatic for the children, but the Royal Children's Hospital developed a fingerprick test to take the blood samples to reduce the trauma for the children, so this is a huge milestone. It might sound simple, but for small children it makes an enormous difference. The program developed by the Royal Children's Hospital received this award, which is really pleasing to see. It is also interesting to know that the runners-up were Alfred Health and that Western Health received a highly commended award in these public awards that were announced recently.

I know the minister is extremely busy, but I think this matter is very important, and I call on the minister to visit these two programs at the Royal Children's Hospital to see firsthand the excellent work that is being done and to thank all concerned in the development of these programs, because it is programs such as these that make health in this state better for all Victorians.

Buses: western Victoria

Ms TIERNEY (Western Victoria) — My adjournment matter this evening is also directed to the Minister for Public Transport, and it is in relation to public transport in Hamilton and the surrounding district. It has been brought to my attention that the Department of Transport has indicated to the Southern Grampians Shire Council that the Penshurst-Hamilton and the Hamilton-Mount Gambier via Coleraine and Casterton Transport Connections routes will cease at the end of this year. That made the front page of the Hamilton *Spectator* just last Saturday. This decision has come as a shock to the Shire of Southern Grampians and its community, which will feel the full impact of the negative social and economic effects of this decision.

Both of these routes were subject to trial, and through consultation over 18 months the previous government sat down with the community and worked out alternative routes, different timetables and different days to meet the specific needs of those communities, but it is unfortunate that this government has turned around and decided to cut public transport in the area.

The Transport Connections program was held in high regard across all of Victoria because it did address a transport gap, particularly for those in our community who are disadvantaged, such as those with disabilities, the unemployed and the elderly. The Southern Grampians shire includes a number of disadvantaged townships with a significantly high proportion of residents in their later years. The townships of Coleraine, Penshurst and Casterton will lose their public transport services because of this decision. They have high proportions of disadvantaged residents, and they are all included in the top 100 disadvantaged towns in rural Victoria.

As well as providing an important service for disadvantaged Victorians, effective public transport is vital given the centralised nature of services in rural and regional Victoria. The major service hub of the Southern Grampians shire is Hamilton. Public transport must be provided for rural and regional Victorians to access health, education and recreation activities. The Minister for Public Transport comes from regional Victoria. He holds the seat of Polwarth, which is in my electorate. He needs to stand up and say no to Melbourne-based formulas which are based on transport usage. This is a travesty happening in western Victoria, and I ask all members of this house who represent this region to stand up for the people who use and rely on this service and demand that this government stand up for rural Victorians, because that is one of the salient points of distinction between country and regional communities.

Murray-Darling Basin: federal plan

Mr DRUM (Northern Victoria) — My adjournment matter is for the Minister for Water, Peter Walsh, and it concerns the recently announced second draft plan for

the Murray-Darling Basin. It is quite concerning that this plan proposes to send down the river nearly as much water as the initial plan suggested we send. This is a very important issue for many communities in the north of Victoria, and they now have only 20 weeks to gather themselves together and make sure their voices are heard. Irrigators right along the basin need to ensure that their voices are heard loud and clear, and the worry is that there seems to be a reluctance for community groups to get together again and voice their disapproval as they did when the first plan was announced in that slipshod manner.

Both the Liberals and The Nationals will be pushing for people to have their voices heard, but it would also be nice if somebody within the Labor Party showed an interest in the Murray-Darling Basin plan, as this would mean that we could all express our concern at the amount of water likely to be taken out of productive agriculture and sent down the river. In other words, it would be good if we had a bipartisan approach to this Murray-Darling Basin plan.

We also need to get the communities of the Murray-Darling Basin to influence the Murray-Darling Basin Authority to the extent that their recommendations go forward to the commonwealth government. It is the commonwealth government of the day that will make this decision, and it is important that that government be pressured to ensure that the legislative instrument, which is the detail that will go to the legislature of the commonwealth Parliament, is influenced by Victorian communities. I therefore call on the minister to ensure that the communities throughout Victoria's north will have an opportunity to voice their concerns, because so many of them, one way or another, rely on the availability of affordable water for their future productivity, and this is an opportunity that must not be let go.

Living Longer Living Stronger: funding

Ms DARVENIZA (Northern Victoria) — I have a matter that I wish to bring to the attention of the Minister for Health, David Davis. It concerns the Baillieu government's decision to axe funding for the very popular Living Longer Living Stronger strength training program for seniors. In my electorate of Northern Victoria Region we have 12 Living Longer Living Stronger seniors programs that are at risk due to the government funding cuts, and they go right across the electorate of Northern Victoria Region. We have programs running in Kangaroo Flat, Eaglehawk, Kerang, Kilmore, Mildura, Broadford, Nathalia, Tallangatta, Tatura, Violet Town, Wodonga and Echuca. These programs are widespread, but of course they are not restricted to northern Victoria. They run right across Victoria in all metropolitan and regional areas. These programs have been running since the year 2000, and every year they have benefited the approximately 17 000 seniors who have participated right across the state.

The withdrawal of funding from the program — and this is a very cost-effective program — is disappointing because we all know strength training maintains muscle strength; it helps improves fitness and balance; it helps fight arthritis, osteoporosis and other chronic diseases; and it keeps seniors active and engaged in and well connected to the community. We also know it helps maintain mental as well as psychological wellbeing and can be very useful in fighting depression, which can be quite prevalent among seniors.

Minister Davis has refused in this chamber to restore the state government's funding for this program despite describing it as having done 'a lot of good work'. My specific request to the minister, given the well-recognised and acknowledged benefits of the program, is that the government reinstate the funding for this important and popular program and stand up for the health and wellbeing of seniors right across Victoria.

Gellibrand pile light: relocation

Mr FINN (Western Metropolitan) — I wish to raise a matter for the attention of the Minister for Planning. It concerns recent media reports that have indicated that the National Trust intends to install the Gellibrand pile light outside the Melbourne Convention Centre. I have received correspondence from Mr Bill Jaboor, the chief executive officer of Hobsons Bay City Council, who has said to me:

> On a number of previous occasions the council has registered a strong interest in having the pile light placed at a suitable location in Williamstown. This would ensure that the light is in close proximity to its original location and in its appropriate historical context.

I have to say that it would make sense to me. I do not understand why the National Trust would want to take the Gellibrand pile light, which should be at Point Gellibrand, and place it outside the Melbourne Convention Centre, which is some considerable way from where the pile light historically should be.

I am sure the house would be aware that Williamstown and history go hand in glove, particularly in things nautical. The Williamstown area prides itself on being in many cases a living history of the nautical and

seafaring side of what has happened in our great city of Melbourne over such a long period of time.

I ask the minister to negotiate with the National Trust, perhaps through Heritage Victoria, an appropriate settlement of this matter. Given that heritage is extremely important to us all and that the Gellibrand pile light would be somewhat out of place, to say the very least, outside of Gellibrand, I ask the minister to attempt to talk some sense into the National Trust, via negotiations, to ensure that the Gellibrand pile light is returned to Williamstown. I believe that that is more than appropriate, I believe it is necessary and I believe it is something that we as a state government and indeed as a Parliament should all have a great interest in.

I ask the minister to take that appropriate action, to negotiate with the National Trust, through Heritage Victoria, and do what he must to ensure that the Gellibrand pile light is returned to where it belongs — Williamstown.

Mill Park Heights Primary School: Reading Recovery program

Ms MIKAKOS (Northern Metropolitan) — My matter this evening is for the Minister for Education. I wish to express the concerns raised with me about the Baillieu government's refusal to continue funding the Reading Recovery program that has been operating at Mill Park Heights Primary School for the past 20 years. This program provides individual tutoring from specially trained teachers for children who are struggling to learn to read or write. It is an internationally recognised program that has achieved fantastic results.

The Department of Education and Early Childhood Development's northern region office has been forced to cut $1 million from its budget, meaning that many staff members, including Reading Recovery tutors who resign or whose contract expires, are not to be replaced. We are seeing on the one hand the Baillieu government bragging about its investment in early intervention programs and on the other cutting a vital early intervention program that assists children to gain the literacy and numeracy skills they need so they do not fall behind their peers at school.

On a recent visit to Victoria Dr Barbara Watson from New Zealand, who is a Reading Recovery trainer of 30 years experience, spoke of the enormous success this program has had both in Australia and worldwide. She was quoted in the Department of Education and Early Childhood Development's publication *Inspire* of June 2011 as having said:

> Literacy skills are an essential part of lifelong education, so every child should have a second chance if they need it.

That is a sentiment with which I strongly agree. If the rest of the world can see the benefits in having such a program, it really begs the question

why the Baillieu government cannot see it. I think one of the most fundamental things a government can do is provide young people with the ability to establish basic literacy and numeracy skills very early on in their childhood education to give them a chance later on in life. I call on the Minister for Education to financially support the Reading Recovery program at Mill Park Heights Primary School to ensure that this program continues and that young children struggling to read and write are afforded similar opportunities at other schools as well.

Responses

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — Before I respond, I have written responses to the adjournment debate matters raised by Ms Tierney on 28 June, 12 October and 25 October; Mr Ramsay on 31 August and 10 November; Ms Broad on 14 September; Mr Leane on 15 September; Mr Barber on 11 October; Ms Hartland on 13 October; Ms Pulford on 25 October; Mrs Petrovich on 26 October; Mr P. Davis on 27 October; Mr Scheffer on 8 November; Mr Pakula on 10 November; and, rounding it out, Mr Elsbury on 24 November.

In terms of tonight's matters I will refer the matter raised by Mr Lenders to the Minister responsible for the Teaching Profession.

I will refer the matters raised by Ms Pulford and Ms Tierney to the Minister for Public Transport.

I will refer the matter raised by Ms Mikakos to the Minister for Education.

I will refer the matters raised by Mr Barber and Mr Finn to the Minister for Planning.

I will refer the matters raised by Mrs Coote and Ms Darveniza to the Minister for Health.

I will refer the matter raised by Mrs Petrovich to the Minister for Environment and Climate Change.

I will refer the matter raised by Ms Broad to the Minister for Roads.

I will also refer the matter raised by Mr Drum to the Minister for Water.

Mr LENDERS (Southern Metropolitan) — I now have nine adjournment matters outstanding for more than 30 days, in contravention of standing orders. Seven of them are from Assembly ministers, but two are from ministers in the Council. The first matter is from 11 October for Mr Rich-Phillips and the second is from 5 May for Mr Davis. I seek an explanation for this. Standing order 4.13 makes it quite clear that I can initiate a take-note motion, which I do not intend to do now. However, I do want an explanation. It is now Tuesday. The end of the parliamentary year is Thursday. I would certainly like an explanation by then from the two ministers in the Council who have not met this standing order. There are a further four adjournment matters for the Premier from 10 February, 2 June, 12 October and 13 October. This is the Premier who put in a 30-day response rule in the Assembly as part of open government.

There are also matters outstanding for the Minister for Public Transport from 25 October, the Minister for Roads from 31 August and the Minister for Water from 27 October, although he is normally fairly responsive to adjournment matters.

What can Minister Dalla-Riva do to ensure that these nine adjournment matters are responded to before the end of this parliamentary year?

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — I thank Mr Lenders for his request. I was unaware of these details. Perhaps, like questions on notice, it might be worthwhile to receive this advice before such a matter is raised, but now that it is in *Hansard* I am happy to raise those matters with the relevant ministers and also follow up with members in this chamber.

Mr Lenders — I raised the Premier's matters some months ago.

Hon. R. A. DALLA-RIVA — Yes, but I was unaware of this, as there was nothing for me. I will take that on notice and report back either directly to Mr Lenders or via the relevant ministers to Mr Lenders.

Ms DARVENIZA (Northern Victoria) — I too am seeking an explanation for two outstanding adjournment matters, the first raised on 1 September and the other on 27 October. Both were to Minister Lovell in this chamber. The first matter was raised in her capacity representing the Minister for Community Services in this chamber and was in regard to Foodbank Victoria funding. The second was in her capacity representing the Minister for Youth Affairs in this chamber and was in regard to the youth mentoring program. More than 30 days have expired since the adjournment matters were raised, and I too am seeking an explanation as to why the responses are overdue. I ask that the minister give an explanation and that the adjournment matters be responded to before Parliament rises on Thursday for the summer break.

The PRESIDENT — Order! I take it that Minister Dalla-Riva will also follow those matters up. He is obviously not in a position to provide an explanation now.

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — I note that Mr Lenders provided me with a spreadsheet, which will help. Ms Darveniza could provide her notes too, or else I can refer to *Hansard* tomorrow. I will follow up in accordance with standing order 4.13.

Ms BROAD (Northern Victoria) — Under standing order 4.13 I also seek an explanation from the minister on duty as to why responses have not been provided by the Premier to a number of matters I have raised on the adjournment. However, I thank the Premier for the response that was provided tonight. This is also in view of the fact that this is the last sitting week of the year. The first matter, seeking support for a national disability insurance scheme, was raised on 17 August. The second matter, seeking support for advertising in country newspapers, was raised on 30 August. The third matter, seeking information about the future of the Snobs Creek discovery centre, was raised on 26 October.

I can provide the minister at the table with a schedule which includes details of those outstanding adjournment matters. I will cross the one matter for which a response has been provided off that list.

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — Again, I am happy to refer those matters to the relevant ministers, and if the member has a spreadsheet or a document with bold writing across the top, I am happy to take that as well.

House adjourned 10.40 p.m.

Minister for Education

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06 DEC 2011

BRI2774

Mr Wayne Tunnecliffe
Clerk of the Legislative Council
Parliament House
EAST MELBOURNE VIC 3002

Dear Mr Tunnecliffe Wayne.

I refer to the Legislative Council's resolution of 23 November 2011 seeking the production of:

> *a copy of the report by Grant Thornton on educating year prep to 12 students with an autism spectrum disorder in the western metropolitan region, commissioned by the department of education* (sic).

Please find attached a copy of the report.

Yours sincerely

Martin Dixon.

The Hon. Martin Dixon, MP
Minister for Education